The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

HEALTH POLICY
Senator Bean, Chair
Senator Sobel, Vice Chair

MEETING DATE: Tuesday, December 1, 2015
TIME: 1:00—3:00 p.m.
PLACE: *Pat Thomas Committee Room,* 412 Knott Building

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

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**SB 422** Benacquisto (Identical H 363)	Health Insurance Coverage For Opioids; Providing that a health insurance policy that covers opioid analgesic drug products may impose a prior authorization requirement for an abuse-deterrent opioid analgesic drug product only if the insurer imposes the same requirement for each opioid analgesic drug product without an abuse-deterrence labeling claim, etc. BI 11/02/2015 Favorable HP 12/01/2015 Favorable AP	Favorable Yeas 9 Nays 0
2	**SB 586** Stargel (Identical H 471, Compare S 210, S 428, S 676)	Responsibilities of Health Care Providers; Repealing provisions relating to practice parameters for physicians performing caesarean section deliveries in provider hospitals; requiring a hospital to notify certain obstetrical physicians within a specified timeframe before the hospital closes its obstetrical department or ceases to provide obstetrical services, etc. HP 12/01/2015 Favorable AHS FP	Favorable Yeas 9 Nays 0
3	**SB 742** Hutson (Compare H 517)	Certificates of Public Convenience and Necessity for Life Support or Air Ambulance Services; Requiring, rather than authorizing, county governing boards to adopt ordinances that provide standards for the issuance of certificates of public convenience and necessity for basic or advanced life support or air ambulance services; specifying subjects of standards; providing an appeal process; providing a standard for issuance for denied applications for certificates of public convenience and necessity, etc. HP 12/01/2015 Favorable CA JU FP	Favorable Yeas 7 Nays 2

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	**SB 504** Grimsley (Identical H 591)	Laser Hair Removal; Providing certification and training requirements for electrologists who use laser or pulsed-light devices in hair removal, etc. HP 12/01/2015 Fav/CS AHS FP	Fav/CS Yeas 9 Nays 0
5	**SB 580** Grimsley (Identical H 595)	Reimbursement to Health Access Settings for Dental Hygiene Services for Children; Authorizing reimbursement for children's dental services provided by licensed dental hygienists in certain circumstances, etc. HP 12/01/2015 Fav/CS AHS AP	Fav/CS Yeas 9 Nays 0
6	**SB 748** Flores (Similar H 375)	Physician Assistants; Revising circumstances under which a physician assistant may prescribe medication; authorizing a licensed physician assistant to perform certain services as delegated by a supervising physician; deleting provisions related to examination by the Department of Health; requiring a designated supervising physician to maintain a list of approved supervising physicians at the practice or facility, etc. HP 12/01/2015 Fav/CS AHS AP	Fav/CS Yeas 9 Nays 0
7	**SB 178** Bean (Compare H 37, S 132)	Quality Health Care Services; Requiring the Office of Economic and Demographic Research and the Office of Program Policy Analysis and Government Accountability to complete a periodic analysis of the medical tourism marketing plan; requiring Enterprise Florida, Inc., to market this state as a health care destination in collaboration with the Department of Economic Opportunity; specifying that a direct primary care agreement does not constitute insurance and is not subject to the Florida Insurance Code; extending sovereign immunity to include employees or agents of a health care provider that executes a contract with a governmental contractor, etc. HP 12/01/2015 Fav/CS BI AP	Fav/CS Yeas 9 Nays 0

Other Related Meeting Documents

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	SB 422
INTRODUCER:	Senator Benacquisto
SUBJECT:	Health Insurance Coverage For Opioids
DATE:	November 20, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	**Favorable**
2.	Lloyd	Stovall	HP	**Favorable**
3.			AP	

I. Summary:

SB 422 allows a health insurance policy providing coverage for opioid analgesic drug products to impose a prior authorization requirement for an abuse-deterrent opioid analgesic drug product only if the policy imposes the same prior authorization requirement for opioid analgesic drug products without an abuse-deterrence labeling claim. The bill also prohibits a policy from requiring the use of an opioid analgesic without an abuse-deterrent labeling claim before providing coverage for an abuse-deterrent opioid analgesic drug product. Abuse deterrent formulations have characteristics that help prevent widespread abuse by impeding the delivery of their active ingredients, thereby reducing the potential for abuse, diversion, and misuse of the drug.

The fiscal impact of the bill is indeterminate.

The bill provides an effective date of January 1, 2017.

II. Present Situation:

The abuse of prescription drugs in the United States has been described as an epidemic. Every day in the United States, 44 people die because of prescription opioid overdose.[1] In 2013, there were 16,235 deaths involving prescription opioid overdose.[2] In Florida, 2,922 deaths were attributable to prescription opioids in 2014.[3]

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[1] Centers for Disease Control and Prevention, *Prescription Drug Overdose Data* (updated August 16, 2015) http://www.cdc.gov/drugoverdose/data/overdose.html (last visited Nov. 19, 2015).
[2] *Id.*
[3] Medical Examiners Commission, *Drugs Identified in Deceased Persons by Florida Medical Examiners*, 2014 Annual Report (September 2015), https://www.fdle.state.fl.us/Content/Medical-Examiners-Commission/MEC-Publications-and-Forms/Documents/2014-Annual-Drug-Report-FINAL.aspx (last visited Nov. 20, 2015).

Prescription opioid[4] analgesics are a critical component of pain management particularly for treating acute and chronic medical pain, providing humane hospice care for cancer patients, and treating patients in drug treatment programs. When used properly, opioid analgesic drugs provide significant benefits for patients. However, abuse and misuse of these products has created a serious and growing public health problem. In the United States, an estimated 4.5 million[5] individuals use prescription pain medications for nonmedical purposes. Recent studies indicate that pharmaceuticals, especially opioid analgesics have driven the increase in drug overdose deaths.[6] In 2007, the total United States societal costs of prescription opioid abuse was estimated at $55.7 billion.[7]

Food and Drug Administration Guidance on Abuse-Deterrent Opioids

To reduce the misuse and abuse of prescription drugs, the Food and Drug Administration (FDA) released guidance[8] to assist the pharmaceutical industry in developing new formulations and labeling of opioid drugs with abuse-deterrent properties.[9] The goal of abuse-deterrence products is to limit access or attractiveness of the highly desired active ingredient for abusers while assuring the safe and effective release of the medication for patients. The document provides guidance about the studies that should be conducted to demonstrate that a given formulation has abuse-deterrent properties, how the studies will be evaluated, and what labeling clams may be approved based on the results of the studies.

According to the guidance, opioid analgesics can be abused in a number of ways. For example, they can be swallowed whole, crushed and swallowed, crushed and snorted, crushed and smoked, or crushed, dissolved and injected. Abuse-deterrent formulations should target known or expected routes of abuse for the opioid drug substance for that formulation. As a general framework, the FDA guidance provides that abuse-deterrent formulations are categorized in one of the following groups:

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[4] Medications that fall within this class include hydrocodone (e.g., Vicodin), oxycodone (e.g., OxyContin, Percocet), morphine (e.g., Kadian, Avinza), codeine, and related drugs. Hydrocodone products are the most commonly prescribed for a variety of painful conditions, including dental and injury-related pain. Morphine is often used before and after surgical procedures to alleviate severe pain. Codeine is often prescribed for mild pain. See National Institute on Drug Abuse at http://www.drugabuse.gov/publications/research-reports/prescription-drugs/opioids/what-are-opioids (last accessed Nov. 19, 2015).

[5] Substance Abuse and Mental Health Services Administration, Center for Behavioral Health Statistics and Quality, The NSDUH Report, *Substance and Use and Mental Health Estimates from the 2013 National Survey on Drug Use and Health: Overview of Findings* (September 4, 2014), https://store.samhsa.gov/shin/content/NSDUH14-0904/NSDUH14-0904.pdf (lasted visited Nov. 20, 2015). "Nonmedical use" is defined as the use of prescription-type drugs that were not prescribed for the respondent or use only for the experience or feeling they caused. Nonmedical use of any prescription type drug does not include over-the-counter drugs.

[6] Christopher Jones, et al., *Pharmaceutical Overdose*, United States, 2010, JOURNAL OF AMERICAN MEDICAL ASSOCIATION. 2013;309:657, http://jama.jamanetwork.com/article.aspx?articleid=1653518 (last visited: Nov. 20, 2015).

[7] Birnbaum, H.G., et al., *Societal Costs of Prescription Opioid Abuse, Dependence, and Misuse in the United States*, PAIN MEDICINE. 12:657-667, http://onlinelibrary.wiley.com/doi/10.1111/j.1526-4637.2011.01075.x/epdf (last visited Nov. 20, 2015). The breakout of this estimate includes the following costs: workplace $25.6 billion (46 percent), health care $25 billion (45 percent), and criminal justice $5.1 billion (9 percent). (USD in 2009).

[8] U.S. Department of Health and Human Services, *Abuse-Deterrent Opioids-Evaluation and Labeling*, Guidance for Industry (April 2015), http://www.fda.gov/downloads/drugs/guidancecomplianceregulatoryinformation/guidances/ucm334743.pdf (last visited Nov. 20, 2015).

[9] The FDA has approved four extended release opioids with abuse deterrent labels (Reformulated OxyContin, Embeda ER, Hysingla ER, and Targiniq ER).

- *Physical/Chemical barriers* – Physical barriers can prevent chewing, crushing, cutting, grating, or grinding. Chemical barriers can resist extraction of the opioid using common solvents like water, alcohol, or other organic solvents.
- *Agonist/Antagonist combinations* – An opioid antagonist can be added to interfere with, reduce, or defeat the euphoria associated with abuse. The antagonist can be sequestered and released only upon manipulation of the product. For example, a drug product may be formulated such that the substance that acts as an antagonist is not clinically active when the product is swallowed but becomes active if the product is crushed and injected or snorted.
- *Aversion* – Substances can be added to a product to produce an unpleasant effect if the dosage form is manipulated prior to ingestion or is used at a higher dosage than directed.
- *Delivery System* (including depot injectable formulations and implants) – Certain drug release designs or the method of drug delivery can offer resistance to abuse.
- *New Molecular entities (NME) and prodrugs* – The properties of a NME or a prodrug could include the need for enzymatic activation or other novel effects.
- *Combination* – Two or more of the above methods can be combined to deter abuse.
- *Novel approaches* – Novel approaches or technologies that are not captured in the previous categories.

The increasing use of abuse-deterrent opioids is expected to reduce overall medical costs. One study[10] estimated the potential cost savings from introducing abuse-deterrent opioids may be in the range of $0.6 billion to $1.6 billion per year in the United States. The study notes that cost data was extrapolated from claims data of privately insured national employers. The study also states that privately insured population accounts for approximately 60 percent of the United States population, and the costs and abuse patterns for Medicaid, uninsured individuals, and small employers could be different.

Regulation of Insurers and Health Maintenance Organizations

The Office of Insurance Regulation (OIR) licenses and regulates the activities of insurers, health maintenance organizations, and other risk-bearing entities.[11] The Agency for Health Care Administration (AHCA) regulates the quality of care provided by HMOs under part III of ch. 641, F.S. Before receiving a certificate of authority from the OIR, an HMO must receive a Health Care Provider Certificate from the AHCA pursuant to part III of ch. 641, F.S.[12]

Cost Containment Measures Used by Insurers and HMOs

Insurers use many cost containment strategies to manage medical and drug spending and utilization. For example, plans may place utilization management requirements on the use of certain drugs on their formulary, such as requiring enrollees to obtain prior authorization from their plan before being able to fill a prescription, requiring enrollees to try first a preferred drug to treat a medical condition before being able to obtain an alternate drug for that condition, or limiting the quantity of drugs that they cover over a certain period.

[10] Birnbaum HG, White, AG, et al. *Development of a Budget-Impact Model to Quantify Potential Cost Savings from Prescription Opioids Designed to Deter Abuse or Ease of Extraction,* APPL HEALTH ECON HEALTH POLICY. 2009; 7(1); 61-70.
[11] Section 20.121(3)(a)1., F.S.
[12] Section 641.21(1), F.S.

Under prior authorization, a health care provider is required to seek approval from an insurer before a patient may receive a specified diagnostic or therapeutic treatment or specified prescription drug under the plan. A preferred drug list (PDL) is an established list of one or more prescription drugs within a therapeutic class deemed clinically equivalent and cost effective. In order to obtain another drug within the therapeutic class, not part of the PDL, prior authorization is required. Prior authorization for emergency services is not required. Preauthorization for hospital inpatient services is generally required.

III. Effect of Proposed Changes:

Section 1 creates s. 627.64194, F.S., which provides requirements for opioid analgesic drug coverage. The terms "abuse-deterrent opioid analgesic drug product" and "opioid analgesic drug product" are defined. An "abuse-deterrent opioid analgesic drug product" means a brand or generic opioid analgesic drug product approved by the U.S. Food and Drug Administration with an abuse-deterrence labeling claim that indicates the drug product is expected to deter abuse. The term, "opioid analgesic drug product" means a drug product in the opioid analgesic drug class prescribed to treat moderate to severe pain or other conditions in immediate-release, extended release, or long-acting form regardless of whether or not combined with other drug substances to form a single drug product or dosage form.

The bill allows a health insurance policy that provides coverage for opioid analgesic drug products to impose a prior authorization for an abuse-deterrent opioid analgesic drug product only if the policy imposes the same prior authorization requirement for opioid analgesic drug products *without* an abuse-deterrence labeling claim. The bill also prohibits a health insurance policy from requiring the use of an opioid analgesic *without* an abuse-deterrent labeling claim before providing coverage for an abuse-deterrent opioid analgesic drug product. Abuse deterrent formulations have characteristics that help prevent widespread abuse by impeding the delivery of their active ingredients thereby reducing the potential for abuse and misuse of the drug.

Section 2 provides an effective date of January 1, 2017.

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:

The fiscal impact on the private sector is indeterminate. SB 422 will provide patients with greater access to abuse-deterrent opioid analgesic drug products, which is expected to reduce opioid drug misuse, abuse, and diversion. The increased use of abuse deterrent drugs is expected to reduce emergency room and drug treatment costs associated with the misuse or abuse of opioids without such abuse deterrent formulations.

The OIR notes that the bill does not require health insurance plans to have equivalent cost sharing to the policyholder. As a result, the policyholders may incur additional cost sharing if they switch to the abuse-deterrent opioids.[13]

C. Government Sector Impact:

The fiscal impact on the government sector is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 627.64194 of the Florida Statutes:

IX. Additional Information:

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

None.

B. Amendments:

None.

[13] Office of Insurance Regulation, *Senate Bill 422 Analysis* (Oct. 19, 2015) (on file with the Senate Committee on Health Policy).

By Senator Benacquisto

30-00436A-16 2016422__

A bill to be entitled

An act relating to health insurance coverage for opioids; creating s. 627.64194, F.S.; defining terms; providing that a health insurance policy that covers opioid analgesic drug products may impose a prior authorization requirement for an abuse-deterrent opioid analgesic drug product only if the insurer imposes the same requirement for each opioid analgesic drug product without an abuse-deterrence labeling claim; prohibiting such health insurance policy from requiring use of an opioid analgesic drug product without an abuse-deterrence labeling claim before providing coverage for an abuse-deterrent opioid analgesic drug product; providing an effective date.

WHEREAS, the Legislature finds that the abuse of opioids is a serious problem that affects the health, social, and economic welfare of this state, and

WHEREAS, the Legislature finds that an estimated 2.1 million people in the United States suffered from substance use disorders related to prescription opioid pain relievers in 2012, and

WHEREAS, the Legislature finds that the number of unintentional overdose deaths from prescription pain relievers has more than quadrupled since 1999, and

WHEREAS, the Legislature is convinced that it is imperative for people suffering from pain to obtain the relief they need while minimizing the potential for negative consequences, NOW, THEREFORE,

30-00436A-16 2016422__

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

Section 1. Section 627.64194, Florida Statutes, is created to read:

627.64194 Requirements for opioid coverage.—

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

(a) "Abuse-deterrent opioid analgesic drug product" means a brand or generic opioid analgesic drug product approved by the United States Food and Drug Administration with an abuse-deterrence labeling claim that indicates the drug product is expected to deter abuse.

(b) "Opioid analgesic drug product" means a drug product in the opioid analgesic drug class prescribed to treat moderate to severe pain or other conditions in immediate-release, extended-release, or long-acting form regardless of whether or not combined with other drug substances to form a single drug product or dosage form.

(2) COVERAGE REQUIREMENTS.—A health insurance policy that provides coverage for opioid analgesic drug products:

(a) May impose a prior authorization requirement for an abuse-deterrent opioid analgesic drug product only if the policy imposes the same prior authorization requirement for each opioid analgesic drug product without an abuse-deterrence labeling claim which is covered by the policy.

(b) May not require use of an opioid analgesic drug product without an abuse-deterrence labeling claim before providing coverage for an abuse-deterrent opioid analgesic drug product.

Section 2. This act shall take effect January 1, 2017.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR LIZBETH BENACQUISTO
30th District

COMMITTEES:
Banking and Insurance, *Chair*
Appropriations, *Vice Chair*
Appropriations Subcommittee on Health and Human Services
Education Pre-K-12
Higher Education
Judiciary
Rules

JOINT COMMITTEE:
Joint Legislative Auditing Committee
Joint Select Committee on Collective Bargaining

November 3, 2015

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

RE: SB 422- Health Coverage for Opioids

Dear Mr. Chair:

Please allow this letter to serve as my respectful request to agenda SB 728, Relating to Health Coverage for Opioids, for a public hearing at your earliest convenience.

Your kind consideration of this request is greatly appreciated. Please feel free to contact my office for any additional information.

