

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

HEALTH POLICY
Senator Bean, Chair
Senator Sobel, Vice Chair

MEETING DATE: Monday, January 11, 2016
TIME: 4:00—6:00 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	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
<p>Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointment to the office indicated.</p> <p>Secretary of Health Care Administration</p>			
1	Dudek, Elizabeth (Tallahassee)	Pleasure of Governor	Recommend Confirm Yeas 9 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
2	SB 994 Negrón (Similar H 819)	Sunset Review of Medicaid Dental Services; Providing for the future removal of dental services as a minimum benefit of managed care plans; requiring the agency to implement a statewide Medicaid prepaid dental health program upon the occurrence of certain conditions; specifying requirements for the program and the selection of providers, etc. HP 01/11/2016 Favorable AHS AP	Favorable Yeas 8 Nays 1
3	SB 918 Richter (Identical H 941, Compare S 1504)	Licensure of Health Care Professionals; Deleting the requirement that applicants making initial application for certain licensure complete certain courses; providing for the issuance of a license to practice under certain conditions to a military health care practitioner in a profession for which licensure in a state or jurisdiction is not required to practice in the military; providing for the issuance of a temporary professional license under certain conditions to the spouse of an active duty member of the Armed Forces of the United States who is a healthcare practitioner in a profession for which licensure in a state or jurisdiction may not be required, etc. HP 01/11/2016 Fav/CS AHS AP	Fav/CS Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Health Policy

Monday, January 11, 2016, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 676 Grimsley (Similar S 210, S 428, Compare H 423, H 471, H 977, S 586, S 1250)	Health Care; Expanding the categories of persons who may prescribe brand name drugs under the prescription drug program when medically necessary; requiring a hospital to provide specified advance notice to certain obstetrical physicians before it closes its obstetrical department or ceases to provide obstetrical services; requiring the Board of Nursing to establish a committee to recommend a formulary of controlled substances that may not be prescribed, or may be prescribed only on a limited basis, by an advanced registered nurse practitioner; requiring that certain health insurers that do not already use a certain form use only a prior authorization form approved by the Financial Services Commission, etc. HP 01/11/2016 Fav/CS BI AHS AP	Fav/CS Yeas 4 Nays 2
5	SB 974 Sobel (Identical H 1217)	Hair Restoration or Transplant; Defining the term "hair restoration or transplant"; prohibiting a person who is not licensed or is not certified under specified provisions from performing a hair restoration or transplant or making incisions for the purpose of performing a hair restoration or transplant, etc. HP 01/11/2016 Favorable AHS FP	Favorable Yeas 9 Nays 0
Consideration of proposed bill:			
6	SPB 7038	Controlled Substances; Authorizing certain controlled substances to be electronically prescribed; authorizing the designee of a pharmacy, prescriber, or dispenser to access a patient's record in the prescription drug monitoring program's database for a specified purpose; authorizing the designee of a health care practitioner, pharmacist, pharmacy, prescriber, or dispenser and an impaired practitioner consultant to receive certain information from the prescription drug monitoring program, etc.	Submitted as Committee Bill Yeas 6 Nays 0
Other Related Meeting Documents			

**The Florida Senate
Committee Notice Of Hearing**

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of
Elizabeth Dudek
Secretary of Health Care Administration

NOTICE OF HEARING

TO: Ms. Elizabeth Dudek

YOU ARE HEREBY NOTIFIED that the Committee on Health Policy of the Florida Senate will conduct a hearing on your executive appointment on Monday, January 11, 2016, in the Pat Thomas Committee Room, 412 Knott Building, commencing at 4:00 p.m., pursuant to Rule 12.7(1) of the Rules of the Florida Senate.

Please be present at the time of the hearing.
DATED this the 4th day of January, 2016

Committee on Health Policy

Senator Aaron Bean
As Chair and by authority of the committee

cc: Members, Committee on Health Policy
Office of the Sergeant at Arms



RICK SCOTT
GOVERNOR

RECEIVED
DEPARTMENT OF
2015 MAY -8 PM 4:1
DIVISION OF ELECTIONS

May 4, 2015

The Honorable Kenneth W. Detzner
Secretary of State
State of Florida
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Detzner:

Please be advised I have made the following reappointment under the provisions of Section 20.42, Florida Statutes:

Secretary Elizabeth Dudek
4617 Killimore Lane
Tallahassee, Florida 32309

as Secretary of Health Care Administration, subject to confirmation by the Senate. This appointment is effective May 4, 2015, for a term ending at the pleasure of the Governor.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to be "Rick Scott".

Rick Scott
Governor

RS/vh

OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

RECEIVED
DEPARTMENT OF STATE

2015 MAY 19 PM 2:54

DIVISION OF ELECTIONS
TALLAHASSEE, FL

STATE OF FLORIDA

County of LEON

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

SECRETARY of the AGENCY for HEALTH CARE ADMINISTRATION

(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

Elizabeth Dudek
Signature

Sworn to and subscribed before me this 19 day of May, 2015.