Sincerely,

Lizbeth Benacquisto
Senate District 30

Cc: Sandra Stovall

REPLY TO:
❒ 2310 First Street, Suite 305, Fort Myers, Florida 33901 (239) 338-2570
❒ 326 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5030

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)

12/1/15
Meeting Date

422
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Dr. Lila Chertman

Job Title Physician (resident)

Address 2970 Flamingo Drive
Street

Miami Beach FL 33140
City *State* *Zip*

Phone _____

Email _____

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Florida Chapter, American College of Physicians

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)

412-K
1:00-3:00

THE FLORIDA SENATE

APPEARANCE RECORD

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

12-1-2015
Meeting Date

SB 422
Bill Number (if applicable)

Topic HEALTH INSURANCE COVERAGE FOR OPIOIDS

Amendment Barcode (if applicable)

Name STEPHEN R. WINN

Job Title EXECUTIVE DIRECTOR

Address 2544 BLAIRSTONE PINES DR
Street

Phone 878-7364

TALLAHASSEE FL 32301
City *State* *Zip*

Email

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

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

Representing FLORIDA OSTEOPATHIC MEDICAL ASSOCIATION

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

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

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

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

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)

12-1-15
Meeting Date

422
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Opioid

Name MARK FONTAINE

Job Title Executive Director

Address 2868 MAHAN Drive
Street

Phone 878-2196

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

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	SB 586
INTRODUCER:	Senator Stargel
SUBJECT:	Responsibilities of Health Care Providers
DATE:	November 24, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Stovall	HP	**Favorable**
2.			AHS	
3.			FP	

I. Summary:

SB 586 requires a hospital to notify obstetrical physicians at least 120 days before closing its obstetrical department or ceasing to provide obstetrical services.

The bill also repeals s. 383.336, F.S., which designates certain hospitals as "provider hospitals" and requires physicians in those hospitals to follow additional practice parameters when providing cesarean sections paid for by the state. Provider hospitals must also establish a peer review board to review all cesarean sections performed by the hospital and paid for by the state.

II. Present Situation:

Obstetrical Departments in Hospitals

Hospitals are required to report the services which will be provided by the hospital as a requirement of licensure and these services are listed on the hospital's license. Hospitals must notify the Agency for Health Care Administration (AHCA) of any change of service that affects information on that hospital's license by submitting a revised licensure application between 60 and 120 days in advance of the change.[1] The list of services is also used for the AHCA's inventory of hospital emergency services. According to the AHCA's website, there are currently 143 hospitals in Florida that offer emergency obstetrical services.[2]

[1] 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.

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

Provider Hospitals

Presently s. 383.336, F.S., defines the term "provider hospital" and creates certain requirements for such hospitals. A provider hospital is 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.[3] Physicians in such hospitals are required to comply with additional practice parameters[4] 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 section 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 implemented and Department of Health rules regarding provider hospitals were repealed by ch. 2012-31, ss. 9 and 10, Laws of Fla.

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.[5] Although many obstetrical physicians could continue to see patients in their offices, they would no longer be able to deliver babies at the hospital.[6] 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."[7]

III. Effect of Proposed Changes:

Section 1 of the bill repeals s. 383.336, F.S., relating to provider hospitals.

Section 2 of the bill creates s. 395.0192, F.S., to require hospitals to give at least a 120 day advanced notice to each obstetrical physician with clinical privileges at that hospital if the hospital intends to close its obstetrical department or cease providing obstetrical services.

Although specific penalties are not listed for violating the notification provisions, the AHCA has the authority to fine a health care facility up to $500 for a non-designated violation.[8] Such non-

[3] Section 383.336 (1), F.S.
[4] 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.
[5] 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).
[6] 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).
[7] Id.
[8] A non-designated violation is any violation that is not designated as class I-IV. See s. 408.813(3), F.S.

designated violations include violating any provision of that health care facility's authorizing statute.[9]

Section 3 of the bill 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:

SB 586 may have a positive fiscal impact for obstetrical physicians who receive this notice to allow them adequate time to ensure that they obtain privileges at another hospital. Advance notice will also allow the patient to adequately plan for delivery at another location. The bill may have a negative fiscal impact on hospitals that fail to comply due to potential administrative fines.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 395.0192 of the Florida Statutes.

[9] Section 408.813(3)(b), F.S.

This bill repeals section 383.336 of the Florida Statutes.

IX. Additional Information:

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

None.

B. Amendments:

None.

By Senator Stargel

15-00526-16 2016586__

A bill to be entitled

An act relating to responsibilities of health care providers; repealing s. 383.336, F.S., relating to practice parameters for physicians performing caesarean section deliveries in provider hospitals; creating s. 395.0192, F.S.; requiring a hospital to notify certain obstetrical physicians within a specified timeframe before the hospital closes its obstetrical department or ceases to provide obstetrical services; providing an effective date.

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

Section 1. Section 383.336, Florida Statutes, is repealed.

Section 2. Section 395.0192, Florida Statutes, is created to read:

395.0192 Duty to notify physicians.—A hospital shall notify each obstetrical physician who has privileges at the hospital at least 120 days before the hospital closes its obstetrical department or ceases to provide obstetrical services.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Higher Education, *Chair*
Appropriations Subcommittee on Education
Fiscal Policy
Judiciary
Military and Veterans Affairs, Space, and Domestic Security
Regulated Industries

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

SENATOR KELLI STARGEL
15th District

November 16, 2015

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

Dear Chair Bean:

I respectfully request that SB 586, related to *Responsibilities of Health Care Providers*, be placed on the next committee agenda.

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

Sincerely,

Kelli Stargel

Kelli Stargel
State Senator, District 15

Cc: Sandra Stovall/ Staff Director
Celia Georgiades/ AA

REPLY TO:
❒ 2033 East Edgewood Drive, Suite 1, Lakeland, Florida 33803
❒ 324 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5015

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)

12/1/15
Meeting Date

586
Bill Number (if applicable)

Topic Responsibilities of Health Care Providers

Amendment Barcode (if applicable)

Name Mary Thomas

Job Title Assistant General Counsel

Address 1430 Piedmont Dr E
Street

Phone 850 224 6496

Tallahassee FL 32308
City *State* *Zip*

Email MThomas@flmedical.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Medical Association

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	SB 742
INTRODUCER:	Senator Hutson
SUBJECT:	Certificates of Public Convenience and Necessity for Life Support or Air Ambulance Services
DATE:	November 20, 2015 REVISED: 12/01/15

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Stovall	HP	**Favorable**
2.			CA	
3.			JU	
4.			FP	

I. Summary:

SB 742 amends s. 401.25, F.S., to require, rather than allow, counties to adopt ordinances for reasonable standards for the issuance of certificates of public convenience and necessity (COPCN) for the provision of basic or advanced life support services or air ambulance services. The bill details certain standards that must be included in such an ordinance and also creates a specific appeals process for applicants whose COPCNs are denied by a county.

The bill's provisions take effect on July 1, 2016.

II. Present Situation:

Basic and Advanced Life Support Services

Prehospital life support services fall into two general categories, basic life support services (BLS) and advanced life support services (ALS). BLS is medical care which is used to assure a patient's vital functions until the patient has been transported to appropriate medical care.[1] ALS is sophisticated care using invasive methods, such as intravenous fluids, medications and intubation.[2] ALS can be performed in a ground ambulance or a helicopter and is usually implemented by physicians or paramedics.[3] BLS is typically performed by paramedics or emergency medical technicians (EMT).[4]

[1] Ryynanen, et. al, *Is advanced life support better than basic life support in prehospital care? A systematic review*, Scand J Trauma Resusc. Emerg. Med. 2010; 18: 62. Available at http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3001418/ (last visited Nov. 23, 2015).
[2] Id.
[3] Id.
[4] Id.

In Florida, providers of both BLS and ALS must be licensed by the Department of Health (DOH).[5] In order to be licensed, an applicant must pay the license fee,[6] provide evidence of adequate liability insurance coverage, have a COPCN from each county in which the applicant wishes to operate, and meet the minimum standards applicable to the type of service the applicant wishes to provide.[7] Licenses for BLS and ALS must be renewed every two years.

Certificates of Public Convenience and Necessity for the Provision of Basic or Advanced Life Support Services and Air Ambulance Services

A COPCN is defined as a written statement or document, issued by the governing board of a county, granting permission for an applicant or licensee to provide services authorized under such license for the benefit of the population of that county or an area within the county.[8] In order to be licensed to provide basic or advanced life support services or air ambulance services an applicant must have obtained a COPCN from each county in which the applicant will provide services.[9,10] Counties are allowed, but not required, to adopt ordinances to provide reasonable standards for the issuance of COPCNs. In adopting such ordinances, the counties must consider state guidelines, the recommendations of the local or regional trauma agency, and the recommendations of municipalities within their jurisdiction.[11]

County ordinances regarding COPCNs vary in detail from county to county. Of the counties surveyed,[12] all ordinances detail specific application requirements, typically including forms required to be filed with the county, and application review criteria. The application review criteria typically require that applications be sent to each municipality within the county and the municipalities to make recommendations on the application. Such recommendations must be taken into account when deciding to grant or deny the COPCN.

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[5] Section 401.25, F.S.
[6] The license fee is $660 for a BLS provider and $1,375 for an ALS or Air license provider, plus $25 for each vehicle permit.
[7] Minimum standards include an approved radio communications system; trauma transport protocols; compliance with minimum vehicle requirements; and adequate staffing including at least one EMT per ambulance for BLS, at least one EMT and one paramedic per ambulance for ALS, and at least one paramedic for air transport. ALS providers are also required to have a medical director with a Drug Enforcement Agency license number. See Rules 64J-1.002, 64J-1.003, and 64J-1.005, F.A.C.
[8] Rule 64J-1.001, F.A.C.
[9] Section 401.25(2)(d), F.S.
[10] Specifically for air ambulance services, the requirement to obtain a COPCN may be preempted by the federal Airline Deregulation Act of 1978 (ADA). The ADA restricts states from regulating matters related to airline pricing, routes, and services. In general, states are allowed to regulate the medical aspects of air ambulance services while the aviation components are regulated by the Federal Aviation Administration. Courts have found in other states (most recently in North Carolina) that certificate of need regulation of air ambulance providers is expressly preempted to the federal government and the Federal Department of Transportation has advised that this preemption also applies to COPCN laws. For a detailed analysis of this issue, please see the United States Government Accountability Office Report on "Air Ambulance: Effects of Industry Changes on Services Are Unclear," GAO-10-907, Sep. 2010, pp. 20-25 and Appendix III. Available at http://www.gao.gov/new.items/d10907.pdf (Last visited on Dec. 1, 2015).
[11] Section 401.25(6), F.S.
[12] Counties surveyed include Volusia (Sec. 46-92 Volusia County Code of Ordinances), Broward (Ch. 3½, Broward County Code of Ordinances), Miami-Dade (Ch. 4 Art. I, Miami-Dade County Code of Ordinances), Wakulla (Ch. 11.5 Art. III, Wakulla County Code of Ordinances), Baker (Ch. 16, Art. III, Baker County Code of Ordinances), and Collier (Ch. 50 Art. III, Collier County Code of Ordinances). Counties without ordinances include, but are not limited to, Columbia, Franklin, Levy, and Gadsden Counties (*Conversation with Susan Harbin, Florida Association of Counties on Nov. 30, 2015*).

The amount of detail required to be filed with a COPCN application also varies from county to county, but generally includes proof that the applicant has all necessary licenses as well as meets all state criteria for the provision of ALS or BLS services. Also included in such ordinances were revocation criteria, responsibilities conveyed on the holder of a COPCN, and a ban on the sale or reassignment of COPCNs. Additionally, the length of time that a COPCN lasts before it expires varies. For example, in Volusia County COPCNs expire after two years, in Broward County after three years, and in Miami-Dade County the COPCNs last until they are revoked.

Currently, if a COPCN is denied, there is no specific process for appeal detailed in the Florida statutes. As such, it is likely that any appeals of COPCN denials would be filed with the circuit court with jurisdiction over the county that denied the COPCN.

III. Effect of Proposed Changes:

SB 742 amends s. 401.25, F.S., to require, rather than allow, each county to adopt ordinances for the issuances of COPCNs for the provision of basic or advanced life support services or air ambulance services. The bill details that such ordinances must include standards regarding trained personnel staffing, equipment, and response times to life support calls. Additionally, when developing standards for COPCNs, the bill adds the requirement that the counties consider the recommendations of independent special fire control districts within their jurisdiction.[13]

The bill creates an appeals process specific to COPCN denials. If a COPCN is denied, the bill allows the applicant to appeal the decision by filing a writ of certiorari with the circuit court that has jurisdiction over the county. The bill requires that the county grant the applicant's COPCN if the court record in the proceeding shows that the applicant will provide a level of service superior to that of the current county provider, as measured by the county standards, at equal or lower cost.

The provisions in the bill take effect on July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

[13] Currently, counties must consider state guidelines (state guidelines are the minimum licensure standards for ALS, BLS, and air transport services. *See email from Paul Runk, Deputy Director, Legislative Planning Director, DOH, (Nov. 25, 2015*), the recommendations of the regional or local trauma agency, and the recommendations of municipalities within their jurisdiction.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

SB 742 may have a positive fiscal impact on a COPCN applicant whose application is required to be accepted under the appeals process provided in the bill. Consequently, if such application is required to be accepted, the bill could have a negative fiscal impact on the current holder of a COPCN in that county.

C. Government Sector Impact:

SB 742 may have a minor negative fiscal impact on counties that are required to create or revise ordinances for the issuance of COPCNs under the provisions in the bill.

VI. Technical Deficiencies:

SB 742 requires that, in order to file an appeal of a denial of a COPCN, the applicant must file a writ of certiorari with the circuit court. However, writs of certiorari are used when an appellate court reviews the decision of a lower court and may not be an appropriate method for the first appeal for the denial of a COPCN. It may be advisable to eliminate the requirement to file a writ of certiorari and replace it with the ability to simply file an appeal with the circuit court.

VII. Related Issues:

SB 742 requires that a county award a COPCN to an applicant if the record in the proceeding on appeal shows that the applicant would provide better service at an equivalent or lower cost than the county's current provider. Requiring the county to award a COPCN based on showings in the court record on appeal, rather than based on the decision of the circuit court, may require that the county determine the outcome of an appeal separately from, and potentially in conflict with, the decision of the circuit court for that appeal. It may be advisable to base the requirement that the county award the COPCN on the outcome of the appeal rather than on the court record in the case.

VIII. Statutes Affected:

This bill substantially amends section 401.25 of the Florida Statutes.

IX. Additional Information:

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

None.

B. Amendments:

None.

By Senator Hutson

6-00538-16 2016742__

A bill to be entitled

An act relating to certificates of public convenience and necessity for life support or air ambulance services; amending s. 401.25, F.S.; requiring, rather than authorizing, county governing boards to adopt ordinances that provide standards for the issuance of certificates of public convenience and necessity for basic or advanced life support or air ambulance services; specifying subjects of standards; providing an appeal process; providing a standard for issuance for denied applications for certificates of public convenience and necessity; providing an effective date.

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

Section 1. Subsection (6) of section 401.25, Florida Statutes, is amended to read:

401.25 Licensure as a basic life support or an advanced life support service.—

(6) The governing body of each county shall ~~may~~ adopt ordinances that provide reasonable standards for the issuance of certificates of public convenience and necessity to provide ~~for~~ basic or advanced life support services or ~~and~~ air ambulance services, including, but not limited to, standards regarding trained personnel staffing, equipment, and response times to life support calls. In developing standards for certificates of public convenience and necessity, the governing body of each county must consider state guidelines, recommendations of the

6-00538-16 2016742__

local or regional trauma agency created under chapter 395, and the recommendations of municipalities and independent special fire control districts within its jurisdiction. If the county denies an application for a certificate of public convenience and necessity to provide basic or advanced life support services or air ambulance services pursuant to this chapter, the applicant may appeal the decision by filing a writ of certiorari with the circuit court with jurisdiction over the county. The county shall award the requested certificate if the record in the proceeding on the writ demonstrates that the applicant will provide a level of service superior to that of the current county provider, as measured by the county standards for the issuance of the certificates, and at equal or less cost.

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

The Florida Senate

Committee Agenda Request

To: Senator Aaron Bean, Chair
Committee on Health Policy

Subject: Committee Agenda Request

Date: November 19, 2015

I respectfully request that **Senate Bill # 742**, relating to Certificates of Public Convenience and Necessity for Life Support or Air Ambulance Services, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator Travis Hutson
Florida Senate, District 6

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

12-1-15
Meeting Date

742
Bill Number (if applicable)

Topic COPCN

Amendment Barcode (if applicable)

Name James Cunningham

Job Title Battalion Chief

Address 1885 Veterans Park DR
Street

Phone 239-597-3222

Naples FL 34109
City *State* *Zip*

Email

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

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

Representing North Collier Fire Control

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

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

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

12/1/15
Meeting Date

742
Bill Number (if applicable)

Topic COPCNs

Amendment Barcode (if applicable)

Name Susan Harbin

Job Title Legislative Advocate

Address 100 S. Monroe St.
Street

Tallahassee FL 32308
City *State* *Zip*

Phone (770) 546-8845

Email sharbin@fl-counties

Speaking: ☐ For ☑ Against ☐ Information

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

Representing Florida Association of Counties

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)

12/1/2015
Meeting Date

IF42
Bill Number (if applicable)

Topic COPCN

Amendment Barcode (if applicable)

Name Dr. Jeff Panozzo

Job Title Medical Director

Address 1885 Veterans Park Dr.
Street

Naples FL 34109
City *State* *Zip*

Phone 239-877-7778

Email jpanozzo@northcollierfire.com

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

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

Representing North Collier Fire District

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

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

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

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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)

12/1/15
Meeting Date

742
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic CopCN

Name Jorge Aguilera

Job Title Deputy Chief of EMS

Address 1885 Veterans Park Drive
Street

Phone 239-597-3227

Naples FL 34109
City *State* *Zip*

Email Jaguilera@NorthCollierFire.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing North Collier Fire Rescue & Control District

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)

Meeting Date	Bill Number (if applicable)
	742

Amendment Barcode (if applicable)

Topic Certificate's of Public Convenience + Necessity

Name Lori Killinger

Job Title Attorney/Lobbyist

Address 315 S. Calhoun St. Ste 830 (Street)

Phone 850 2225702

Tallahassee (City) FL (State) 32308 (Zip)

Email lkillinger@llw-law.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Bonita Springs Fire Control District

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)

12-1-15
Meeting Date

SB 742
Bill Number (if applicable)

Topic Certificate of Public Convenience & Necessity

Amendment Barcode (if applicable)

Name Mac Kemp

Job Title Deputy Chief

Address 911 Easterwood Dr.
Street

Phone 8506062100

Tallahassee, FL 32311
City *State* *Zip*

Email: Kempm@leoncountyfl.gov

Speaking: ☐ For ☑ Against ☐ Information

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

Representing Florida Council of EMS Chief's

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)

12/1/15
Meeting Date

742
Bill Number (if applicable)

Topic COPCN for ACS

Amendment Barcode (if applicable)

Name Laura Donaldson

Job Title Attorney

Address 1101 W. Swann Ave
Street
Tampa, FL 33606
City *State* *Zip*

Phone 813-514-4700

Email ldonaldson@mansonbolves.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing North Collier Fire Control & Rescue District

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 Committee on Health Policy

BILL:	CS/SB 504
INTRODUCER:	Health Policy Committee and Senator Grimsley
SUBJECT:	Laser Hair Removal
DATE:	December 1, 2015
REVISED:	

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 504 requires a licensed electrologist who uses a laser or pulse-light device to be certified by a nationally recognized electrology organization; and have appropriate training, as defined by the Board of Medicine (BOM), for each device used. The bill defines a laser or pulsed light device as an electronic device approved by the U.S. Food and Drug Administration (FDA) for laser hair removal.