Irish O. Guyton
Signature of Officer Administering Oath or of Notary Public

Irish O. Guyton
Print, Type, or Stamp Commissioned Name of Notary Public



Personally Known OR Produced Identification

Type of Identification Produced _____

ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: Home Office

2727 MAHAN DR., MAIL STOP 1

Street or Post Office Box

TALLAHASSEE, FL 32308

City, State, Zip Code

ELIZABETH DUDEK

Print name as you desire commission issued

Elizabeth Dudek
Signature

CERTIFICATION

RECEIVED
DEPARTMENT OF STATE

2015 MAY 19 PM 2:54

DIVISION OF ELECTIONS
TALLAHASSEE, FL

STATE OF FLORIDA
COUNTY OF LEON

Before me, the undersigned Notary Public of Florida, personally appeared ELIZABETH DUDEL, who, after being duty sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

Elizabeth Dudel
Signature of Applicant-Affiant

Sworn to and subscribed before me this 19 day of May, 2015.

[Signature]
Signature of Notary Public-State of Florida

IRISH O. GUYTON
(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: 4/11/2019

Personally Known OR Produced Identification

Type of Identification Produced _____



(seal)

THE FLORIDA SENATE

COMMITTEE WITNESS OATH

CHAIR:

Please raise your right hand and be sworn in as a witness.

Do you swear or affirm that the evidence you are about to give will be the truth, the whole truth, and nothing but the truth?

WITNESS'S NAME: Elizabeth Dudek

ANSWER: I do

Pursuant to §90.605(1), *Florida Statutes*: "The witness's answer shall be noted in the record."

COMMITTEE NAME: Health Policy

DATE: 01/11/2016

The Florida Senate
**COMMITTEE RECOMMENDATION ON
EXECUTIVE APPOINTMENT**

COMMITTEE: Committee on Health Policy
MEETING DATE: Monday, January 11, 2016
TIME: 4:00—6:00 p.m.
PLACE: Pat Thomas Committee Room, 412 Knott Building

TO: The Honorable Andy Gardiner, President

FROM: Committee on Health Policy

The committee was referred the following executive appointment subject to confirmation by the Senate:

Office: Secretary of Health Care Administration

Appointee: Dudek, Elizabeth

Term: 5/4/2015-Pleasure of Governor

After inquiry and due consideration, the committee recommends that the Senate **confirm** the aforesaid executive appointment made by the Governor.

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

Bill Number (if applicable)

Topic Confirmation

Amendment Barcode (if applicable)

Name Elizabeth Dudek

Job Title Secretary

Address 2727 Mahan Drive
Street

Phone 850-412-3612

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 Agency for Health Care Administration

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 994

INTRODUCER: Senator Negron and others

SUBJECT: Sunset Review of Medicaid Dental Services

DATE: January 8, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Lloyd	Stovall	HP	Favorable
2.			AHS	
3.			AP	

I. Summary:

SB 994 removes dental services as a required benefit from the Medicaid Managed Assistance (MMA) program component of the Statewide Medicaid Managed Care (SMMC) program effective March 1, 2019. The bill requires the Agency for Health Care Administration (AHCA) to provide the Governor, President of the Senate, and Speaker of the House of Representatives by December 1, 2016, a comprehensive report that examines how effective the Medicaid managed care plans have been in improving access, satisfaction, delivery, and value in dental services. The report must also examine historical trends in costs, utilization, and rates by plan and statewide.

The Legislature may use this report to determine the scope of dental benefits in the Medicaid program in future procurements and whether to provide the benefit separate from medical benefits. If the Legislature takes no action before July 1, 2017, the AHCA is directed to implement a statewide competitive procurement for a separate dental program for children and adults with a choice of at least two vendors. The contract must be for 5 years, be non-renewable, and include a medical loss provision consistent with the requirement for health plans in the SMMC program.

The bill is effective July 1, 2016.

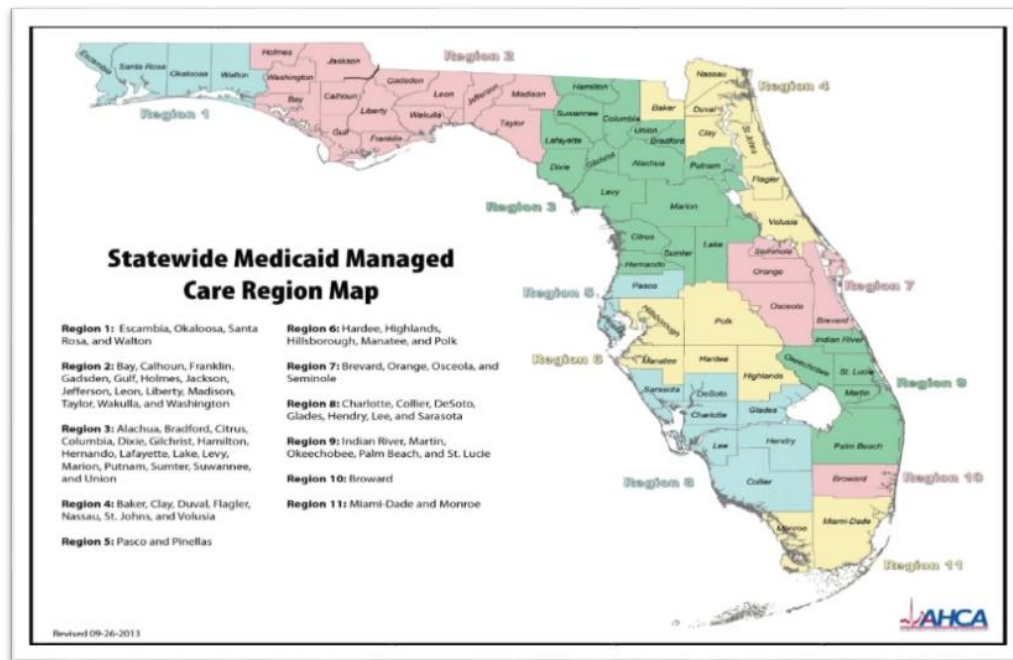
II. Present Situation:

The Florida Medicaid program is a partnership between the federal and state governments. Each state operates its own Medicaid program under a state plan that must be approved by the federal Centers for Medicare and Medicaid Services (CMS). The state plan outlines Medicaid eligibility standards, policies, and reimbursement methodologies.

Florida Medicaid is administered by the AHCA and financed with federal and state funds. Over 3.7 million Floridians are currently enrolled in Medicaid, and the program's estimated expenditures for the 2015-2016 fiscal year are over \$23.4 billion.¹

Statewide Medicaid Managed Care

In 2011, the Legislature established the Statewide Medicaid Managed Care (SMMC) Program as part IV of ch. 409, F.S.² The SMMC has two components: the Long Term Care Managed Care (LTC) program and the Managed Medical Assistance (MMA) program. The SMMC is an integrated, comprehensive, managed care program for Medicaid enrollees that manages the delivery of primary and acute care in 11 regions.



To implement the two components and receive federal Medicaid funding, the AHCA received federal authorization through two different Medicaid waivers from the CMS. The first component authorized was the LTC's 1915(b) and (c) waivers on February 1, 2013. The waivers for the LTC program are effective July 1, 2013, through June 30, 2016, and operate concurrently.³

The MMA program is authorized by a section 1115 demonstration waiver by federal CMS. It was approved in 2005 as a managed care pilot program and operates statewide as an expansion

¹ Office of Economic and Demographic Research, *Social Services Estimating Conference of August 4, 2015*, <http://edr.state.fl.us/Content/conferences/medicaid/medltxexp.pdf> (last visited Dec. 11, 2015).

² See Chapter Laws, 2011-134 and 2011-135.

³ Department of Health and Human Services, Disabled & Elderly Health Programs Group, *Approval Letter to Agency for Health Care Administration* (February 1, 2013), http://ahca.myflorida.com/medicaid/statewide_mc/pdf/Signed_approval_FL0962_new_1915c_02-01-2013.pdf (last visited Dec. 17, 2015).

of the managed care pilot program. The MMS program was renewed on July 31, 2014, for a second 3-year period through June 30, 2017.⁴

The SMMC contracts for LTC and MMA include a provision requiring the managed care plans to report quarterly and annually on their respective plans’ medical loss ratios for the time period.⁵ The medical loss ratio is based on data collected from all plans on a statewide basis and then classified consistent with 45 C.F.R., part 158. Under the federal regulation, large group plans, must achieve a medical loss ratio of 85 percent or provide a rebate to the state. Achieving an 85 percent medical loss ratio means that a managed care plan spent at least 85 percent of the premiums received on health care services and activities to improve health care quality.⁶

Managed Medical Assistance Program (MMA)

For the MMA component, health care services were bid competitively using the 11 specified regions. Thirteen non-specialty managed care plans contract with AHCA across the different regions. Specialty plans are also available to serve distinct populations, such as the Children’s Medical Services Network for children with special health care needs, or those in the child welfare system. Medicaid recipients with HIV/AIDS, serious mental illness, dual enrollment with Medicare, chronic obstructive pulmonary disease, congestive heart failure, or cardiovascular disease may also select from specialized plans.

Statewide implementation of the MMA plans started May 1, 2014, and was completed by August 1, 2014. MMA contracts were executed for a 5-year period; the current contracts are valid through August 31, 2019.

States determine the level of benefits offered in their own Medicaid program provided that certain mandatory federal benefits are covered. Florida details its minimum benefits under s. 409.973, F.S., for those enrollees in the MMA plans. A comparison of those mandatory minimum benefits are shown in the table below.