II. Present Situation:

State Regulation of Electrology

Chapter 478, F.S., governs the regulation of electrologists and the practice of electrolysis or electrology. It defines "electrolysis or electrology" as the permanent removal of hair by destroying the hair-producing cells of the skin and vascular system, using equipment and devices approved by the BOM which have been cleared by, and registered with, the FDA, and that are used pursuant to protocols approved by the BOM.[1]

Section 478.45, F.S., sets out the current requirements for licensure as an electrologist; and directs the Department of Health (DOH) to perform certain functions in connection with the issuance, or non-issuance, of that license. Specifically, an applicant must:

[1] Section 478.42(5), F.S.

- Be at least 18 years old;
- Be of good moral character;
- Possess a high school diploma or high school equivalency diploma;
- Have not committed an act that constitutes grounds for discipline as an electrologist in Florida;
- Have successfully completed the academic and practical training requirements of an electrolysis training program approved of by the BOM, not to exceed 120 hours; and
- Have passed a written examination developed by the DOH, or a national examination approved of by the BOM.

A person may not practice electrolysis, or hold himself or herself out as an electrologist, unless that person has an active, valid Florida license under ch. 478, F.S.[2]

The BOM, with the assistance of the Electrolysis Council, establishes minimum standards for the delivery of electrolysis services and adopts rules to implement ch. 478, F.S.[3]

Rule 64B8-56.002 of the Florida Administrative Code, lists the FDA registered devices an electrologist may use as needle-type epilators, lasers, and light based hair removal devices. Pursuant to that rule, laser and light based devices may only be used by a licensed electrologist who:

- Has completed training in laser and light-based hair removal and reduction that meets specified requirements set forth in that rule;
- Has been certified in the use of laser and light-based devices by a national certification organization approved of by the Council and the Board;
- Is using only the laser and light-based devices upon which he or she has been trained; and
- Is operating under the direct supervision of a physician trained in hair removal and licensed under ch. 458 or ch. 459, F.S.

Sections 458.348 (3) and 459.025(2), F.S., also regulate the practice of electrolysis and electrologists. All services using laser or light-based hair removal or reduction by persons other than physicians licensed under ch. 458 or ch. 459, F.S., require that the person performing such service be appropriately trained and work only under the direct supervision and responsibility of a physician licensed under ch. 458 or ch. 459, F.S.

Currently there are 1,240 individuals who hold active Florida electrologist licenses. The DOH does not distinguish in its reporting between those certified and those not certified in use of lasers.[4]

[2] Section 478.49(1), F.S.
[3] Section 478.43, F.S. *See* Rules 64B8-50 through 64B8-56, F.A.C., which regulate the licensure, practice, continuing education, and discipline of electrologists.
[4] Number of active Florida licenses calculated by adding "In State Active" practitioners, "Out of State Active," and "Military Active" practitioners. See *Florida Department of Health, Division of Medical Quality Assurance, Annual Report and Long Range Plan Fiscal Year 2014-2015:* Summary of Licensed Practitioners, *available at:* http://mqawebteam.com/annualreports/1415 (last visited Nov. 24, 2015).

Certification for Use of Laser and Light Based Hair Removal

Florida electrologists are currently permitted to perform laser and light-based hair removal only if they have completed the following requirements:

- Completed a 30-hour continuing education course approved by the council;[5]
- Are certified in the use of laser and light-based hair devices for the removal or reduction of hair by a national certification organization approved by the Electrolysis Council and the Board of Medicine;
- Are using only the laser and light-based hair removal or reduction devices upon which they have been trained;
- Have developed with his or her supervising physician written protocols and furnished them to the council prior to beginning the practice of laser hair removal;
- Are operating under the direct supervision and responsibility of a physician properly trained in laser hair removal and licensed pursuant to the provisions of ch. 458 or ch. 459, F.S.; and
- Meet all the requirements for a licensed electrology facility where laser and light-based hair removal is performed.

Florida has only one approved national certification organization that has been approved by the Electrolysis Council and the Florida BOM - The Society for Clinical and Medical Hair Removal (SCMHR),[6] although other national certifying organizations exist.[7]

III. Effect of Proposed Changes:

CS/SB 504 amends s. 478.42, F.S., to define "laser hair removal" and "laser or pulsed-light device." "Laser hair removal" is defined as the use of a laser or pulsed-light device in a hair removal procedure that does not remove the epidermis.[8] "Laser or pulsed-light device" is defined as an electronic device approved of by the FDA for laser hair removal.

The bill also amends s. 478.49, F.S., to require that an electrologist who uses a laser or pulse light device must be certified by a nationally recognized electrology organization in the use of these devices and have appropriate training, as determined by the BOM, for each device used.

The effective date of the bill is July 1, 2016.

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[5] Rule 64B8-52.004, F.A.C.

[6] SCMHR is an international non-profit organization with members in the United States, Canada, United Arab Emirates and beyond. SCMHR supports all existing methods of hair removal and is dedicated to the research of new technological breakthroughs, allowing our members to offer cutting-edge, safe and effective hair removal procedures to their clients. SCMHR promotes the highest standards within the hair removal profession through our membership benefits, conferences, live and pre-recorded webinars, offline pencil-and-paper courses and certification programs. SCMHR certification programs are the only national certifications aimed toward physicians, nurses and medical estheticians to demonstrate their knowledge of this profession. SCMHR's educational materials can also be used to earn continued education units (CEUs) to fulfill requirements for licensing and certification in some states. - *The Society of Clinical & Medical Hair Removal, Inc*. (SCMHR). https://www.scmhr.org/ (last visited Nov. 15, 2015).

[7] See the American Electrology Association, http://professionals.electrology.com/be-an-electrologist/cpe-credential-for-electrologists.html (last visited Nov. 25, 2015).

[8] The epidermis is outer epithelial layer of the external integument of the animal body that is derived from the embryonic epiblast; *specifically*: the outer non-sensitive and nonvascular layer of the skin of a vertebrate that overlies the dermis. Merriam-Webster, an Encyclopedia Britannica Company, *Epidermis,* available at http://www.merriam-webster.com/medical/epidermis (last viewed Oct. 27, 2015).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of Florida Statutes: 478.42 and 478.49.

IX. Additional Information:

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

CS by Health Policy on December 1, 2015:
Places the definitions and certification requirements in different sections of law.

B. The Amendments:

None.

522150

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
12/01/2015	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsections (6) and (7) are added to section 478.42, Florida Statutes, to read:

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

(6) "Laser hair removal" means the use of a laser or pulsed-light device in a hair removal procedure that does not remove the epidermis.

522150

(7) "Laser or pulsed-light device" means an electronic device approved by the United States Food and Drug Administration for laser hair removal.

Section 2. Section 478.49, Florida Statutes, is amended to read:

478.49 License and certification required.—

(1) No person may practice electrology or hold herself or himself out as an electrologist in this state unless the person has been issued a license by the department and holds an active license pursuant to the requirements of this chapter.

(2) A licensee shall display her or his license in a conspicuous location in her or his place of practice and provide it to the department or the board upon request.

(3) A licensee who uses a laser or pulsed-light device in a laser hair removal procedure must be certified by a nationally recognized electrology organization in the use of these devices and must have the appropriate training, as determined by board rule, for each such device used by the licensee.

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 laser hair removal; amending s. 478.42, F.S.; defining terms; amending s. 478.49, F.S.; providing certification and training requirements for licensed electrologists who use laser or pulsed-light devices in hair removal; providing an

522150

effective date.

By Senator Grimsley

21-00428A-16 2016504__

A bill to be entitled

An act relating to laser hair removal; amending s. 478.45, F.S.; defining terms; providing certification and training requirements for electrologists who use laser or pulsed-light devices in hair removal; providing an effective date.

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

Section 1. Present subsections (5) and (6) of section 478.45, Florida Statutes, are redesignated as subsections (6) and (7), respectively, and a new subsection (5) is added to that section, to read:

478.45 Requirements for licensure.—

(5)(a) As used in this subsection, the term:

1. "Laser or pulsed-light device" means an electronic device approved by the United States Food and Drug Administration for laser hair removal.

2. "Laser hair removal" means the use of a laser or pulsed-light device in a hair removal procedure that does not remove the epidermis.

(b) An electrologist who uses a laser or pulsed-light device must be certified by a nationally recognized electrology organization in the use of these devices and must have the appropriate training as defined by the board for each device used.

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

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

The Florida Senate

Committee Agenda Request

To: Senator Aaron Bean, Chair
Committee on Health Policy

Subject: Committee Agenda Request

Date: October 22, 2015

I respectfully request that **Senate Bill 504**, relating to Laser Hair Removal and **SB 526**, relating to Reimbursement of Medicaid Providers be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator Denise Grimsley
Florida Senate, District 21

cc: Sandra Stovall, Staff Director
Celia Georgiades, Committee Administrative Assistant

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

12/1/15
Meeting Date

504
Bill Number (if applicable)

20160504
Amendment Barcode (if applicable)

Topic Electrology

Name Ellyn Bogdanoff

Job Title

Address 908 S. Andrews Ave
Street

Ft Laud FL 33316
City *State* *Zip*

Phone

Email ellyn.bogdanoff@gmail.com

Speaking: ☑ For ☐ Against ☑ Information

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

Representing Society for Clinical & Medical Hair Removal

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 Committee on Health Policy

BILL:	CS/SB 580
INTRODUCER:	Health Policy Committee and Senator Grimsley
SUBJECT:	Reimbursement to Health Access Settings for Dental Hygiene Services for Children
DATE:	December 1, 2015 REVISED:

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 580 authorizes the Agency for Health Care Administration (AHCA) to reimburse a health access setting under the Medicaid program for remedial dental services (remedial tasks) delivered by a dental hygienist when provided to a Medicaid recipient younger than 21 years of age. Remedial tasks are defined as intra-oral tasks that do not create unalterable changes in the mouth or contiguous structures, are reversible, and do not expose the patient to increased risks.

The effective date of the bill is July 1, 2016.

II. Present Situation:

Florida Medicaid Program

Medicaid is a joint federal and state funded program that provides health care for low income Floridians. The program is administered by the AHCA and financed with federal and state funds. Florida has an estimated monthly caseload of over 4 million Floridians enrolled in Medicaid for

fiscal year 2015-2016.[1] Of those enrollees, more than 2.1 million are children.[2] The statutory authority for the Medicaid program is contained in ch. 409, F.S.

Federal law establishes the minimum benefit levels to be covered in order to receive federal matching funds. Benefit requirements can vary by eligibility category. For example, more benefits are required for children than for the adult population. Florida's mandatory and optional benefits are prescribed in state law under ss. 409.905 and 409.906, F.S., respectively. Children's dental benefits and authorization for reimbursement and treatment levels are specifically covered under s. 409.906(6), F.S., and provided in more detail in the Medicaid Dental Services Coverage and Limitations Handbook.[3]

Comprehensive dental benefits are required for children and are offered as an expanded benefit for adults under the Medicaid Medical Assistance Managed Care plans (MMA). Dental is also included as an approved Long Term Care Managed Care plan (LTC) expanded benefit.[4] Dental services delivered through the MMA and LTC plans must comply with the Medicaid Dental Services Coverage and Limitations Handbook as do services delivered through the Medicaid fee for service system.

Florida Medicaid currently reimburses dental services provided to Medicaid recipients by a registered dental hygienist who is employed by or in a contractual agreement with a health access setting, as defined under s. 466.003(14), F.S., and is under the general supervision of a dentist as defined under s. 466.003(10), F.S.[5,6] The Medicaid-enrolled supervising dentist at the facility where the registered dental hygienist is employed or is in contractual agreement with is listed as the treating provider for these services.

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[1] Agency for Health Care Administration, *Florida Medicaid - Presentation to Senate Health and Human Services Appropriations Subcommittee* (October 20, 2015), *available at:* http://ahca.myflorida.com/medicaid/recent_presentations/Florida_Medicaid_to_Senate_HHS_Appropriations_2015-10-20.pdf (last visited Oct. 28, 2015).

[2] Agency for Health Care Administration, *Florida KidCare Enrollment Report, October 2015*(on file with the Senate Committee on Health Policy).

[3] Agency for Health Care Administration, *Florida Medicaid Dental Services Coverage and Limitations Handbook* (November 2011) *available at:* http://portal.flmmis.com/FLPublic/Portals/0/StaticContent/Public/HANDBOOKS/Dental_Services_November_2011_Final_Handbook.pdf (last viewed Oct. 28, 2015).

[4] *See* Agency for Health Care Administration, *Statewide Medicaid Managed Care Plans - Model Contract, Attachment I: Scope of Services* (November 1, 2015) *available at:* http://ahca.myflorida.com/Medicaid/statewide_mc/plans.shtml (last visited Nov. 23, 2015).

[5] A health access setting is defined under the statute as a program or an institution of the Department of Children and Family Services, the Department of Health, the Department of Juvenile Justice, a nonprofit community health center, a Head Start center, a federally qualified health center or look-alike as defined by federal law, a school-based prevention program, a clinic operated by an accredited college of dentistry, or an accredited dental hygiene program in this state if such community service program or institution immediately reports to the Board of Dentistry all violations of ss. 466.027, and 466.028, or other practice act or standard of care violations related to the actions or inactions of a dentist, dental hygienist, or dental assistant engaged in the delivery of dental care in such setting.

[6] "General Supervision" means a dentist authorizes the procedures that are being carried out but is not required to be present when those authorized procedures are being performed under the statutory definition.

Practice of Dentistry

Chapter 466, F.S., addresses the practice of dentistry and dental hygiene. Specifically, s. 466.024(2), F.S., identifies the specific services that dental hygienists are permitted to perform, including dental cleanings and applications of topical fluoride and sealants, in a health access setting without the physical presence of, prior examination by, or prior authorization of a dentist.

The expanded scope of practice legislation was passed in 2011, which permitted licensed dental hygienists to perform certain functions without the physical presence, prior examination or authorization of a dentist, in health access settings.[7] The MMA plans provide health care services through certain health access setting providers as part of their contract obligations with the AHCA, including contracting with county health departments and federally qualified health centers.[8]

However, while the scope of services that could be performed without supervision was expanded for dental hygienists, the legislation did not specifically permit the health access setting provider to bill Medicaid for these expanded services unless the services are performed under the general supervision of a dentist. Statutory authorization for Medicaid dental reimbursement delivered at a health care access setting by a dental hygienist is addressed separately under s. 409.906(6), F.S.

The administrative rules under Chapter 64B5-16, F.A.C., provide additional guidance as to the level of supervision required for dental hygienists and the tasks that may be delegated or performed at those levels. Under Rule 64B5-16.001, F.A.C., remedial tasks are defined as those intra-oral tasks that do not create unalterable changes in the mouth or contiguous structures, are reversible, and do not expose the patient to increased risks. The rule permits a dentist to delegate any task to a dental hygienist that meets this criteria and where the training and supervision requirements of the rule have also been achieved.

III. Effect of Proposed Changes:

Section 1 amends subsection (6) of s. 409.906, F.S., to authorize the AHCA to reimburse a health access setting[9], for remedial tasks that a licensed dental hygienist is authorized to perform on a Medicaid recipient under the age of 21. These reimbursable services are provided by a licensed dental hygienist on a Medicaid recipient under an appropriate statutory delegation of duties by a licensed dentist.

Section 2 provides an effective date of July 1, 2016.

[7] *See* Chapter Law 2011-95, ss. 4-8, L.O.F., and s. 466.024(2), F.S.
[8] Agency for Health Care Administration, Statewide Medicaid Managed Care Contract - Attachment II-A: Core Contract Provisions/Managed Medical Assistance Provisions (11/1/2015), *available at:* http://ahca.myflorida.com/medicaid/statewide_mc/pdf/Contracts/2015-11-01/Exhibit_II-A-Managed_Medical_Assistance_MMA_Program_2015-11-01.pdf (last visited Nov. 23, 2015).
[9] *See supra* note 5.

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:

Additional health access settings may benefit from increased revenue resources from the newly reimbursable services. These health access settings may also be able to provide services in a more cost efficient manner through the expanded use of dental hygienists, thereby improving access to certain dental services.

C. Government Sector Impact:

Additional health access settings may benefit from increased revenue resources from newly reimbursable services. These health care access settings may also be able to provide services in a more cost efficient manner through the expanded use of dental hygienists. The AHCA indicates that a dental hygienist's salary is approximately one-half the cost of a dentist's salary.

The AHCA indicates CS/SB 580 has no fiscal impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 409.906 of the Florida Statutes.

IX. Additional Information:

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

CS by Health Policy on December 1, 2015
The CS clarified that the agency may reimburse the health access setting rather than the dental hygienist for remedial tasks that the licensed dental hygienist is authorized to perform.

B. Amendments:

None.

691102

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
12/01/2015	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 38 - 40
and insert:
21, by or under the supervision of a licensed dentist. The agency may also pay for the remediable tasks that a licensed dental hygienist is authorized to perform under s. 466.024(2). Services provided under this

977138

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
12/01/2015	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 38 - 40
and insert:
21, by or under the supervision of a licensed dentist. The agency may also reimburse a health access setting as defined in s. 466.003 for the remedial tasks that a licensed dental hygienist is authorized to perform under s. 466.024(2). Services provided under this

By Senator Grimsley

21-00389A-16 2016580__

A bill to be entitled

An act relating to reimbursement to health access settings for dental hygiene services for children; amending s. 409.906, F.S.; authorizing reimbursement for children's dental services provided by licensed dental hygienists in certain circumstances; providing an effective date.

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

Section 1. Subsection (6) of section 409.906, Florida Statutes, is amended to read:

409.906 Optional Medicaid services.—Subject to specific appropriations, the agency may make payments for services which are optional to the state under Title XIX of the Social Security Act and are furnished by Medicaid providers to recipients who are determined to be eligible on the dates on which the services were provided. Any optional service that is provided shall be provided only when medically necessary and in accordance with state and federal law. Optional services rendered by providers in mobile units to Medicaid recipients may be restricted or prohibited by the agency. Nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. If necessary to safeguard the state's systems of providing services to elderly and disabled persons and subject

21-00389A-16 2016580__

to the notice and review provisions of s. 216.177, the Governor may direct the Agency for Health Care Administration to amend the Medicaid state plan to delete the optional Medicaid service known as "Intermediate Care Facilities for the Developmentally Disabled." Optional services may include:

(6) CHILDREN'S DENTAL SERVICES.—The agency may pay for diagnostic, preventive, or corrective procedures, including orthodontia in severe cases, provided to a recipient under age 21, by or under the supervision of a licensed dentist, or the remediable tasks that a licensed dental hygienist is authorized to perform under s. 466.024(2). Services provided under this program include treatment of the teeth and associated structures of the oral cavity, as well as treatment of disease, injury, or impairment that may affect the oral or general health of the individual. However, Medicaid will not provide reimbursement for dental services provided in a mobile dental unit, except for a mobile dental unit:

(a) Owned by, operated by, or having a contractual agreement with the Department of Health and complying with Medicaid's county health department clinic services program specifications as a county health department clinic services provider.

(b) Owned by, operated by, or having a contractual arrangement with a federally qualified health center and complying with Medicaid's federally qualified health center specifications as a federally qualified health center provider.

(c) Rendering dental services to Medicaid recipients, 21 years of age and older, at nursing facilities.

(d) Owned by, operated by, or having a contractual

agreement with a state-approved dental educational institution.

Section 2. 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)

12/11/15
Meeting Date

580
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Leslie Dughi

Job Title _____

Address 101 E College Ave
Street

Tallahassee FL 32303
City *State* *Zip*

Phone 850-521-8571

Email dughi1@gtlaw.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Dental Hygiene Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

12/1/15
Meeting Date

~~SB~~ 580
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Chris Nuland

Job Title _____

Address 1000 Riverside Ave
Street

Jacksonville, FL 32204
City *State* *Zip*

Phone 904-233-3071

Email nulandlaw@aol.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Florida Public Health Association

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

12/1/15
Meeting Date

SB 580
Bill Number (if applicable)

Topic Reimbursements to Hearing Access Settings

977138
Amendment Barcode (if applicable)

Name Joe Anne Hart

Job Title Dir. of Governmental Affairs

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Tall, FL 32301
City *State* *Zip*

Phone (850) 224-1089

Email johart@floridadental.org

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

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

Representing Florida Dental Association

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

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

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

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

S-001 (10/14/14)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	CS/SB 748
INTRODUCER:	Health Policy Committee and Senator Flores
SUBJECT:	Physician Assistants
DATE:	December 2, 2015 REVISED:

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 748 authorizes a Physician Assistant (PA) to perform services delegated by the supervising physician related to the PA's practice in accordance with his or her education and training unless expressly prohibited under ch. 458, ch. 459, F.S., or the rules adopted under the allopathic and osteopathic medical practice acts.

The bill creates and defines a "designated supervising physician." A "designated supervising physician" means a physician designated by a facility or practice to be the primary contact and supervising physician for the PAs in a practice where PAs are supervised by multiple supervising physicians. The bill streamlines a PA's reporting requirements to the Department of Health (DOH) with respect to multiple supervising physicians. The PA may report to DOH his or her designated supervising physician in lieu of the actual supervising physician(s), and the designated supervising physician will maintain a list of supervising physicians in the practice or facility. This list would be available to DOH upon written request.

The bill also clarifies that a PA, with delegated prescribing authority, may use prescriptions in both paper and electronic form. The bill deletes obsolete provisions relating to PA examinations by the DOH in favor of national proficiency examinations. It streamlines and simplifies the PA licensure and application process by eliminating the requirement for letters of recommendation and substituting acknowledgments for sworn statements that required notarization.

II. Present Situation:

Supervision of Physician Assistants

Chapter 458, F.S., sets forth the provisions for the regulation of the practice of allopathic medicine by the 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.[1]

PAs are trained and required by statute to work under the supervision and control of allopathic physicians or osteopathic physicians.[2] 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 direct[3] and indirect[4] supervision. These principles are required to recognize the diversity of both specialty and practice settings in which PAs are used."[5]

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.[6] Each physician or group of physicians supervising a licensed PA must be qualified in the medical areas in which the PA is to perform and must be individually or collectively responsible and liable for the performance and the acts and omissions of the PA.[7]

The following duties are not permitted to be performed by a PA under indirect supervision:

- Routine insertion of chest tubes and removal of pacer wires or left atrial monitoring lines;
- Performance of a cardiac stress testing;
- Routine insertion of central venous catheters;
- Injection of intrathecal[8] medication without prior approval of the supervising physician;
- Interpretation of laboratory tests, X-ray studies and EKG's without the supervising physician's interpretation and final review;

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[1] 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 PA appointed by the State Surgeon General. (*See* ss. 458.347(9) and 459.022(9), F.S.)
[2] Sections 458.347(4) and 459.022(4), F.S.
[3] "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.).
[4] "Indirect supervision" refers to the easy availability of the supervising physician to the PA, which includes the ability to communicate by telecommunications, and requires the physician to be within reasonable physical proximity. (*See* Rules 64B8-30.001(5) and 64B15-6.001(5), F.A.C.)
[5] Sections 458.347(4)(a) and 459.002(4)(a), F.S.
[6] Rules 64B8-30.012(2) and 64B15-6.010(2), F.A.C.
[7] Sections 458.347(3) and 459.022(3), F.S.
[8] Intrathecal means within a sheath; or through the theca of the spinal cord into the subarachnoid space. Miller-Keane Encyclopedia and Dictionary of Medicine, Nursing, and Allied Health, Seventh Edition. © 2003 by Saunders, an imprint of Elsevier, Inc. (last viewed Nov. 23, 2015) *available at* http://medical-dictionary.thefreedictionary.com/intrathecal.

- Administration of general, spinal, or epidural anesthetics; and then only by physician assistants who graduated from Board-approved programs for the education of anesthesiology assistants.[9]

Current law allows a supervising physician to delegate to a licensed PA the authority to prescribe or dispense any medication used in the physician's practice, except controlled substances, general anesthetics, and radiographic contrast materials.[10]

A PA's licensure requirements are as follows:

- Is at least 18 years of age;
- Has graduated from an BOM or BOOM approved PA program[11] or its equivalent, or meets standards approved by the boards;
- Has passed a proficiency examination with an acceptable score established by the National Commission on Certification of Physician Assistants (NCCPA);
- Has completed the DOH application form[12] and remitted an application fee; and
- Has pass a criminal background check.

The PA application form requires among other things, two letters of recommendation and sworn statements that require notarization, pertaining to prior felony convictions and any previous revocation or denial of licensure or certification in any state.

Renewal of a PA's license is biennial and contingent upon completion of certain continuing medical education requirements. A PA with delegated prescribing authority must submit a signed affidavit that he or she has completed a minimum of 10 continuing medical education hours in the specialty practice in which the PA has prescriptive privileges.[13]

Section 458.347(7)(b), F.S., contains obsolete provisions relating to PA examinations by the DOH. The DOH no longer administers a PA examination for licensure as s. 456.017(1)(c)2., F.S., prohibits a board or department to use state-developed written examinations if a national examination has been certified by the department. The current provision regarding foreign medical school trained unlicensed physicians who had not previously taken, or who had failed the NCCPA examination, but who had been certified by the BOM as having met the

[9] Rules 64B8-30.012 and 64B15-6.010, F.A.C.
[10] Sections 458.347(4)(e) and (f)1. and 459.022(4)(e), F.S.
[11] The DOH, BOM and BOOM have delegated their responsibility to approve PA programs to the NCCPA who used the Accreditation Review Commission on Education for the Physician Assistant (ARC-PA) to accredit PA schools. The ARC-PA defines the standards for PA education and evaluating PA educational programs in the United States to ensure their compliance with those standards. The ARC-PA is an independent accrediting body and accredited programs located in institutions offering, associate, baccalaureate or master's degrees in conjunction with the PA credential awarded. *See* Accreditation Review Commission on Education for the Physician Assistants, Inc., *available at* http://www.arc-pa.com/about/index.html (last visited Nov. 6, 2015).
[12] The DOH PA licensure application must include: 1) a certificate of completion of a physician assistant training program specified in subsection (6); 2). a sworn statement of any prior felony convictions; 3) a sworn statement of any previous revocation or denial of licensure or certification in any state; 4) two letters of recommendation; and 5) a copy of course transcripts and a copy of the course description from the physician assistant's training program describing course content in pharmacotherapy, if the applicant wishes to apply for prescribing authority. These documents must meet the evidence requirements for prescribing authority. Section 458.347(7)(a)(3), F.S.
[13] Sections 458.347(4)(e)3.and 459.022(4)(e)3., F.S.

requirements for licensure as a medical doctor by examination, was only available from July 1, 1990 through June 30, 1991. A temporary PA license was authorized and was valid until the receipt of passing scores from the examination of the NCCPA. Also, because there is no department administered examination, the time table for notice and administration of a department administered examination is now obsolete.[14]

All licensed PAs, as a condition of practice, must also, upon employment, or any subsequent change of employment, notify the DOH in writing,[15] within 30 days after starting, of the following:

- Complete mailing address of all current practice locations;
- Name and license number of all supervising physicians, including whether M.D. or D.O., specialty of supervising physician, and date supervision began.[16]

Additionally, any subsequent change in the supervising physician must be communicated in writing to the DOH within 30 days after the change.

Board rules[17] define a primary supervising physician as a physician licensed pursuant to ch. 458 or ch. 459, F.S., who assumes responsibility and legal liability for the services rendered by the PA at all times the PA is not under the supervision and control of an alternate supervising physician. An alternate supervising physician is defined as physician(s) licensed pursuant to ch. 458 or ch. 459, F.S., who assume responsibility and legal liability for the services rendered by the PA while the physician assistant is under his or her supervision and control. A physician may not supervise more than four licensed physician assistants at any one time.[18]

Section 458.347(4)5, F.S., and s. 459.022(e)5., F.S., dealing with delegated prescribing authority, allows for the use of prescriptions in written form only.

III. Effect of Proposed Changes:

CS/SB 748 amends the virtually identical provisions relating to physician assistants (PAs) in both the Medical Practice Act, ch.458, F.S., and the Osteopathic Medical Practice Act, ch. 459, F.S.

Affirmative Delegation Authority

The CS/SB 748 authorizes a PA to perform services delegated by the supervising physician in the PA's practice in accordance with his or her education and training unless expressly prohibited under ch. 458, F.S., ch. 459, F.S., or rules adopted under either chapter. This additional language to s. 458.347, F.S., and s. 459.022, F.S., provides clearer expression of the practice authority a supervising physician may delegate to a PA, and may help avoid recurring

[14] *See* the Florida Dep't of Health, *House Bill 375 Analysis*, p. 3 (Oct. 27, 2015) (on file with the Senate Committee on Health Policy).
[15] Florida Dep't of Health, Form DH-MQA 2004, *Supervision Data Form* (rev. Aug. 2010) *available at* http://flboardofmedicine.gov/forms/frm_supervisiondata.pdf (last viewed Nov. 23, 2015).
[16] Sections 458.347(7)(e) and 459.022(7)(d), F.S., and Rules 64B15-6.003 and 64B8-30.003, F.A.C.
[17] Rules 64B8-30.001 and 64B15-6.001, F.A.C.
[18] Sections 458.347(3) and 459.022(3), F.S.

inquiries about whether a supervising physician may delegate to a PA various medical tasks that are not specifically authorized in statute to be delegated.[19]

Designated Supervising Physician

CS/SB 748 amends s. 458.347(4)(e)5, F.S., and s. 459.002(4)(e)5., F.S., to create and define a new type of supervising physician for PAs, the "designated supervising physician". The bill gives a PA a choice of whether to report his or her supervising physician(s), or the designated supervising physician, for employment by a facility or practice. If the PA chooses the option of reporting only the designated supervising physician, a PA would no longer be required to report changes in physicians who actually supervise the PA in a facility or practice within 30 days of the changes. Any changes to the designated supervising physicians must be reported to DOH within 30 days of the change. The bill may help a PA avoid disciplinary action for the failure to timely report a change in supervising physician.

It is unclear how the designated supervising physician's role affects the roles of supervising physicians and alternate supervising physicians as established in rule. The addition of the designated supervising physician might hinder DOH's current ability to readily identify physicians and PA supervisory relationships at a particular facility or practice at any given time. Current law limits the number of PAs a physician my supervise at one time to four.[20, 21] Under the bill, in order for the DOH to obtain that information, the DOH is required to make a written request to the facility's or practice's designated supervising physician for a list which is required to contain only the names of all supervising physicians, each supervising physician's practice area, and be up to date with respect to additions and terminations of physicians. It does not require the designated supervising physician to include in the list which physicians supervised which PAs at what facility or practice location on a daily basis. There are also no sanctions in the bill for not maintaining the list, not keeping it up to date, or not providing it to the DOH in a timely manner. General disciplinary provisions in s. 458.072, F.S., and s. 459.015, F.S., however, might be applicable.

Form of Prescription

CS/SB 748 amends s. 458.347(4)(e)5., F.S., and s. 459.022(4)(e)5., F.S., to clarify that a PA, with delegated prescribing authority, may use prescriptions in both paper and electronic form. The prescription must comply with provisions in s. 456.0392(1), F.S., s. 456.42(1), F.S., and ch. 499, which require identification of the PA, i.e., name and prescriber number, and other essential elements for dispensing such as name and address of the patient, name and strength of the drug, quantity prescribed, directions for use, date prescribed, and the prescriber's signature.

Licensure Efficiencies

CS/SB 748 amends s. 458.347(7)(a), F.S., and s.459.022(7)(a)., F.S., to streamline and simplify the PA licensure and application process by eliminating the requirement for two letters of recommendation and substituting acknowledgments for sworn statements that required

[19] *See for example:* Op. Att'y Gen. Fla. 2008-21 (2008) – Baker Act – Physician Assistants.
[20] Section 458.347(3), F.S.
[21] Section 459.022(3), F.S.

notarization pertaining to continuing medical education, prior felony convictions, and certain regulatory actions for licensure or certification in any state.

The bill deletes obsolete provisions relating to PA examinations by the DOH in favor of national proficiency examinations. This language only appears in the Medical Practice Act in s. 458.347(7)(b), F.S.

Effective Date

The effective date of the bill is 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:

Applicants for licensure as a PA, and PAs renewing their licenses, will experience reduced costs and time savings due to the administrative efficiencies.

Physician Assistants may also avoid disciplinary action for missing the filing deadlines, whether intentionally or unintentionally, when changes in supervising physicians occur.

C. Government Sector Impact:

The DOH and medical boards may experience fewer investigations and probable cause hearings with fewer complaints relating to PAs missing filing deadlines associated with changes in supervising physicians. Additional resources may be required to monitor responsibilities of the designated supervising physician. Any cost savings or increased costs is indeterminate at this time.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 458.347 and 459.022.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Health Policy on December 1, 2015:
Clarifies that a PA may perform services that are delegated by the supervising physician in accordance with his or her education and training, unless expressly prohibited by law; clarifies that prescriptions may be in paper or electronic form; reinstates the requirement that prescriptions comply with ch. 499, F.S.; and removes the concept that designated supervising physicians must be approved.

B. Amendments.

None.

296498

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
12/01/2015	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (e) of subsection (4) of section 458.347, Florida Statutes, is amended, paragraph (h) is added to that subsection, paragraphs (c) through (h) of subsection (7) are redesignated as paragraphs (b) through (g), respectively, and present paragraphs (a), (b), (c), (e), and (f) of that subsection are amended, to read:

296498

458.347 Physician assistants.—

(4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

(e) A supervising ~~supervisory~~ physician may delegate to a fully licensed physician assistant the authority to prescribe or dispense any medication used in the supervising ~~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 before ~~prior to~~ any prescription is ~~being~~ prescribed or dispensed by the physician assistant.

2. The supervising ~~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 acknowledge with ~~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.

4. The department may issue a prescriber number to the physician assistant granting authority for the prescribing of

296498

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 may ~~must~~ be ~~written~~ in paper or electronic ~~a~~ form but must comply ~~that complies~~ with ss. 456.0392(1) and 456.42(1) and chapter 499 and must contain, in addition to the supervising ~~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.

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

(h) A licensed physician assistant may perform services delegated by the supervising physician in the physician assistant's practice in accordance with his or her education and training unless expressly prohibited under this chapter, chapter 459, or rules adopted under this chapter or chapter 459.

(7) PHYSICIAN ASSISTANT LICENSURE.—

(a) Any person desiring to be licensed as a physician assistant must apply to the department. The department shall issue a license to any person certified by the council as having met the following requirements:

1. Is at least 18 years of age.

2. Has satisfactorily passed a proficiency examination by

296498

an acceptable score established by the National Commission on Certification of Physician Assistants. If an applicant does not hold a current certificate issued by the National Commission on Certification of Physician Assistants and has not actively practiced as a physician assistant within the immediately preceding 4 years, the applicant must retake and successfully complete the entry-level examination of the National Commission on Certification of Physician Assistants to be eligible for licensure.