Comparison of Mandatory Medicaid Benefits	
Federal Mandatory Benefits⁷	State Minimum Benefits s. 409.973, F.S.
Inpatient hospital services	Inpatient hospital services
Outpatient hospital services	Outpatient hospital services
Early and periodic screening, diagnostic and treatment services (EPSDT)	Early and periodic screening, diagnostic and treatment services (EPSDT)
Nursing facility services	Nursing care
Home health services	Home health agency services

⁴ Department of Health and Human Services, Centers for Medicare & Medicaid Services, *Medicaid 1115 Demonstration Fact Sheet* (July 31, 2014), <http://www.medicare.gov/Medicare-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/fl/fl-medicare-reform-fs.pdf> (last visited Dec. 21, 2015).

⁵ See s. 409.967(4), F.S.

⁶ 45 C.F.R. §158.251 (2012).

⁷ Medicaid.gov, *Benefits*, <http://www.medicare.gov/medicare-chip-program-information/by-topics/benefits/medicaid-benefits.html> (last visited Dec. 17, 2015).

Comparison of Mandatory Medicaid Benefits	
Federal Mandatory Benefits⁷	State Minimum Benefits s. 409.973, F.S.
Physician services	Physician services, including physician assistant services
Rural health clinic services	Rural health clinic services
Federally qualified health center services	Covered under s. 409.975, F.S.
Laboratory and X-ray services	Laboratory and X-ray services
Family planning services	Family planning services
Nurse midwife services	Healthy start services
Certified pediatric and family nurse practitioner services	Advanced registered nurse practitioner services
Freestanding birth center services (when licensed or otherwise recognized)	Birthing center services
Transportation to medical care	Transportation to access covered services
Tobacco cessation counseling for pregnant women	Substance abuse treatment services
	Chiropractic services
	Ambulatory surgical treatment centers
	Dental services
	Emergency services
	Hospice services
	Medical supplies, equipment, prostheses, orthoses
	Mental health services
	Optical services and supplies
	Optometrist services
	Physical, occupational, respiratory, and speech therapy services
	Podiatric services
	Prescription drugs
	Renal dialysis services
	Respiratory equipment and supplies

A contracted MMA health plan must provide all state minimum benefits for an enrollee when medically necessary. Many MMA plans supplemented the state required minimum benefits and offered enhanced options, such as expanded adult dental, hearing and vision coverage, outpatient hospital coverage, and physician services.

Most Medicaid recipients must be enrolled in the MMA program. Those individuals who are not required to enroll, but may choose to do so, are:

- Recipients who have other creditable coverage, excluding Medicare;
- Recipients who reside in residential commitment facilities through the Department of Juvenile Justice or mental health treatment facilities under s. 394.455(32), F.S.;
- Persons eligible for refugee assistance;
- Residents of a developmental disability center;

- Enrollees in the developmental disabilities home and community based waiver or those waiting for waiver services; and
- Children in a prescribed pediatric extended care center.⁸

Other Medicaid enrollees are exempt from the MMA program and receive Medicaid services on a fee-for-service basis. Exempt enrollees are:

- Women who are eligible for family planning services only;
- Women who are eligible only for breast and cervical cancer services; and
- Persons eligible for emergency Medicaid for aliens.

Non-MMA enrollees receiving services through fee-for-service have the same mandatory minimum benefits. These benefits are described under a separate statute, s. 409.905, F.S.

History of Prepaid Dental Plans

Comprehensive dental benefits are required for children at both the federal and state level, and coverage includes diagnostic, preventive, or corrective procedures, including orthodontia.^{9,10} MMA plans are only required to provide adult dental coverage which provides medically necessary emergency procedures to eliminate pain or infection. Adult dental care may be restricted to emergency oral examinations, necessary radiographs, extractions, and incisions and drainage of abscesses. Full or partial dentures may also be provided under certain circumstances.¹¹

Prior to SMMC, dental coverage was delivered either through pre-paid dental health plans (PDHP) or individual providers using fee-for-service arrangements. PDHPs were first initiated in the Medicaid program in the 2001-2002 state fiscal year when proviso language in the 2001-2002 General Appropriations Act (GAA) authorized the AHCA to initiate a PDHP pilot program in Miami-Dade County.¹² The following chart provides a brief overview of the history of Medicaid prepaid dental health. Further elaboration is provided in subsequent paragraphs.

Brief Overview of Medicaid Prepaid Dental Plan History	
Year	Dental Delivery Systems
2001-2002 SFY	Legislature authorizes AHCA to initiate PDHP pilot in Miami-Dade County.
2003-2004 SFY	Legislature authorizes AHCA to contract on competitive basis using PDHPs; AHCA executes first PDHP contract in 2004 in Miami Dade for children.
2010-2011 SFY	Legislature authorizes time limited statewide PDHP competitive procurement, excluding Miami-Dade and Medicaid Reform counties.