3. Has completed the application form and remitted an application fee not to exceed $300 as set by the boards. An application for licensure made by a physician assistant must include:

a. A certificate of completion of a physician assistant training program specified in subsection (6).

b. Acknowledgment ~~A sworn statement~~ of any prior felony convictions.

c. Acknowledgment ~~A sworn statement~~ of any previous revocation or denial of licensure or certification in any state.

d. ~~Two letters of recommendation.~~

~~e.~~ A copy of course transcripts and a copy of the course description from a physician assistant training program describing course content in pharmacotherapy, if the applicant wishes to apply for prescribing authority. These documents must meet the evidence requirements for prescribing authority.

(b)~~1. Notwithstanding subparagraph (a)2. and sub-subparagraph (a)3.a., the department shall examine each applicant who the Board of Medicine certifies:~~

~~a. Has completed the application form and remitted a~~

296498

~~nonrefundable application fee not to exceed $500 and an examination fee not to exceed $300, plus the actual cost to the department to provide the examination. The examination fee is refundable if the applicant is found to be ineligible to take the examination. The department shall not require the applicant to pass a separate practical component of the examination. For examinations given after July 1, 1998, competencies measured through practical examinations shall be incorporated into the written examination through a multiple-choice format. The department shall translate the examination into the native language of any applicant who requests and agrees to pay all costs of such translation, provided that the translation request is filed with the board office no later than 9 months before the scheduled examination and the applicant remits translation fees as specified by the department no later than 6 months before the scheduled examination, and provided that the applicant demonstrates to the department the ability to communicate orally in basic English. If the applicant is unable to pay translation costs, the applicant may take the next available examination in English if the applicant submits a request in writing by the application deadline and if the applicant is otherwise eligible under this section. To demonstrate the ability to communicate orally in basic English, a passing score or grade is required, as determined by the department or organization that developed it, on the test for spoken English (TSE) by the Educational Testing Service (ETS), the test of English as a foreign language (TOEFL) by ETS, a high school or college level English course, or the English examination for citizenship, Bureau of Citizenship and Immigration Services. A notarized copy of an~~

296498

~~Educational Commission for Foreign Medical Graduates (ECFMG) certificate may also be used to demonstrate the ability to communicate in basic English; and~~

~~b. Is an unlicensed physician who graduated from a foreign medical school listed with the World Health Organization who has not previously taken and failed the examination of the National Commission on Certification of Physician Assistants and who has been certified by the Board of Medicine as having met the requirements for licensure as a medical doctor by examination as set forth in s. 458.311(1), (3), (4), and (5), with the exception that the applicant is not required to have completed an approved residency of at least 1 year and the applicant is not required to have passed the licensing examination specified under s. 458.311 or hold a valid, active certificate issued by the Educational Commission for Foreign Medical Graduates; was eligible and made initial application for certification as a physician assistant in this state between July 1, 1990, and June 30, 1991; and was a resident of this state on July 1, 1990, or was licensed or certified in any state in the United States as a physician assistant on July 1, 1990.~~

~~2. The department may grant temporary licensure to an applicant who meets the requirements of subparagraph 1. Between meetings of the council, the department may grant temporary licensure to practice based on the completion of all temporary licensure requirements. All such administratively issued licenses shall be reviewed and acted on at the next regular meeting of the council. A temporary license expires 30 days after receipt and notice of scores to the licenseholder from the first available examination specified in subparagraph 1.~~

296498

~~following licensure by the department. An applicant who fails the proficiency examination is no longer temporarily licensed, but may apply for a one-time extension of temporary licensure after reapplying for the next available examination. Extended licensure shall expire upon failure of the licenseholder to sit for the next available examination or upon receipt and notice of scores to the licenseholder from such examination.~~

~~3. Notwithstanding any other provision of law, the examination specified pursuant to subparagraph 1. shall be administered by the department only five times. Applicants certified by the board for examination shall receive at least 6 months' notice of eligibility prior to the administration of the initial examination. Subsequent examinations shall be administered at 1-year intervals following the reporting of the scores of the first and subsequent examinations. For the purposes of this paragraph, the department may develop, contract for the development of, purchase, or approve an examination that adequately measures an applicant's ability to practice with reasonable skill and safety. The minimum passing score on the examination shall be established by the department, with the advice of the board. Those applicants failing to pass that examination or any subsequent examination shall receive notice of the administration of the next examination with the notice of scores following such examination. Any applicant who passes the examination and meets the requirements of this section shall be licensed as a physician assistant with all rights defined thereby.~~

~~(c)~~ The license must be renewed biennially. Each renewal must include:

296498

1. A renewal fee not to exceed $500 as set by the boards.

2. Acknowledgment ~~A sworn statement~~ of no felony convictions in the previous 2 years.

(d)1.~~(c)~~ Upon employment as a physician assistant, a licensed physician assistant must notify the department in writing within 30 days after such employment or after any subsequent change ~~changes~~ in the supervising physician or the designated supervising physician. The notification must include the full name, Florida medical license number, specialty, and address of the supervising physician or the designated supervising physician. For purposes of this paragraph, the term "designated supervising physician" means a physician designated by the facility or practice to be the primary contact and supervising physician for the physician assistants in a practice where physician assistants are supervised by multiple supervising physicians.

2. A licensed physician assistant shall notify the department of any subsequent change in the designated supervising physician within 30 days after the change. Assignment of a designated supervising physician does not preclude a physician assistant from practicing under the supervision of a physician other than the designated supervising physician.

3. The designated supervising physician shall maintain a list of all supervising physicians at the practice or facility. Such list must include the name of each supervising physician and his or her area of practice, must be kept up to date with respect to additions and terminations, and must be provided, in a timely manner, to the department upon written request.

(e) ~~(f)~~ Notwithstanding subparagraph (a)2., the department may grant to a recent graduate of an approved program, as specified in subsection (6), who expects to take the first examination administered by the National Commission on Certification of Physician Assistants available for registration after the applicant's graduation, a temporary license. The temporary license shall expire 30 days after receipt of scores of the proficiency examination administered by the National Commission on Certification of Physician Assistants. Between meetings of the council, the department may grant a temporary license to practice based on the completion of all temporary licensure requirements. All such administratively issued licenses shall be reviewed and acted on at the next regular meeting of the council. The recent graduate may be licensed before ~~prior to~~ employment~~,~~ but must comply with paragraph (d) ~~(e)~~. An applicant who has passed the proficiency examination may be granted permanent licensure. An applicant failing the proficiency examination is no longer temporarily licensed~~,~~ but may reapply for a 1-year extension of temporary licensure. An applicant may not be granted more than two temporary licenses and may not be licensed as a physician assistant until he or she passes the examination administered by the National Commission on Certification of Physician Assistants. As prescribed by board rule, the council may require an applicant who does not pass the licensing examination after five or more attempts to complete additional remedial education or training. The council shall prescribe the additional requirements in a manner that permits the applicant to complete the requirements and be reexamined within 2 years after the date the applicant petitions the

296498

council to retake the examination a sixth or subsequent time.

Section 2. Paragraph (e) of subsection (4) of section 459.022, Florida Statutes, is amended, paragraph (g) is added to that subsection, and paragraphs (a), (b), and (d) of subsection (7) of that section are amended, to read:

459.022 Physician assistants.—

(4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

(e) A supervising ~~supervisory~~ physician may delegate to a fully licensed physician assistant the authority to prescribe or dispense any medication used in the supervising ~~supervisory~~ physician's practice unless such medication is listed on the formulary created pursuant to s. 458.347. 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 she or he is a physician assistant. Furthermore, the physician assistant must inform the patient that the patient has the right to see the physician before ~~prior to~~ any prescription is ~~being~~ prescribed or dispensed by the physician assistant.

2. The supervising ~~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 supervising ~~supervisory~~ physician who is registered as a dispensing practitioner in compliance with s. 465.0276.

3. The physician assistant must acknowledge with ~~file with~~ the department ~~a signed affidavit~~ that she or he has completed a

296498

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 may ~~must~~ be ~~written~~ in paper or electronic ~~a~~ form but must comply ~~that complies~~ with ss. 456.0392(1) and 456.42(1) and chapter 499 and must contain, in addition to the supervising ~~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.

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

(g) A licensed physician assistant may perform services delegated by the supervising physician in the physician assistant's practice in accordance with his or her education and training unless expressly prohibited under this chapter, chapter 458, or rules adopted under this chapter or chapter 458.

(7) PHYSICIAN ASSISTANT LICENSURE.—

(a) Any person desiring to be licensed as a physician

assistant must apply to the department. The department shall issue a license to any person certified by the council as having met the following requirements:

1. Is at least 18 years of age.

2. Has satisfactorily passed a proficiency examination by an acceptable score established by the National Commission on Certification of Physician Assistants. If an applicant does not hold a current certificate issued by the National Commission on Certification of Physician Assistants and has not actively practiced as a physician assistant within the immediately preceding 4 years, the applicant must retake and successfully complete the entry-level examination of the National Commission on Certification of Physician Assistants to be eligible for licensure.

3. Has completed the application form and remitted an application fee not to exceed $300 as set by the boards. An application for licensure made by a physician assistant must include:

a. A certificate of completion of a physician assistant training program specified in subsection (6).

b. Acknowledgment ~~A sworn statement~~ of any prior felony convictions.

c. Acknowledgment ~~A sworn statement~~ of any previous revocation or denial of licensure or certification in any state.

d. ~~Two letters of recommendation.~~

~~e.~~ A copy of course transcripts and a copy of the course description from a physician assistant training program describing course content in pharmacotherapy, if the applicant wishes to apply for prescribing authority. These documents must

meet the evidence requirements for prescribing authority.

(b) The licensure must be renewed biennially. Each renewal must include:

1. A renewal fee not to exceed $500 as set by the boards.

2. Acknowledgment ~~A sworn statement~~ of no felony convictions in the previous 2 years.

(d)1. Upon employment as a physician assistant, a licensed physician assistant must notify the department in writing within 30 days after such employment or after any subsequent changes in the supervising physician or the designated supervising physician. The notification must include the full name, Florida medical license number, specialty, and address of the supervising physician or the designated supervising physician. For purposes of this paragraph, the term "designated supervising physician" means a physician designated by the facility or practice to be the primary contact and supervising physician for the physician assistants in a practice where physician assistants are supervised by multiple supervising physicians.

2. A licensed physician assistant shall notify the department of any subsequent change in the designated supervising physician within 30 days after the change. Assignment of a designated supervising physician does not preclude a physician assistant from practicing under the supervision of a physician other than the designated supervising physician.

3. The designated supervising physician shall maintain a list of all supervising physicians at the practice or facility. Such list must include the name of each supervising physician and his or her area of practice, must be kept up to date with

296498

respect to additions and terminations, and must be provided, in a timely manner, to the department upon written request.

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 physician assistants; amending s. 458.347, F.S.; revising circumstances under which a physician assistant may prescribe medication; authorizing a licensed physician assistant to perform certain services as delegated by a supervising physician; revising physician assistant licensure and license renewal requirements; removing a requirement for letters of recommendation; deleting provisions related to examination by the Department of Health; defining the term "designated supervising physician"; requiring licensed physician assistants to report any changes in the designated supervising physician within a specified time; requiring a designated supervising physician to maintain a list of approved supervising physicians at the practice or facility; amending s. 459.022, F.S.; revising circumstances under which a physician assistant may prescribe medication; authorizing a licensed physician assistant to perform certain services as delegated by a supervising physician; revising physician assistant licensure and

296498

license renewal requirements; removing a requirement for letters of recommendation; defining the term "designated supervising physician"; requiring licensed physician assistants to report any changes in the designated supervising physician within a specified time; requiring a designated supervising physician to maintain a list of approved supervising physicians at the practice or facility; providing an effective date.

By Senator Flores

37-00869A-16 2016748__

A bill to be entitled

An act relating to physician assistants; amending s. 458.347, F.S.; revising circumstances under which a physician assistant may prescribe medication; authorizing a licensed physician assistant to perform certain services as delegated by a supervising physician; revising physician assistant licensure and license renewal requirements; removing a requirement for letters of recommendation; deleting provisions related to examination by the Department of Health; defining the term "designated supervising physician"; requiring licensed physician assistants to report any changes in the designated supervising physician within a specified time; requiring a designated supervising physician to maintain a list of approved supervising physicians at the practice or facility; amending s. 459.022, F.S.; revising circumstances under which a physician assistant may prescribe medication; authorizing a licensed physician assistant to perform certain services as delegated by a supervising physician; revising physician assistant licensure and license renewal requirements; removing a requirement for letters of recommendation; defining the term "designated supervising physician"; requiring licensed physician assistants to report any changes in the designated supervising physician within a specified time; requiring a designated supervising physician to maintain a list of approved supervising physicians at the practice or facility; providing an effective date.

37-00869A-16 2016748__

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

Section 1. Paragraph (e) of subsection (4) of section 458.347, Florida Statutes, is amended, paragraph (h) is added to that subsection, paragraphs (c) through (h) of subsection (7) are redesignated as paragraphs (b) through (g), respectively, and present paragraphs (a), (b), (c), (e), and (f) of that subsection are amended, to read:

458.347 Physician assistants.—

(4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

(e) A supervising ~~supervisory~~ physician may delegate to a fully licensed physician assistant the authority to prescribe or dispense any medication used in the supervising ~~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 before ~~prior to~~ any prescription is ~~being~~ prescribed or dispensed by the physician assistant.

2. The supervising ~~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 acknowledge with ~~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.

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 may ~~must~~ be ~~written~~ in paper or electronic ~~a~~ form but must comply ~~that complies~~ with ss. 456.0392(1) and 456.42(1) ~~chapter 499~~ and must contain, in addition to the supervising ~~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.

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

(h) A licensed physician assistant may perform services related to his or her practice in accordance with his or her education and training as delegated by the supervising physician

unless expressly prohibited under this chapter, chapter 459, or rules adopted under this chapter or chapter 459.

(7) PHYSICIAN ASSISTANT LICENSURE.—

(a) Any person desiring to be licensed as a physician assistant must apply to the department. The department shall issue a license to any person certified by the council as having met the following requirements:

1. Is at least 18 years of age.

2. Has satisfactorily passed a proficiency examination by an acceptable score established by the National Commission on Certification of Physician Assistants. If an applicant does not hold a current certificate issued by the National Commission on Certification of Physician Assistants and has not actively practiced as a physician assistant within the immediately preceding 4 years, the applicant must retake and successfully complete the entry-level examination of the National Commission on Certification of Physician Assistants to be eligible for licensure.

3. Has completed the application form and remitted an application fee not to exceed $300 as set by the boards. An application for licensure made by a physician assistant must include:

a. A certificate of completion of a physician assistant training program specified in subsection (6).

b. Acknowledgment ~~A sworn statement~~ of any prior felony convictions.

c. Acknowledgment ~~A sworn statement~~ of any previous revocation or denial of licensure or certification in any state.

d. ~~Two letters of recommendation.~~

~~e.~~ A copy of course transcripts and a copy of the course description from a physician assistant training program describing course content in pharmacotherapy, if the applicant wishes to apply for prescribing authority. These documents must meet the evidence requirements for prescribing authority.

(b) ~~1. Notwithstanding subparagraph (a)2. and sub-subparagraph (a)3.a., the department shall examine each applicant who the Board of Medicine certifies:~~

~~a. Has completed the application form and remitted a nonrefundable application fee not to exceed $500 and an examination fee not to exceed $300, plus the actual cost to the department to provide the examination. The examination fee is refundable if the applicant is found to be ineligible to take the examination. The department shall not require the applicant to pass a separate practical component of the examination. For examinations given after July 1, 1998, competencies measured through practical examinations shall be incorporated into the written examination through a multiple-choice format. The department shall translate the examination into the native language of any applicant who requests and agrees to pay all costs of such translation, provided that the translation request is filed with the board office no later than 9 months before the scheduled examination and the applicant remits translation fees as specified by the department no later than 6 months before the scheduled examination, and provided that the applicant demonstrates to the department the ability to communicate orally in basic English. If the applicant is unable to pay translation costs, the applicant may take the next available examination in English if the applicant submits a request in writing by the application deadline and if the applicant is otherwise eligible under this section. To demonstrate the ability to communicate orally in basic English, a passing score or grade is required, as determined by the department or organization that developed it, on the test for spoken English (TSE) by the Educational Testing Service (ETS), the test of English as a foreign language (TOEFL) by ETS, a high school or college level English course, or the English examination for citizenship, Bureau of Citizenship and Immigration Services. A notarized copy of an Educational Commission for Foreign Medical Graduates (ECFMG) certificate may also be used to demonstrate the ability to communicate in basic English; and~~

~~b. Is an unlicensed physician who graduated from a foreign medical school listed with the World Health Organization who has not previously taken and failed the examination of the National Commission on Certification of Physician Assistants and who has been certified by the Board of Medicine as having met the requirements for licensure as a medical doctor by examination as set forth in s. 458.311(1), (3), (4), and (5), with the exception that the applicant is not required to have completed an approved residency of at least 1 year and the applicant is not required to have passed the licensing examination specified under s. 458.311 or hold a valid, active certificate issued by the Educational Commission for Foreign Medical Graduates; was eligible and made initial application for certification as a physician assistant in this state between July 1, 1990, and June 30, 1991; and was a resident of this state on July 1, 1990, or was licensed or certified in any state in the United States as a physician assistant on July 1, 1990.~~

~~2. The department may grant temporary licensure to an applicant who meets the requirements of subparagraph 1. Between meetings of the council, the department may grant temporary licensure to practice based on the completion of all temporary licensure requirements. All such administratively issued licenses shall be reviewed and acted on at the next regular meeting of the council. A temporary license expires 30 days after receipt and notice of scores to the licenseholder from the first available examination specified in subparagraph 1. following licensure by the department. An applicant who fails the proficiency examination is no longer temporarily licensed, but may apply for a one-time extension of temporary licensure after reapplying for the next available examination. Extended licensure shall expire upon failure of the licenseholder to sit for the next available examination or upon receipt and notice of scores to the licenseholder from such examination.~~

~~3. Notwithstanding any other provision of law, the examination specified pursuant to subparagraph 1. shall be administered by the department only five times. Applicants certified by the board for examination shall receive at least 6 months' notice of eligibility prior to the administration of the initial examination. Subsequent examinations shall be administered at 1-year intervals following the reporting of the scores of the first and subsequent examinations. For the purposes of this paragraph, the department may develop, contract for the development of, purchase, or approve an examination that adequately measures an applicant's ability to practice with reasonable skill and safety. The minimum passing score on the examination shall be established by the department, with the~~

~~advice of the board. Those applicants failing to pass that examination or any subsequent examination shall receive notice of the administration of the next examination with the notice of scores following such examination. Any applicant who passes the examination and meets the requirements of this section shall be licensed as a physician assistant with all rights defined thereby.~~

~~(c)~~ The license must be renewed biennially. Each renewal must include:

1. A renewal fee not to exceed $500 as set by the boards.

2. Acknowledgment ~~A sworn statement~~ of no felony convictions in the previous 2 years.

(d)1.~~(c)~~ Upon employment as a physician assistant, a licensed physician assistant must notify the department in writing within 30 days after such employment or after any subsequent change ~~changes~~ in the supervising physician or the designated supervising physician. The notification must include the full name, Florida medical license number, specialty, and address of the supervising physician or the designated supervising physician. For purposes of this paragraph, the term "designated supervising physician" means a physician designated by the facility or practice to be the primary contact and supervising physician for the physician assistants in a practice where physician assistants are supervised by multiple supervising physicians.

2. A licensed physician assistant shall notify the department of any subsequent change in the designated supervising physician within 30 days after the change. Assignment of a designated supervising physician does not

preclude a physician assistant from practicing under the supervision of a physician other than the designated supervising physician.

3. The designated supervising physician shall maintain a list of all approved supervising physicians at the practice or facility. Such list must include the name of each supervising physician and his or her area of practice, must be kept up to date with respect to additions and terminations, and must be provided, in a timely manner, to the department upon written request.

(e) ~~(f)~~ Notwithstanding subparagraph (a)2., the department may grant to a recent graduate of an approved program, as specified in subsection (6), who expects to take the first examination administered by the National Commission on Certification of Physician Assistants available for registration after the applicant's graduation, a temporary license. The temporary license shall expire 30 days after receipt of scores of the proficiency examination administered by the National Commission on Certification of Physician Assistants. Between meetings of the council, the department may grant a temporary license to practice based on the completion of all temporary licensure requirements. All such administratively issued licenses shall be reviewed and acted on at the next regular meeting of the council. The recent graduate may be licensed before ~~prior to~~ employment~~,~~ but must comply with paragraph (d) ~~(c)~~. An applicant who has passed the proficiency examination may be granted permanent licensure. An applicant failing the proficiency examination is no longer temporarily licensed~~,~~ but may reapply for a 1-year extension of temporary licensure. An

applicant may not be granted more than two temporary licenses and may not be licensed as a physician assistant until he or she passes the examination administered by the National Commission on Certification of Physician Assistants. As prescribed by board rule, the council may require an applicant who does not pass the licensing examination after five or more attempts to complete additional remedial education or training. The council shall prescribe the additional requirements in a manner that permits the applicant to complete the requirements and be reexamined within 2 years after the date the applicant petitions the council to retake the examination a sixth or subsequent time.

Section 2. Paragraph (e) of subsection (4) of section 459.022, Florida Statutes, is amended, paragraph (g) is added to that subsection, and paragraphs (a), (b), and (d) of subsection (7) of that section are amended, to read:

459.022 Physician assistants.—

(4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

(e) A supervising ~~supervisory~~ physician may delegate to a fully licensed physician assistant the authority to prescribe or dispense any medication used in the supervising ~~supervisory~~ physician's practice unless such medication is listed on the formulary created pursuant to s. 458.347. 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 she or he is a physician assistant. Furthermore, the physician assistant must inform the patient that the patient has the right to see the physician before ~~prior to~~ any prescription is ~~being~~ prescribed or dispensed by the physician

assistant.

2. The supervising ~~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 supervising ~~supervisory~~ physician who is registered as a dispensing practitioner in compliance with s. 465.0276.

3. The physician assistant must acknowledge with ~~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 may ~~must~~ be written or electronic but must be in a form that complies with ss. 456.0392(1) and 456.42(1) ~~chapter 499~~ and must contain, in addition to the supervising ~~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.

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

(g) A licensed physician assistant may perform services related to his or her practice in accordance with his or her education and training as delegated by the supervising physician unless expressly prohibited under this chapter, chapter 458, or rules adopted under this chapter or chapter 458.

(7) PHYSICIAN ASSISTANT LICENSURE.—

(a) Any person desiring to be licensed as a physician assistant must apply to the department. The department shall issue a license to any person certified by the council as having met the following requirements:

1. Is at least 18 years of age.

2. Has satisfactorily passed a proficiency examination by an acceptable score established by the National Commission on Certification of Physician Assistants. If an applicant does not hold a current certificate issued by the National Commission on Certification of Physician Assistants and has not actively practiced as a physician assistant within the immediately preceding 4 years, the applicant must retake and successfully complete the entry-level examination of the National Commission on Certification of Physician Assistants to be eligible for licensure.

3. Has completed the application form and remitted an application fee not to exceed $300 as set by the boards. An application for licensure made by a physician assistant must include:

a. A certificate of completion of a physician assistant

training program specified in subsection (6).

b. Acknowledgment ~~A sworn statement~~ of any prior felony convictions.

c. Acknowledgment ~~A sworn statement~~ of any previous revocation or denial of licensure or certification in any state.

d. ~~Two letters of recommendation.~~

~~e.~~ A copy of course transcripts and a copy of the course description from a physician assistant training program describing course content in pharmacotherapy, if the applicant wishes to apply for prescribing authority. These documents must meet the evidence requirements for prescribing authority.

(b) The licensure must be renewed biennially. Each renewal must include:

1. A renewal fee not to exceed $500 as set by the boards.

2. Acknowledgment ~~A sworn statement~~ of no felony convictions in the previous 2 years.

(d)1. Upon employment as a physician assistant, a licensed physician assistant must notify the department in writing within 30 days after such employment or after any subsequent changes in the supervising physician or the designated supervising physician. The notification must include the full name, Florida medical license number, specialty, and address of the supervising physician or the designated supervising physician. For purposes of this paragraph, the term "designated supervising physician" means a physician designated by the facility or practice to be the primary contact and supervising physician for the physician assistants in a practice where physician assistants are supervised by multiple supervising physicians.

2. A licensed physician assistant shall notify the

department of any subsequent change in the designated supervising physician within 30 days after the change. Assignment of a designated supervising physician does not preclude a physician assistant from practicing under the supervision of a physician other than the designated supervising physician.

3. The designated supervising physician shall maintain a list of all approved supervising physicians at the practice or facility. Such list must include the name of each supervising physician and his or her area of practice, must be kept up to date with respect to additions and terminations, and must be provided, in a timely manner, to the department upon written request.

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

The Florida Senate

Committee Agenda Request

To: Senator Aaron Bean, Chair
Committee on Health Policy

Subject: Committee Agenda Request

Date: November 18, 2015

I respectfully request that **Senate Bill #748**, relating to Physicians Assistants, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Anitere Flores

Senator Anitere Flores
Florida Senate, District 37

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Dec. 1, 2015
Meeting Date

748
Bill Number (if applicable)

Topic Relating to Physician Assistants

Amendment Barcode (if applicable)

Name Corinne Mixon

Job Title Lobbyist

Address 119 E. Park Ave
Street

Phone (850) 766-5795

Tallahassee Fl 32301
City *State* *Zip*

Email Corinne@mixonandassociates.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Academy of Physician Assistants

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)

12/1/15
Meeting Date

748
Bill Number (if applicable)

Topic Physician Assistants

Amendment Barcode (if applicable)

Name Laura Cantwell

Job Title Associate State Director

Address 400 Carillon Pkwy, Suite 100
Street

Phone 850-570-2110

St. Petersburg FL 33716
City *State* *Zip*

Email lcantwell@aarp.org

Speaking: ☑ For ☐ Against ☐ Information

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

Representing AARP

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 Committee on Health Policy

BILL:	CS/SB 178
INTRODUCER:	Health Policy Committee and Senators Bean and Gaetz
SUBJECT:	Quality Health Care Services
DATE:	December 1, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Lloyd	Stovall	HP	**Fav/CS**
2.			BI	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 178 addresses medical tourism and volunteer health care services.

Enterprise Florida, Inc., (EFI) and the Florida Tourism Industry Marketing Corporation (VISIT Florida) are directed to promote medical tourism and market the state as a healthcare destination. VISIT Florida is required to include the promotion of medical tourism in the 4-year marketing plan and showcase Florida providers.

The bill also revises the description of volunteer, uncompensated services under the Access to Health Care Act (the act) to allow a free clinic to receive and use appropriations or grants from a governmental entity or nonprofit corporation to support the delivery of the contracted services by volunteer health care providers without jeopardizing the sovereign immunity protections afforded under the act. The bill clarifies that employees and agents of a health care provider fall within the sovereign immunity protections of the contracted health care provider when providing health care services pursuant to the contract.

II. Present Situation:

Enterprise Florida, Inc.

Enterprise Florida, Inc. (EFI) is a public-private organization created as a non-profit corporation in Florida law under ss. 288.901 through 288.923, F.S.[1] The EFI serves as the state's economic development agency and is overseen by a board of directors, chaired by the Governor. The state's Tourism Marketing division is located within EFI.

Section 288.001, F.S., requires the Office of Economic and Demographic Research (EDR) and the Office of Program Policy and Government Accountability (OPPAGA) to provide a detailed analysis of state economic development programs according to a recurring schedule established in law. The OPPAGA must evaluate each program over the 3 previous years for effectiveness and value to the state's taxpayers and include recommendations for consideration by the Legislature. The EDR must evaluate and determine the economic benefits, as defined in s. 288.005(1), F.S., of each program over the previous 3 years.

VISIT Florida, Inc.

VISIT Florida, Inc., is Florida's official tourism marketing corporation and is a direct-support organization[2] of Enterprise Florida, Inc. VISIT Florida is a non-profit, public private partnership created in 1996 by the Florida Legislature[3] as the Florida Tourism Industry Marketing Corporation under s. 288.1226, F.S. VISIT Florida's mission is to promote travel and drive visitation to and within Florida.[4]

For every $1 spent on tourism marketing, VISIT Florida reports that more than $300 in tourism spending and $18 in new sales tax collections are generated from visitors, not residents.[5] VISIT Florida also raised more than $120 million in private sector matching funds in the last fiscal year through investments in advertising campaigns, promotional campaigns, and other marketing opportunities.[6]

VISIT Florida, Inc., is overseen by a 31-member Board of Directors comprised of Florida tourism experts. The board has 11 committees that focus on these areas:

- Advertising and internet;
- Audit;
- Communications;

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[1] Enterprise Florida, Inc., *About EFI*, http://www.enterpriseflorida.com/about-efi/ (last visited Sept. 22, 2015).
[2] A direct support organization generally means a not-for-profit corporation incorporated under chapter 617 and organized and operated to conduct program and activities; initiate developmental projects; raise funds; request and receive grants, gifts, and bequests of moneys; acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, real or personal; and make expenditures to or for the direct or indirect benefit of the state for the specific purposes of the non-profit corporation.
[3] VISIT Florida.com, *About VISIT FLORIDA*, http://www.visitflorida.com/en-us/about-visit-florida.html (last visited Sept. 17, 2015).
[4] VISIT Florida.com, *Mission & Vision*, http://www.visitfloridamediablog.com/home/corporate-info/mission-vision/ (last visited Sept. 17, 2015).
[5] *Supra* note 10.
[6] Id.

- Cultural, heritage, rural, and nature;
- Finance;
- Industry relations;
- International;
- Marketing Council Steering;
- Promotions;
- Meetings and travel trade; and
- Visitor services.[7]

The 2014-2015 General Appropriations Act earmarked $5 million for a marketing plan and grants related to medical tourism. The Medical Tourism Task Force, created under VISIT Florida, adopted a $5 million budget that included a strategic plan, branding, and a website specific to medical tourism, medical meetings and trainings, health and wellness projects, partnerships with the Department of Health and the Department of Agriculture and Consumer Services, public service announcements with the Florida Academic Cancer Center Alliance, and matching grants. The task force developed the theme and logo for the website, *Discover Florida Health.*[8]

VISIT Florida awarded 25 medical tourism grants totaling $3.1 million in January 2015. Grants were awarded in two categories: nine were awarded for medical tourism destination promotion and 16 for medical meetings and training promotion. The grants aimed to help grow awareness of existing medical tourism products and services in the state, as well as strengthen Florida as a preferred destination to host medical conferences, meetings, and training programs.

Each grant awarded under the medical tourism promotion program was matched by private dollars. The applicants had to be either a destination marketing organization, health care provider, medical facility, physician, or, in the case of the meetings and training program grant, a collaboration that includes one or more of these entities.[9]

The OPPAGA and the EDR offices are required to provide a detailed analysis of state economic development programs based on recurring schedules set in law for specific programs. The medical tourism grant program was included in the review of programs due by January 1, 2015. The report noted that the state's tourism marketing activities appeared to be expanding with increasing emphasis on a number of areas, including medical tourism, but identified that enhanced coordination by VISIT Florida could help agencies leverage state funds and avoid duplicative marketing activities.[10]

The Florida Chamber Foundation (Foundation) also funded a report to review the state's *Discover Florida Health* promotion. The report was presented to the Foundation on April 20, 2015 and included an overview of the definition of a medical tourist, keys to success, best

[7] VISIT Florida.com, *Committees*, http://www.visitflorida.org/about-us/who-we-are/committees/ (last visited Sept. 17, 2015).
[8] Id.
[9] *See* Discover Florida Health, Sunshine Matters, The Official Corporate Blog for Visit Florida (January 29, 2015) at: http://www.visitfloridablog.org/?p=11862, (last visited Sept. 17, 2015).
[10] Office of Program Policy Analysis and Government Accountability, *Florida Economic Development Program Evaluations - Year 2 (Report No. 15-01, January 1, 2015),* p. 28, http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1501rpt.pdf (last visited Sept. 17, 2015).

practices for international patient programs, case studies from other states, and the potential economic impact of medical tourism in Florida.[11] The report also provides a strengths, weaknesses, opportunities and threats or SWOT analysis for the state with a roadmap for process improvement. The Foundation plans to release a new report on medical tourism later in December entitled, *A Strategic Look at Florida's Medical Tourism Opportunities.*[12]

Access to Health Care Act

Section 766.1115, F.S., is entitled "The Access to Health Care Act." It was enacted in 1992 to encourage health care providers to provide care to low-income persons.[13] The act is administered by the Department of Health (department) through the Volunteer Health Services Program.[14]

This section of law extends sovereign immunity to health care providers who execute a contract with a governmental contractor and who, as agents of the state, provide volunteer, uncompensated health care services to low-income individuals. These health care providers are considered agents of the state under s. 768.28(9), F.S., for purposes of extending sovereign immunity while acting within the scope of duties required under the act.

A contract under the act must pertain to volunteer, uncompensated services. For services to qualify as volunteer, uncompensated services, the health care provider must receive no compensation from the governmental contractor for any services provided under the contract and must not bill or accept compensation from the recipient or any public or private third-party payor for the specific services provided to the low-income recipients covered by the contract.[15]

Health care providers under the act include:[16]

- A birth center licensed under ch. 383, F.S.[17]
- An ambulatory surgical center licensed under ch. 395, F.S.[18]
- A hospital licensed under ch. 395, F.S.[19]
- A physician or physician assistant licensed under ch. 458, F.S.[20]

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[11] Florida Chamber Foundation, *Discover Florida Health Feasibility Study* (April 20, 2015) http://www.flchamber.com/wp-content/uploads/GHR-FLORIDA-STUDY.pdf (last visited Dec. 1, 2015).
[12] Florida Chamber of Commerce, *A Strategic Look at Florida's Medical Tourism Opportunities,* *http://www.flchamber.com/a-strategic-look-at-floridas-medical-tourism-opportunities/* (last visited Dec. 1, 2015).
[13] Low-income persons are defined in the act as a person who is Medicaid-eligible, a person who is without health insurance and whose family income does not exceed 200 percent of the federal poverty level, or any eligible client of the Department of Health who voluntarily chooses to participate in a program offered or approved by the department. Section 766.1115(3)(e), F.S. A single individual whose annual income does not exceed $23,540 is at 200 percent of the federal poverty level using Medicaid data. *See 2015 Poverty Guidelines, Annual Guidelines* at: http://aspe.hhs.gov/poverty/15poverty.cfm (last visited Sept. 17, 2015).
[14] *See* Florida Department of Health, *Volunteerism Volunteer Opportunities,* (last visited Sept. 17, 2015) http://www.floridahealth.gov/provider-and-partner-resources/getting-involved-in-public-health/volunteerism-volunteer-opportunities/index.html; Rule Chapter 64I-2, F.A.C.
[15] Section 766.1115(3)(a), F.S.
[16] Section 766.1115(3)(d), F.S.
[17] Section 766.1115(3)(d)1., F.S.
[18] Section 766.1115(3)(d)2., F.S.
[19] Section 766.1115(3)(d)3., F.S.
[20] Section 766.1115(3)(d)4., F.S.

- An osteopathic physician or osteopathic physician assistant licensed under ch. 459, F.S.[21]
- A chiropractic physician licensed under ch. 460, F.S.[22]
- A podiatric physician licensed under ch. 461, F.S.[23]
- A registered nurse, nurse midwife, licensed practical nurse, or advanced registered nurse practitioner licensed or registered under part I of ch. 464, F.S., or any facility that employs nurses licensed or registered under part I of ch. 464, F.S., to supply all or part of the care delivered under the act.[24]
- A dentist or dental hygienist licensed under ch. 466, F.S.[25]
- A midwife licensed under ch. 467, F.S.[26]
- A health maintenance organization certificated under part I of ch. 641, F.S.[27]
- A health care professional association and its employees or a corporate medical group and its employees.[28]
- Any other medical facility the primary purpose of which is to deliver human medical diagnostic services or which delivers nonsurgical human medical treatment, and which includes an office maintained by a provider.[29]
- A free clinic that delivers only medical diagnostic services or nonsurgical medical treatment free of charge to all low-income recipients.[30]
- Any other health care professional, practitioner, provider, or facility under contract with a governmental contractor, including a student enrolled in an accredited program that prepares the student for licensure as a physician, physician assistant, nurse, or midwife.[31]
- Any nonprofit corporation qualified as exempt from federal income taxation under s. 501(a) of the Internal Revenue Code, and described in s. 501(c) of the Internal Revenue Code, that delivers health care services provided by the listed licensed professionals, any federally funded community health center, and any volunteer corporation or volunteer health care provider that delivers health care services.