⁸ Section 409.972, F.S.

⁹ 42 U.S.C. 1396d(a)(i)

¹⁰ See Section 409.906(6), F.S.

¹¹ See Section 409.906(1), F.S.

¹² See Specific Proviso 135A, General Appropriations Act 2001-2002 (Conference Report on CS/SB 2C).

2012-2013 SFY	Legislature provides that Medicaid dental services should not be limited to PDHPs and also authorizes fee-for-service; Statewide PDHP program implemented in December 2012 for children.
July 1, 2013	Fee for service dental care option ends.
May 1, 2014	MMA Roll-out begins; PDHP contracts terminate as regions are implemented.
August 1, 2014	Completion of MMA Roll-out; end of PDHP contracts.

The 2003 Legislature again authorized the AHCA to contract on a prepaid or fixed sum basis for dental services for Medicaid-eligible recipients specifically using PDHPs.¹³ Through a competitive bid process, the AHCA executed its first PDHP contract in 2004 to serve children under age 21 in Miami-Dade County.¹⁴

The Legislature added proviso in the 2010-2011 GAA authorizing the AHCA to contract by competitive procurement with one or more prepaid dental plans on a regional or statewide basis for a period not to exceed 2 years, in all counties except those participating in Miami-Dade County and Medicaid Reform, under a fee-for-service or managed care delivery system.¹⁵

For the 2012 -2013 GAA, the Legislature included proviso in the 2012-2013 GAA requiring that for all counties other than Miami-Dade, the AHCA could not limit Medicaid dental services to prepaid plans and must allow qualified dental providers to provide services on a fee-for-service basis.¹⁶ Similar language was also passed in the 2012-2013 appropriations implementing bill, which included additional directives to AHCA to terminate existing contracts, as needed. The 2012-2013 implementing bill provisions became obsolete on July 1, 2013.

Two vendors were selected for a statewide program starting in 2012-2013 and contracts were implemented effective December 1, 2012.¹⁷ Under the program, Medicaid recipients selected one of the two PDHPs in their county for dental services. The existing dental plan contracts covered only Medicaid recipients under age 21. Dental care through Medicaid fee for service providers ended July 1, 2013.

The Invitation to Negotiate (ITN) limited renewal for these contracts to no more than a 3-year period; however, with the final implementation of SMMC and the integration of dental coverage within the Medicaid managed care plans, these PDHP contracts were non-renewed as each region under SMMC was implemented.¹⁸ SMMC began its regional roll-out on May 1, 2014, and completed the final regions on August 1, 2014.

¹³ Chapter 2003-405, Laws of Fla.

¹⁴ Agency for Health Care Administration, *House Bill 27 Analysis*, p. 2, (Nov. 11, 2013) (on file with the Senate Committee on Health Policy).

¹⁵ See Specific Proviso 204, General Appropriations Act 2010-2011 (Conference Report on HB 5001).

¹⁶ See Specific Proviso 186, General Appropriations Act 2012-2013 (Conference Report on HB 5001).

¹⁷ Six counties were excluded from the statewide roll-out. Miami-Dade was excluded because of the prepaid dental program that has been in existence since 2004. Baker, Broward, Clay, Duval and Nassau counties were excluded because they were part of the Medicaid Reform Pilot Project, which requires most Medicaid recipients to enroll in managed care plans that provide dental care as a covered service.

¹⁸ Agency for Health Care Administration, *supra* note 8 at 5.

While the SMMC plans are required to collect data, including data related to access to care and quality, no formalized data is available yet which compares the different dental care delivery systems. However, the agency's health care information website, www.floridahealthfinder.gov, does include member satisfaction in Medicaid and quality of care indicators for health plans. The most recent member satisfaction surveys are from 2015.¹⁹

III. Effect of Proposed Changes:

Section 1 - Effective March 1, 2019, the bill amends s. 409.973, F.S., to remove dental services from the list of minimum benefits that managed care plans must cover under the SMMC MMA program.

Section 2 - A new subsection (5) is added s. 409.973, F.S., to require the AHCA to provide the Governor, the President of the Senate, and Speaker of the House of Representatives, a report on the provision of dental services by December 1, 2016. The AHCA may contract with an independent third party to assist with the report. The bill requires several components that must be included in the report. It must examine:

- The effectiveness of the managed care plans in:
 - Increasing access to dental care;
 - Improving dental health;
 - Achieving satisfactory outcomes for recipients and providers; and
 - Delivering value and transparency to the state's taxpayers.
- The historical trends of rates paid to dental providers and dental plan subcontractors;
- Participation rates in plan networks; and
- Provider willingness to treat Medicaid recipients.

The bill also requires the report to review rate and participation trends by plan and in the aggregate. A comparison of current and historical efforts and trends and the experiences of other states in delivering dental services, increasing patient access, and improving dental care must also be included.

Findings of the report may be used by the Legislature to set future minimum benefits for s. 409.973, F.S., and for future dental procurements of eligible plans, including whether to include dental services as a minimum benefit under the managed care plans or to provide as a separate benefit.

If the Legislature takes no action before July 1, 2017, with regard to the report's findings, the bill directs the AHCA to implement a statewide Medicaid prepaid dental health program for children and adults with a choice of at least two licensed dental managed care providers who have substantial experience in providing care to Medicaid enrollees and children eligible for medical assistance under Title XXI of the Social Security Act (CHIP) and who meet all agency standards and requirements.

¹⁹ See Agency for Health Care Administration, *FloridaHealthFinder.gov*, <http://www.floridahealthfinder.gov/HealthPlans/Default.aspx> (last visited Jan. 4, 2016).

The bill further requires that contracts be awarded through a competitive procurement process for a 5-year period and may not be renewed. However, the AHCA may extend the term of a plan contract to cover any transition delays to a new plan provider. All contracts must also include a medical loss ratio provision consistent with s. 409.967(4), F.S., which is applicable to health plans in SMMC.

The AHCA is granted authority to seek any necessary state plan amendments or federal waivers in order to begin enrollment no later than March 1, 2019.

Section 3 - 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:

Today, most of the Medicaid managed care plans subcontract with private sector dental managed care plans or prepaid dental health plans to deliver dental services to Medicaid enrollees. All MMA plans currently include some form of enhanced adult dental services.²⁰ A smaller portion of Medicaid dental services are also still delivered directly at a dental provider's office.

Between the managed care plans and other private providers, the private vendors serve almost 4 million enrollees through the Medicaid program.²¹ If the Legislature determines that dental benefits should remain as a minimum benefit in the MMA program and be procured separately, the dental plans that have contracts now may or may not retain those

²⁰ Agency for Health Care Administration, *A Snapshot of the Florida Medicaid Managed Assistance Program* (December 2015), http://ahca.myflorida.com/Medicaid/statewide_mc/pdf/mma/SMMC_MMA_Snapshot.pdf (last visited Dec. 22, 2015).

²¹ Agency for Health Care Administration, *Eligibles Report As of 10/31/2015*, http://ahca.myflorida.com/medicaid/Finance/data_analytics/eligibles_report/docs/age_assistance_category_2015-10-31.pdf (last visited Dec. 22, 2015).

contracts through the competitive procurement process. The bill does not provide the incumbent providers any preference in the procurement process.

A new procurement process may also mean additional economic opportunities for other companies to provide services and at least two statewide vendors must be selected. Additionally, the MMA and LTC contracts are scheduled for rebid with implementation by 2019; therefore, if a decision is made to keep dental benefits as a minimum benefit, the managed care plans would seek dental care partners as part of that procurement process.

C. Government Sector Impact:

SB 994 will have both an operational and a fiscal impact on the AHCA. According to the AHCA, the bill requires budget authority of \$450,000 in state fiscal year (SFY) 2016-2017; \$522,856 in SFY 2017-18, and 522,856 in SFY 18-19.²²

The AHCA must complete the report by December 1, 2016, using existing resources, but also has authority to seek a third party's assistance with the report. The AHCA indicates it generally costs about \$250,000 to contract with an entity to conduct such an evaluation.²³ The bill does not provide the AHCA with any additional funds for third party support.

Included in the AHCA's fiscal note is a request for an additional 5 FTEs to implement the bill and funds for the agency's current actuarial firm. The AHCA also contemplates the need for additional resources for outside counsel for challenges to the competitive dental procurement bid awards.²⁴

Operationally, the AHCA notes it would need to seek a new 1115 waiver or 1915(b) waiver from the Centers for Medicare and Medicaid Services before the pre-paid dental program could be implemented.²⁵ Approval for such waivers can take 6 to 9 months to obtain.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 409.973 of the Florida Statutes.

²² Agency for Health Care Administration, *Senate Bill 994 Analysis*, p. 10 (Jan. 6, 2016) (on file with the Senate Committee on Health Policy).

²³ *Id.* at 2.

²⁴ *Id.* at 3.

²⁵ *Id.*

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.

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

By Senator Negrón

32-00900A-16

2016994__

1 A bill to be entitled
 2 An act relating to the sunset review of Medicaid
 3 Dental Services; amending s. 409.973, F.S.; providing
 4 for the future removal of dental services as a minimum
 5 benefit of managed care plans; requiring the Agency
 6 for Health Care Administration to provide a report to
 7 the Governor and the Legislature; specifying
 8 requirements for the report; providing for the use of
 9 the report's findings; requiring the agency to
 10 implement a statewide Medicaid prepaid dental health
 11 program upon the occurrence of certain conditions;
 12 specifying requirements for the program and the
 13 selection of providers; providing effective dates.