A governmental contractor is defined in the act as the department, a county health department, a special taxing district having health care responsibilities, or a hospital owned and operated by a governmental entity.[32]

The act further specifies additional contract requirements. The contract must provide that:
- The governmental contractor retains the right of dismissal or termination of any health care provider delivering services under the contract.
- The governmental contractor has access to the patient records of any health care provider delivering services under the contract.

[21] Section 766.1115(3)(d)5., F.S.
[22] Section 766.1115(3)(d)6., F.S.
[23] Section 766.1115(3)(d)7., F.S.
[24] Section 766.1115(3)(d)8., F.S.
[25] Section 766.1115(3)(d)13., F.S.
[26] Section 766.1115(3)(d)9., F.S.
[27] Section 766.1115(3)(d)10., F.S.
[28] Section 766.1115(3)(d)11., F.S.
[29] Section 766.1115(3)(d)12., F.S.
[30] Section 766.1115(3)(d)14., F.S.
[31] Section 766.1115(3)(d)15., F.S.
[32] Section 766.1115(3)(c), F.S.

- The health care provider must report adverse incidents and information on treatment outcomes.
- The governmental contractor or the health care provider must make patient selection and initial referrals.
- The health care provider is subject to supervision and regular inspection by the governmental contractor.[33]
- The health care provider must accept all referred patients; however, the contract may specify limits on the number of patients to be referred.[34]

The governmental contractor must provide written notice to each patient, or the patient's legal representative, receipt of which must be acknowledged in writing, that the provider is covered under s. 768.28, F.S., for purposes of legal actions alleging medical negligence.[35]

According to the department, from July 1, 2012, through June 30, 2013, 13,543 licensed health care volunteers (plus an additional 26,002 clinic staff volunteers) provided 427,731 health care patient visits with a total value of donated goods and services of $294,427,678, under the act.[36] The Florida Department of Financial Services, Division of Risk Management, reported on February 14, 2014, that 10 claims had been filed against the Volunteer Health Care Provider Program under s. 766.1115, F.S., since February 15, 2000.[37]

Legislative Appropriation to Free and Charitable Clinics

The 2015-2016 General Appropriations Act appropriated $9 million to the Florida Association of Free and Charitable Clinics (Association) through the department. This appropriation, however was vetoed by the Governor because the funds cannot be used for services under the contract.[38] In previous years when the Legislature appropriated funds through the department to the Association, the department restricted the use of these funds by free and charitable clinics that were health care providers under the act to clinic capacity building purposes in the contract which distributed this appropriation. The clinic capacity building was limited to products or processes that increase skills, infrastructure and resources of clinics. The department did not authorize these funds to be used to build capacity through the employment of clinical personnel. The department cautiously interpreted the provision in the act relating to volunteer, uncompensated services, which states that a health care provider must receive no compensation from the governmental contractor for any services provided under the contract. Accordingly, the department's interpretation precluded the use of the appropriation for this purpose.

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[33] Section 766.1115(4), F.S.
[34] Rule 64I-2.003(2), F.A.C.
[35] Section 766.1115(5), F.S.
[36] Department of Health, *Volunteer Health Services 2012-2013 Annual Report*, available at: http://www.floridahealth.gov/provider-and-partner-resources/getting-involved-in-public-health/volunteerism-volunteer-opportunities/vhs1213annualreport2.pdf, (last visited Sept. 17, 2015). The 2012-2013 Annual Report is the most current report available.
[37] Correspondence from Lewis R. Williams, Chief of State Liability and Property Claims, to Duane A. Ashe, Department of Health (Feb. 14, 2014) (on file with the Senate Committee on Health Policy).
[38] Chapter 2015-232, Laws of Fla., line item 441 and *see* Governor's Veto Message for 2015-2016 General Appropriations Act, p. 35, http://www.flgov.com/wp-content/uploads/2015/06/Transmittal%20Letter%206.23.15%20-%20SB%202500-A.pdf (last visited Sept. 22, 2015).

Sovereign Immunity

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

Article X, section 13 of the Florida Constitution recognizes the concept of sovereign immunity and gives the Legislature the power to waive immunity in part or in full by general law. Section 768.28, F.S., contains the limited waiver of sovereign immunity applicable to the state. Under this statute, officers, employees, and agents of the state will not be held personally liable in tort or named as a party defendant in any action for any injury or damage suffered as a result of any act, event, or omission of action in the scope of her or his employment or function. However, personal liability may result from actions committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

Instead, the state steps in as the party litigant and defends against the claim. The recovery by any one person is limited to $200,000 for one incident and the total for all recoveries related to one incident is limited to $300,000.[39] The sovereign immunity recovery caps do not prevent a plaintiff from obtaining a judgment in excess of the caps, but the plaintiff cannot recover the excess damages without action by the Legislature.[40]

Whether sovereign immunity applies turns on the degree of control of the agent of the state retained by the state.[41] In *Stoll v. Noel*, the Florida Supreme Court explained that independent contractor physicians may be agents of the state for purposes of sovereign immunity:

> One who contracts on behalf of another and subject to the other's control except with respect to his physical conduct is an agent and also independent contractor.[42]

The court examined the employment contract between the physicians and the state to determine whether the state's right to control was sufficient to create an agency relationship and held that it did.[43] The court explained:

> Whether CMS [Children's Medical Services] physician consultants are agents of the state turns on the degree of control retained or exercised by CMS. This Court has held that the right to control depends upon the terms of the employment contract. . . . CMS requires each consultant, as a condition of participating in the CMS program, to agree to abide by the terms published in its HRS[44] Manual and CMS Consultant's Guide which

[39] Section 768.28(5), F.S.
[40] *Id.*
[41] *Stoll v. Noel*, 694 So. 2d 701, 703 (Fla. 1997).
[42] *Id.* at 703, quoting from the *Restatement (Second) of Agency* s. 14N (1957).
[43] *Id.* at 703.
[44] Florida Department of Health and Rehabilitative Services.

> contain CMS policies and rules governing its relationship with the consultants. The Consultant's Guide states that all services provided to CMS patients must be authorized in advance by the clinic medical director. The language of the HRS Manual ascribes to CMS responsibility to supervise and direct the medical care of all CMS patients and supervisory authority over all personnel. The manual also grants to the CMS medical director absolute authority over payment for treatments proposed by consultants. The HRS Manual and the Consultant's Guide demonstrate that CMS has final authority over all care and treatment provided to CMS patients, and it can refuse to allow a physician consultant's recommended course of treatment of any CMS patient for either medical or budgetary reasons.
>
> Our conclusion is buttressed by HRS's acknowledgement that the manual creates an agency relationship between CMS and its physician consultants, and despite its potential liability in this case, HRS has acknowledged full financial responsibility for the physicians' actions. HRS's interpretation of its manual is entitled to judicial deference and great weight.[45]

III. Effect of Proposed Changes:

Economic Development Programs Evaluation (Section 1)

Section 1 amends s. 288.0001, F.S., relating to the evaluation of economic development programs by the EDR and OPPAGA. The newly created provision of law relating to medical tourism is added to a list of VISIT Florida programs to receive a detailed economic development review by EDR and OPPAGA every 3 years.

Enterprise Florida, Inc. (Sections 2 and 3)

Enterprise Florida's purpose is amended to include marketing Florida as a health care destination using medical tourism initiatives under s. 288.924, F.S., and promoting the state's quality health care services.

Within Enterprise Florida, Inc., its Division of Tourism's responsibilities are modified to include the promotion of medical tourism for quality health care services, as provided under the newly created s. 288.924, F.S.

Medical Tourism (Section 4)

Section 4 creates s. 288.924, F.S., to require the Division of Tourism Marketing within Enterprise Florida, Inc., to include specific initiatives to establish Florida as a destination for quality, medical services within its statutorily mandated 4-year marketing plan. The plan must, at a minimum promote the state nationally and internationally on:

- The qualifications and specializations of health care providers and the scope of services available throughout the state;

[45] *Stoll*, 694 So. 2d at 703 (Fla. 1997) (internal citations omitted).

- Opportunities for medical-related conferences, businesses, and training from the medical field; and
- Initiatives that showcase the selected and qualified providers that bundle packages of health and support services.

In order for a provider to be included in initiatives related to bundled health care packages, the bill requires a selection process through a solicitation of proposals that describes the available services, provider qualifications, and special arrangements for food, lodging, transportation, or other support services that may be provided to visiting patients and their families. A proposal may come from a single provider or through a network of providers. Assessment of proposals are through the VISIT Florida. To be qualified for selection, a health care provider must:

- Have a full, active, and unencumbered Florida license and ensure that all health care providers participating in the proposal have a full, active, and unencumbered license;
- Have a current accreditation that is not conditional or provisional from a nationally recognized accrediting body;
- Be a recipient of the Cancer Center of Excellence Award, as described in s. 381,925, F.S., within the recognized 3-year period of the award, or have a current national or international recognition given through a specific qualifying process in another specialty area; and
- Meet other criteria as determined by the VISIT Florida in collaboration with the Agency for Health Care Administration and the Department of Health.

Access to Health Care Act (Section 5)

The bill authorizes a free clinic to receive and use appropriations or grants from a governmental entity or nonprofit corporation to support the delivery of contracted services by volunteer health care providers under the Access to Health Care Act (the act) without those funds being deemed compensation which might jeopardize the sovereign immunity protections afforded in the act. The bill authorizes these appropriations or grants to be used for the employment of health care providers to supplement, coordinate, or support the delivery of services by volunteer health care providers. The bill states that the receipt and use of the appropriation or grant does not constitute the acceptance of compensation for the specific services provided to the low-income recipients covered by the contract.

The bill inserts the phrase "employees or agents" in several provisions in the act to clarify that employees and agents of a health care provider, which typically are paid by a health care provider, fall within the sovereign immunity protections of the contracted health care provider when acting pursuant to the contract. Subsection (5) of the act currently recognizes employees and agents of a health care provider. This subsection requires the governmental contractor to provide written notice to each patient, or the patient's legal representative, that the provider is an agent of the governmental contractor and that the exclusive remedy for injury or damage suffered as the result of any act or omission of the provider *or any employee or agent thereof* acting within the scope of duties pursuant to the contract is by commencement of an action pursuant to the provisions of s. 768.28, F.S.

The bill provides for efficiencies in health care delivery under the contract by requiring the patient, or the patient's legal representative, to acknowledge in writing receipt of the notice of agency relationship between the government contractor and the health care provider at the initial

visit only. Thereafter, the notice requirement is met by posting the notice in a place conspicuous to all persons.

Sovereign Immunity (Section 6)

Section 768.28, F.S., is amended to specifically include a health care provider's employees or agents so as to avoid any potential ambiguity between the provisions in that section of law and the act.

Additional Provisions and Effective Date

The bill removes obsolete language and makes technical and grammatical changes.

The effective date of the bill is 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:

CS/SB 178 may impact participation by the medical community in medical tourism which may further increase revenues for the medical community. Additionally, the medical community and the public benefit financially when medical conferences and meetings convene in Florida.

Contracted free clinics may receive or continue to receive governmental funding in the form of an appropriation or grant without the concern of restrictions on such funding for certain uses that might be imposed by the act. The receipt of any such funding is speculative at this point and therefor the amount is indeterminate.

C. Government Sector Impact:

For every $1 spent on tourism marketing, VISIT Florida reports that more than $300 in tourism spending and $18 in new sales tax collections are generated from visitors, not residents.[46] VISIT Florida also raised more than $120 million in private sector matching funds in the last fiscal year through investments in advertising campaigns, promotional campaigns, and other marketing opportunities.[47]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 288.0001, 288.901, 288.923, 766.1115, and 768.28.

This bill creates s. 288.924 of the Florida Statutes.

IX. Additional Information:

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

CS by Health Policy on December 1, 2015:
The CS removed the creation of s. 624.27, F.S., and all provisions relating to direct primary care agreements.

B. Amendments:

None.

[46] *Supra* note 10.
[47] Id.

746180

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
12/01/2015	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 178 - 223.

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

And the title is amended as follows:

Delete lines 17 - 27

and insert:

the division's marketing plan; amending s.

By Senator Bean

4-00255-16 2016178__

A bill to be entitled

An act relating to quality health care services; amending s. 288.0001, F.S.; requiring the Office of Economic and Demographic Research and the Office of Program Policy Analysis and Government Accountability to complete a periodic analysis of the medical tourism marketing plan; amending s. 288.901, F.S.; requiring Enterprise Florida, Inc., to market this state as a health care destination in collaboration with the Department of Economic Opportunity; amending s. 288.923, F.S.; requiring the Division of Tourism Marketing of Enterprise Florida, Inc., to include a discussion of the promotion of medical tourism for quality health care services in its 4-year marketing plan; creating s. 288.924, F.S.; providing criteria for the medical tourism initiatives to be included in the division's marketing plan; creating s. 624.27, F.S.; defining terms; specifying that a direct primary care agreement does not constitute insurance and is not subject to the Florida Insurance Code; specifying that entering into a direct primary care agreement does not constitute the business of insurance and is not subject to the code; providing that a health care provider is not required to obtain a certificate of authority or license to market, sell, or offer to sell a direct primary care agreement; specifying criteria for a direct primary care agreement; amending s. 766.1115, F.S.; redefining terms relating to agency relationships with governmental health care

4-00255-16 2016178__

contractors; deleting an obsolete date; extending sovereign immunity to include employees or agents of a health care provider that executes a contract with a governmental contractor; clarifying that a receipt of specified notice must be acknowledged by a patient or the patient's representative at the initial visit; requiring the posting of notice that a specified health care provider is an agent of a governmental contractor; amending s. 768.28, F.S.; redefining the term "officer, employee, or agent" to include employees or agents of a health care provider to conform to changes made by the act; providing an effective date.

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

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

288.0001 Economic Development Programs Evaluation.—The Office of Economic and Demographic Research and the Office of Program Policy Analysis and Government Accountability (OPPAGA) shall develop and present to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the legislative appropriations committees the Economic Development Programs Evaluation.

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

(b) By January 1, 2015, and every 3 years thereafter, an

analysis of the following:

1. The entertainment industry financial incentive program established under s. 288.1254.

2. The entertainment industry sales tax exemption program established under s. 288.1258.

3. VISIT Florida and its programs established or funded under ss. 288.122, 288.1226, 288.12265, ~~and~~ 288.124, and 288.924.

4. The Florida Sports Foundation and related programs established under ss. 288.1162, 288.11621, 288.1166, 288.1167, 288.1168, 288.1169, and 288.1171.

Section 2. Subsection (2) of section 288.901, Florida Statutes, is amended to read:

288.901 Enterprise Florida, Inc.—

(2) PURPOSES.—Enterprise Florida, Inc., shall act as the economic development organization for the state, using ~~utilizing~~ private sector and public sector expertise in collaboration with the department to:

(a) Increase private investment in Florida;

(b) Advance international and domestic trade opportunities;

(c) Market the state both as a probusiness location for new investment and as an unparalleled tourist destination;

(d) Revitalize Florida's space and aerospace industries, and promote emerging complementary industries;

(e) Promote opportunities for minority-owned businesses;

(f) Assist and market professional and amateur sport teams and sporting events in Florida; ~~and~~

(g) Assist, promote, and enhance economic opportunities in this state's rural and urban communities; and

(h) Market the state as a health care destination by using the medical tourism initiatives as described in s. 288.924 to promote quality health care services in this state.

Section 3. Paragraph (c) of subsection (4) of section 288.923, Florida Statutes, is amended to read:

288.923 Division of Tourism Marketing; definitions; responsibilities.—

(4) The division's responsibilities and duties include, but are not limited to:

(c) Developing a 4-year marketing plan.

1. At a minimum, the marketing plan shall discuss the following:

a. Continuation of overall tourism growth in this state.

b. Expansion to new or under-represented tourist markets.

c. Maintenance of traditional and loyal tourist markets.

d. Coordination of efforts with county destination marketing organizations, other local government marketing groups, privately owned attractions and destinations, and other private sector partners to create a seamless, four-season advertising campaign for the state and its regions.

e. Development of innovative techniques or promotions to build repeat visitation by targeted segments of the tourist population.

f. Consideration of innovative sources of state funding for tourism marketing.

g. Promotion of nature-based tourism and heritage tourism.

h. Promotion of medical tourism for quality health care services, as provided under s. 288.924.

i.~~h.~~ Development of a component to address emergency

response to natural and manmade disasters from a marketing standpoint.

2. The plan shall be annual in construction and ongoing in nature. Any annual revisions of the plan shall carry forward the concepts of the remaining 3-year portion of the plan and consider a continuum portion to preserve the 4-year timeframe of the plan. The plan also shall include recommendations for specific performance standards and measurable outcomes for the division and direct-support organization. The department, in consultation with the board of directors of Enterprise Florida, Inc., shall base the actual performance metrics on these recommendations.

3. The 4-year marketing plan shall be developed in collaboration with the Florida Tourism Industry Marketing Corporation. The plan shall be annually reviewed and approved by the board of directors of Enterprise Florida, Inc.

Section 4. Section 288.924, Florida Statutes, is created to read:

288.924 Medical tourism for quality health care services; medical tourism marketing plan.—The Division of Tourism Marketing shall include within the 4-year marketing plan required under s. 288.923(4) specific initiatives to advance this state as a destination for quality bundled health care services. The plan must:

(1) Promote national and international awareness of the qualifications, scope of services, and specialized expertise of health care providers throughout this state;

(2) Promote national and international awareness of medical-related conferences, training, or business opportunities

to attract practitioners from the medical field to destinations in this state; and

(3) Include an initiative that showcases selected, qualified providers offering bundled packages of health care and support services. The selection of providers to be showcased must be conducted through a solicitation of proposals from Florida hospitals and other licensed providers for plans that describe available services, provider qualifications, and special arrangements for food, lodging, transportation, or other support services and amenities that may be provided to visiting patients and their families. A single health care provider may submit a proposal describing the available health care services offered through a network of multiple providers and explaining support services and other amenities associated with the care. The Florida Tourism Industry Marketing Corporation shall assess the qualifications and credentials of providers submitting proposals. To be qualified for selection, a health care provider must:

(a) Have a full, active, and unencumbered Florida license and ensure that all health care providers participating in the proposal have full, active, and unencumbered Florida licenses;

(b) Have a current accreditation that is not conditional or provisional from a nationally recognized accrediting body;

(c) Be a recipient of the Cancer Center of Excellence Award, as described in s. 381.925, within the recognized 3-year period of the award, or have a current national or international recognition given through a specific qualifying process in another specialty area; and

(d) Meet other criteria as determined by the Florida

Tourism Industry Marketing Corporation in collaboration with the Agency for Health Care Administration and the Department of Health.