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

15
 16 Section 1. Effective March 1, 2019, subsection (1) of
 17 section 409.973, Florida Statutes, is amended to read:

18 409.973 Benefits.—

19 (1) MINIMUM BENEFITS.—Managed care plans shall cover, at a
 20 minimum, the following services:

21 (a) Advanced registered nurse practitioner services.

22 (b) Ambulatory surgical treatment center services.

23 (c) Birthing center services.

24 (d) Chiropractic services.

25 ~~(e) Dental services.~~

26 (e)(f) Early periodic screening diagnosis and treatment
 27 services for recipients under age 21.

28 (f)(g) Emergency services.

29 Page 1 of 4

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

32-00900A-16

2016994__

30 (g)(h) Family planning services and supplies. Pursuant to
 31 42 C.F.R. s. 438.102, plans may elect to not provide these
 32 services due to an objection on moral or religious grounds, and
 33 must notify the agency of that election when submitting a reply
 34 to an invitation to negotiate.

35 (h)(i) Healthy start services, except as provided in s.
 36 409.975(4).

37 (i)(j) Hearing services.

38 (j)(k) Home health agency services.

39 (k)(l) Hospice services.

40 (l)(m) Hospital inpatient services.

41 (m)(n) Hospital outpatient services.

42 (n)(o) Laboratory and imaging services.

43 (o)(p) Medical supplies, equipment, prostheses, and
 44 orthoses.

45 (p)(q) Mental health services.

46 (q)(r) Nursing care.

47 (r)(s) Optical services and supplies.

48 (s)(t) Optometrist services.

49 (t)(u) Physical, occupational, respiratory, and speech
 50 therapy services.

51 (u)(v) Physician services, including physician assistant
 52 services.

53 (v)(w) Podiatric services.

54 (w)(x) Prescription drugs.

55 (x)(y) Renal dialysis services.

56 (y)(z) Respiratory equipment and supplies.

57 (z)(aa) Rural health clinic services.

58 (aa)(bb) Substance abuse treatment services.

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59 ~~(bb)(ee)~~ Transportation to access covered services.
 60 Section 2. Subsection (5) is added to section 409.973,
 61 Florida Statutes, to read:
 62 409.973 Benefits.—
 63 (5) PROVISION OF DENTAL SERVICES.—
 64 (a) The agency shall provide a comprehensive report on the
 65 provision of dental services under part IV of this chapter to
 66 the Governor, the President of the Senate, and the Speaker of
 67 the House of Representatives by December 1, 2016. The agency is
 68 authorized to contract with an independent third party to assist
 69 in the preparation of the report required by this paragraph.
 70 1. The report must examine the effectiveness of medical
 71 managed care plans in increasing patient access to dental care,
 72 improving dental health, achieving satisfactory outcomes for
 73 Medicaid recipients and the dental provider community, providing
 74 outreach to Medicaid recipients, and delivering value and
 75 transparency to the state’s taxpayers regarding the dollars
 76 intended for, and spent on, actual dental services.
 77 Additionally, the report must examine, by plan and in the
 78 aggregate, the historical trends of rates paid to dental
 79 providers and to dental plan subcontractors, dental provider
 80 participation in plan networks, and provider willingness to
 81 treat Medicaid recipients. The report must also compare current
 82 and historical efforts and trends and the experiences of other
 83 states in delivering dental services, increasing patient access
 84 to dental care, and improving dental health.
 85 2. The Legislature may use the findings of this report in
 86 setting the scope of minimum benefits set forth in this section
 87 for future procurements of eligible plans as described in s.

Page 3 of 4

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88 409.966. Specifically, the decision to include dental services
 89 as a minimum benefit under this section, or to provide Medicaid
 90 recipients with dental benefits separate from the Medicaid
 91 managed medical assistance program described in part IV of this
 92 chapter, may take into consideration the data and findings of
 93 the report.
 94 (b) In the event the Legislature takes no action before
 95 July 1, 2017, with respect to the report findings required under
 96 subparagraph (a)2., the agency shall implement a statewide
 97 Medicaid prepaid dental health program for children and adults
 98 with a choice of at least two licensed dental managed care
 99 providers who must have substantial experience in providing
 100 dental care to Medicaid enrollees and children eligible for
 101 medical assistance under Title XXI of the Social Security Act
 102 and who meet all agency standards and requirements. The
 103 contracts for program providers shall be awarded through a
 104 competitive procurement process. The contracts must be for 5
 105 years and may not be renewed; however, the agency may extend the
 106 term of a plan contract to cover delays during a transition to a
 107 new plan provider. The agency shall include in the contracts a
 108 medical loss ratio provision consistent with s. 409.967(4). The
 109 agency is authorized to seek any necessary state plan amendment
 110 or federal waiver to commence enrollment in the Medicaid prepaid
 111 dental health program no later than March 1, 2019.
 112 Section 3. Except as otherwise expressly provided in this
 113 act, this act shall take effect July 1, 2016.