Section 5. Section 624.27, Florida Statutes, is created to read:

624.27 Application of code as to direct primary care agreements.—

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

(a) "Direct primary care agreement" means a contract between a primary care provider or primary care group practice and a patient, the patient's legal representative, or an employer which meets the requirements specified under subsection (4) and does not indemnify for services provided by a third party.

(b) "Primary care provider" means a health care provider licensed under chapter 458, chapter 459, or chapter 464 that provides medical services to patients which are commonly provided without referral from another health care provider.

(c) "Primary care service" means the screening, assessment, diagnosis, and treatment of a patient for the purpose of promoting health or detecting and managing disease or injury within the competency and training of the primary care provider.

(2) A direct primary care agreement does not constitute insurance and is not subject to this code. The act of entering into a direct primary care agreement does not constitute the business of insurance and is not subject to this code.

(3) A primary care provider or an agent of a primary care provider is not required to obtain a certificate of authority or license under this code to market, sell, or offer to sell a

direct primary care agreement.

(4) For purposes of this section, a direct primary care agreement must:

(a) Be in writing.

(b) Be signed by the primary care provider or an agent of the primary care provider and the patient or the patient's legal representative.

(c) Allow a party to terminate the agreement by written notice to the other party after a period specified in the agreement.

(d) Describe the scope of the primary care services that are covered by the monthly fee.

(e) Specify the monthly fee and any fees for primary care services not covered by the monthly fee.

(f) Specify the duration of the agreement and any automatic renewal provisions.

(g) Offer a refund to the patient of monthly fees paid in advance if the primary care provider ceases to offer primary care services for any reason.

(h) State that the agreement is not health insurance.

Section 6. Paragraphs (a) and (d) of subsection (3) and subsections (4) and (5) of section 766.1115, Florida Statutes, are amended to read:

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

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

(a) "Contract" means an agreement executed in compliance with this section between a health care provider and a governmental contractor which allows the health care provider,

or any employee or agent of the health care provider, to deliver health care services to low-income recipients as an agent of the governmental contractor. The contract must be for volunteer, uncompensated services~~, except as provided in paragraph (4)(g)~~. For services to qualify as volunteer, uncompensated services under this section, the health care provider must receive no compensation from the governmental contractor for any services provided under the contract and must not bill or accept compensation from the recipient, or a public or private third-party payor, for the specific services provided to the low-income recipients covered by the contract, except as provided in paragraph (4)(g). A free clinic as described in subparagraph (3)(d)14. may receive a legislative appropriation, a grant through a legislative appropriation, or a grant from a governmental entity or nonprofit corporation to support the delivery of such contracted services by volunteer health care providers, including the employment of health care providers to supplement, coordinate, or support the delivery of services by volunteer health care providers. Such an appropriation or grant does not constitute compensation under this paragraph from the governmental contractor for services provided under the contract, nor does receipt and use of the appropriation or grant constitute the acceptance of compensation under this paragraph for the specific services provided to the low-income recipients covered by the contract.

(d) "Health care provider" or "provider" means:

1. A birth center licensed under chapter 383.

2. An ambulatory surgical center licensed under chapter 395.

3. A hospital licensed under chapter 395.

4. A physician or physician assistant licensed under chapter 458.

5. An osteopathic physician or osteopathic physician assistant licensed under chapter 459.

6. A chiropractic physician licensed under chapter 460.

7. A podiatric physician licensed under chapter 461.

8. A registered nurse, nurse midwife, licensed practical nurse, or advanced registered nurse practitioner licensed or registered under part I of chapter 464 or any facility which employs nurses licensed or registered under part I of chapter 464 to supply all or part of the care delivered under this section.

9. A midwife licensed under chapter 467.

10. A health maintenance organization certificated under part I of chapter 641.

11. A health care professional association ~~and its employees~~ or a corporate medical group ~~and its employees~~.

12. Any other medical facility the primary purpose of which is to deliver human medical diagnostic services or which delivers nonsurgical human medical treatment, and which includes an office maintained by a provider.

13. A dentist or dental hygienist licensed under chapter 466.

14. A free clinic that delivers only medical diagnostic services or nonsurgical medical treatment free of charge to all low-income recipients.

15. Any other health care professional, practitioner, provider, or facility under contract with a governmental

contractor, including a student enrolled in an accredited program that prepares the student for licensure as any one of the professionals listed in subparagraphs 4.-9.

The term includes any nonprofit corporation qualified as exempt from federal income taxation under s. 501(a) of the Internal Revenue Code, and described in s. 501(c) of the Internal Revenue Code, which delivers health care services provided by licensed professionals listed in this paragraph, any federally funded community health center, and any volunteer corporation or volunteer health care provider that delivers health care services.

(4) CONTRACT REQUIREMENTS.—A health care provider that executes a contract with a governmental contractor to deliver health care services ~~on or after April 17, 1992,~~ as an agent of the governmental contractor, or any employee or agent of such health care provider, is an agent for purposes of s. 768.28(9), while acting within the scope of duties under the contract, if the contract complies with the requirements of this section and regardless of whether the individual treated is later found to be ineligible. A health care provider, or any employee or agent of the health care provider, shall continue to be an agent for purposes of s. 768.28(9) for 30 days after a determination of ineligibility to allow for treatment until the individual transitions to treatment by another health care provider. A health care provider under contract with the state, or any employee or agent of such health care provider, may not be named as a defendant in any action arising out of medical care or treatment ~~provided on or after April 17, 1992,~~ under contracts

entered into under this section. The contract must provide that:

(a) The right of dismissal or termination of any health care provider delivering services under the contract is retained by the governmental contractor.

(b) The governmental contractor has access to the patient records of any health care provider delivering services under the contract.

(c) Adverse incidents and information on treatment outcomes must be reported by any health care provider to the governmental contractor if the incidents and information pertain to a patient treated under the contract. The health care provider shall submit the reports required by s. 395.0197. If an incident involves a professional licensed by the Department of Health or a facility licensed by the Agency for Health Care Administration, the governmental contractor shall submit such incident reports to the appropriate department or agency, which shall review each incident and determine whether it involves conduct by the licensee that is subject to disciplinary action. All patient medical records and any identifying information contained in adverse incident reports and treatment outcomes which are obtained by governmental entities under this paragraph are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(d) Patient selection and initial referral must be made by the governmental contractor or the provider. Patients may not be transferred to the provider based on a violation of the antidumping provisions of the Omnibus Budget Reconciliation Act of 1989, the Omnibus Budget Reconciliation Act of 1990, or chapter 395.

(e) If emergency care is required, the patient need not be referred before receiving treatment, but must be referred within 48 hours after treatment is commenced or within 48 hours after the patient has the mental capacity to consent to treatment, whichever occurs later.

(f) The provider is subject to supervision and regular inspection by the governmental contractor.

(g) ~~As an agent of the governmental contractor for purposes of s. 768.28(9), while acting within the scope of duties under the contract,~~ A health care provider licensed under chapter 466, as an agent of the governmental contractor for purposes of s. 768.28(9), may allow a patient, or a parent or guardian of the patient, to voluntarily contribute a monetary amount to cover costs of dental laboratory work related to the services provided to the patient within the scope of duties under the contract. This contribution may not exceed the actual cost of the dental laboratory charges.

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

(5) NOTICE OF AGENCY RELATIONSHIP.—The governmental contractor must provide written notice to each patient, or the patient's legal representative, receipt of which must be acknowledged in writing at the initial visit, that the provider is an agent of the governmental contractor and that the exclusive remedy for injury or damage suffered as the result of any act or omission of the provider or of any employee or agent thereof acting within the scope of duties pursuant to the

contract is by commencement of an action pursuant to ~~the provisions of~~ s. 768.28. Thereafter, and with respect to any federally funded community health center, the notice requirements may be met by posting in a place conspicuous to all persons a notice that the health care provider ~~federally funded community health center~~ is an agent of the governmental contractor and that the exclusive remedy for injury or damage suffered as the result of any act or omission of the provider or of any employee or agent thereof acting within the scope of duties pursuant to the contract is by commencement of an action pursuant to ~~the provisions of~~ s. 768.28.

Section 7. Paragraph (b) of subsection (9) of section 768.28, Florida Statutes, is amended to read:

768.28 Waiver of sovereign immunity in tort actions; recovery limits; limitation on attorney fees; statute of limitations; exclusions; indemnification; risk management programs.—

(9)

(b) As used in this subsection, the term:

1. "Employee" includes any volunteer firefighter.

2. "Officer, employee, or agent" includes, but is not limited to, any health care provider, and its employees or agents, when providing services pursuant to s. 766.1115; any nonprofit independent college or university located and chartered in this state which owns or operates an accredited medical school, and its employees or agents, when providing patient services pursuant to paragraph (10)(f); and any public defender or her or his employee or agent, including, among others, an assistant public defender and an investigator.

Section 8. This act shall take effect July 1, 2016.

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

The Florida Senate

Committee Agenda Request

To: Senator Aaron Bean, Chair
Committee on Health Policy

Subject: Committee Agenda Request

Date: September 15, 2015

I respectfully request that **Senate Bill # 178**, relating to Quality Health Care Services, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Aaron Bean

Senator Aaron Bean
Florida Senate, District 4

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

12-1-15
Meeting Date

178
Bill Number (if applicable)

Bean Amendment
Amendment Barcode (if applicable)

Topic D.P.C.

Name Bill Herrle

Job Title Exec. Director NFIB

Address 110 E. Jeff Talla.
Street

FC. 32301
City *State* *Zip*

Phone 681 8416

Email bill herrle@nfib.org

Speaking: ☐ For ☐ Against ☑ Information

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

Representing NFIB

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)

12/1/15
Meeting Date

178
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Chris Nuland

Job Title _____

Address 1000 Riverside Ave
Street
Jacksonville, FL 32204
City *State* *Zip*

Phone 904-233-3051

Email nuland@aol.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing American College of Physicians, Florida; Florida Society of Plastic Surgeons

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)

12/1/15
Meeting Date

178
Bill Number (if applicable)

Topic DIRECT ACCESS FOR PRIMARY CARE

Amendment Barcode (if applicable)

Name PAUL LAMBERT

Job Title

Address 263 Rosehill Drive North
Street
TALLAHASSEE FL 32312
City *State* *Zip*

Phone 850 597-2696

Email plambert@paullambertlaw.com

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

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

Representing FLORIDA CHIROPRACTIC ASSO.

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

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

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

12-1-15
Meeting Date

SB 178
Bill Number (if applicable)

Topic Quality Health Care Svcs. – Medical Tourism

Amendment Barcode (if applicable)

Name Layne Smith

Job Title Director, State Govt. Relations

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Phone 904-953-7334

Email smith.layne@mayo.edu

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

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

Representing Mayo Clinic

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

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

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

12/1/15
Meeting Date

SB 178
Bill Number (if applicable)

Topic Medical Tourism

Amendment Barcode (if applicable)

Name Tony CARVAJAL

Job Title EVP - FL Chamber Foundation

Address 136 S Bronough St
Street
Tallahassee FL 32301
City *State* *Zip*

Phone 850 521 1200

Email

Speaking: ☐ For ☐ Against ☒ Information

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

Representing FL Chamber Foundation

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)

CourtSmart Tag Report

Room: KN 412 **Case No.:** **Type:**
Caption: Senate Health Policy Committee **Judge:**

Started: 12/1/2015 1:05:00 PM
Ends: 12/1/2015 2:34:19 PM Length: 01:29:20

1:04:59 PM Meeting called to order
1:05:08 PM Roll called- Quorum met
1:05:43 PM Tab 2- SB 586- Sen Stargel
1:06:57 PM Staff with information on SB 586
1:07:56 PM Mary Thomas- Asst Gen counsel- Waive in support
1:08:10 PM Debate on SB 586
1:08:26 PM Sen Stargel Waive close on SB 586
1:08:31 PM SB 586- reported favorably
1:09:03 PM Tab 6 - SB 748 introduced by Sen Flores
1:09:18 PM Sen Flores explains delete-all Amendment Barcode 296498
1:09:57 PM Series of questions on bill
1:12:27 PM Laura Cantell- AARP- Waive in support
1:13:29 PM Corinne Mixon- FL Academy of Physician Assits- waive in support
1:13:34 PM Debate on Amendment
1:13:46 PM Amendment adopted
1:13:50 PM Bill as amended
1:13:55 PM Sen Flores Waive close on SB 748
1:14:00 PM Sen Garcia moves consider SB 748 as Committee Substitute
1:14:13 PM CS SB 748 Reported Favorably
1:14:46 PM Tab 1 SB 422- Presented by Matthew Hunter (representing Sen Benaquisto)
1:15:39 PM Questions on bill
1:16:16 PM Mark Fontaine - FL Alcohol and Dryg Abuse Assoc- Waive in support
1:16:19 PM Dr. Lila Chertman- FL Chapter, America College of Physicians- Waive in support
1:16:42 PM Stephen Winn-FL Osteopathic Medical Assoc- Waive in support
1:16:53 PM Matthew Hunter - Waive close on SB 422
1:17:11 PM SB 422- Reported favorably
1:17:23 PM Motion by Sen Galvano to be shown affirmative vote on both bills
1:17:46 PM Tab 4 - SB 504 introduced by Sen Grimsley
1:18:35 PM 522150 Amendment explained by Sen Grimsley
1:19:05 PM 522150 Amendment adopted
1:19:22 PM Sen Joyner with questions on bill as amended
1:20:31 PM Ellen Bogdannott- Society for Clinical and Medical Hair Removal- Waive in support
1:20:44 PM Debate on SB 504
1:20:56 PM Sen Grimsley waive close
1:21:03 PM Sen Braynon moves for bill considered as CS
1:21:18 PM CS SB 504 - Reported favorably
1:21:39 PM Tab 5 SB 580 introduced by Sen Grimsley
1:22:37 PM Amendment 691102 - withdrawn without objection
1:22:56 PM Consideration of late-filed amendment 977138 -Sen Grimsely explains
1:23:12 PM Amendment adopted
1:23:43 PM Public testimony on bill as amended
1:23:54 PM Joe Anne Hart- FL Dental Assoc- Waive in support
1:23:57 PM Christ Nuland -FL Public Health Assoc- Waive in support
1:24:11 PM Leslie Dughi- FL Dental Hygenic Assoc-waive in support
1:24:17 PM Sen Grimsley waive close
1:24:40 PM Sen Galvano moves to consider bill as CS
1:24:47 PM CS SB 580 - Reported favorably
1:25:19 PM Tab 7 - chair turned over to vice chair Sobel
1:25:30 PM SB 178- Introduced by Sen Bean
1:26:27 PM Amendment 746180 - removes direct primary care
1:27:14 PM Bill Herrle- NFIB- Public testimony on amendment
1:28:04 PM Sen Bean - Waive close on Amendment

1:28:42 PM Ammendment adopted
1:28:47 PM Public testimony on bill as amended
1:28:56 PM Tony Carvajal- FL Chamber Foundation- Speaking at request of chair
1:30:06 PM Layne Smith- Mayo Clinic- Waive in support
1:30:42 PM Paul Lambert- FL Chiropractic Assoc- Support
1:31:00 PM Chris Nuland- ACP, Plastic Surgeons- Speaking in support
1:31:43 PM Sen Bean close on bill as amended
1:31:50 PM Bean moves for bill to be considered CS
1:32:38 PM CS SB 178- Reported favorably
1:33:45 PM Sen Flores reported voting favorably for SB 178
1:34:00 PM Stand in informal recess
1:41:42 PM Recording Paused
1:43:08 PM Recording Resumed
1:43:14 PM Meeting called back to order by Chair Sen Bean
1:44:18 PM Matthew Hauffman to present -- Legislative Asst to Sen Hutson
1:44:50 PM SB 742- Introduced by Matthew Kauffmann- on COPCNs
1:45:10 PM Questions on bill - series, Sen Joyner to Matthew Kauffmann
1:49:44 PM Sen Sobel with questions on SB 742 to Matthew Kauffmann
1:52:22 PM Public testimony on SB 742
1:52:26 PM Laura Donaldson- Attorney for North Collier Fire Control and Rescue District- Speaking for bill
1:54:41 PM Series of questions for Laura Donaldson - Sen Garcia, Sen Joiner
1:58:37 PM Mac Kemp- Deputy Chief, FL Council of EMS Chiefs- Speaking against bill
2:01:45 PM Lori Killinger- Bonita Springs Fire Control District- Speaking in favor of bill
2:03:41 PM Series of questions for Lori Killinger
2:06:40 PM Jorge Aguilera- Deputy Chief of EMS, N Collier Fire Rescue & Control District- Speaking in support
2:10:17 PM Dr. Jeff Panozzo-Medical Director, North Collier Fire District- Speaking in support
2:12:14 PM Series of questions for Dr. Jeff Panozzo- Sen Joyner
2:14:08 PM Susan Harbin- FL Assoc of Counties- Speaking against bill
2:15:47 PM James Cunningham- Battalion Chief, North Collier Fire Control- Speaking for bill
2:18:42 PM Sen Hutson- Information on SB 742
2:21:36 PM Series of questions for Sen Hutson- from Sen Sobel, Sen Joyner
2:24:16 PM Debate on SB 742
2:25:15 PM Sen Joyner in debate
2:27:43 PM Sen Sobel in debate
2:28:42 PM Sen Gaetz in debate
2:31:57 PM Sen Hutson - Close on SB 742
2:32:38 PM SB 742- Reported favorably
2:33:39 PM Sen Gaetz moves to be reported favorably for prior bills
2:33:59 PM Sen Joyner moves to rise
2:34:09 PM Meeting adjourned