Page 4 of 4

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on Criminal and
Civil Justice, *Chair*
Appropriations
Banking and Insurance
Ethics and Elections
Higher Education
Regulated Industries
Rules

SENATOR JOE NEGRON
32nd District

December 17, 2015

Aaron Bean, Chair
Committee on Health Policy
530 Knott
404 S Monroe Street
Tallahassee, FL 32399-1100

Re: Senate Bill 994

Dear Chairman Bean:

I would like to request Senate Bill 994 relating to sunset review of Medicaid dental services be placed on the agenda for the next scheduled committee meeting.

Thank you for your consideration of this request.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Joe Negron".

Joe Negron
State Senator
District 32

JN/hd

c: Sandra Stovall, Staff Director

REPLY TO:

- 3500 SW Corporate Parkway, Suite 204, Palm City, Florida 34990 (772) 219-1665 FAX: (772) 219-1666
- 412 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5032

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)



1/11/16
Meeting Date

994
Bill Number (if applicable)

Topic Sunset Review of Medicaid Dental Services

Amendment Barcode (if applicable)

Name Audrey Brown

Job Title President + CEO

Address 200 W. College Ave
Street

Phone 850-386-2904

City _____ State _____ Zip _____

Email Audrey@FAHP.net

Speaking: For Against Information

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

Representing Florida Association of Health Plans

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/11/10
Meeting Date

994
Bill Number (if applicable)

Topic Dental Services

Amendment Barcode (if applicable)

Name Jack McRay

Job Title Advocacy Manager

Address 200 West College Ave., Suite 304

Phone 850-228-7295

Street

Tallahassee

City

FL

State

32301

Zip

Email jmcray@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

APPEARANCE RECORD

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

1/11/16

Meeting Date

994

Bill Number (if applicable)

Topic Sunset Review of Medicaid Dental Services Amendment Barcode (if applicable)

Name Cathy Stautamire

Job Title Lobbyist

Address 118 E. Jefferson

Phone 850-224-1089

Street

Tallahassee

City

FL

State

32312

Zip

Email cstautamire@floridadental.org

Speaking: For Against Information

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

Representing FL Dental Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
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 918

INTRODUCER: Health Policy Committee and Senator Richter

SUBJECT: Licensure of Health Care Professionals

DATE: January 12, 2016 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 918 authorizes the Department of Health (DOH) to waive fees and issue health care licenses to active duty U.S. military personnel who are within 6 months of an honorable discharge, and issue temporary licenses to active duty military spouses, in professions that do not require licensure in other states, if the applicant can provide evidence of training or experience equivalent to that required in Florida, and proof of a passing score on a regional or national standards organization exam, if one is required in Florida. The bill also eliminates the requirement that a military spouse who has been issued a temporary dental license practice under the indirect supervision of a Florida dentist.

CS/SB 918 also updates various provisions regulating health care professions to reflect current operations and to improve operational efficiencies, including:

- Conforming the statutes to reflect implementation of the integrated electronic continuing education (CE) tracking system with the licensure and renewal process;
- Authorizing the DOH to contract with a third party to serve as the custodian of medical records in the event of a practitioner’s death, incapacitation, or abandonment of records;
- Modifying procedures for handling professions that have been operating at cash deficits and which are at the statutory fee cap;
- Deleting the requirement for pre-licensure courses relating to HIV/AIDS and medical errors for certain professions;

- Deleting a loophole pertaining to the licensure and license renewal of certain felons, persons convicted of Medicaid fraud, or other excluded individuals;
- Eliminating the requirement for annual inspections of dispensing practitioners' facilities;
- Repealing the Council on Certified Nursing Assistants and the Advisory Council of Medical Physicists; and
- Providing for a 1 year temporary license for medical physicists.

II. Present Situation:

Health Care Practitioner Licensure

The DOH is responsible for the regulation of health practitioners and health care facilities in Florida for the preservation of the health, safety, and welfare of the public. The Division of Medical Quality Assurance (MQA), working in conjunction with 22 boards and six councils, licenses and regulates seven types of health care facilities, and more than 200 license types, in over 40 health care professions.¹ Any person desiring to be a licensed health care professional in Florida must apply to the DOH, MQA in writing.² Most health care professions are regulated by a board or council in conjunction with the DOH and all profession have different requirements for initial licensure and licensure renewal.³

Initial Licensure Requirements

Military Health Care Practitioners

Section 456.024, F.S., provides that any member of the U.S. Armed Forces who has served on active duty in the military, reserves, National Guard, or in the United States Public Health Service, as a health care practitioner, is also eligible for licensure in Florida. The DOH is required to waive fees and issue these individuals a license if they submit a completed application and proof of the following:

- A honorable discharge within 6 months before or after, the date of submission of the application;⁴
- An active, unencumbered license issued by another state, the District of Columbia, or a U.S. possession or territory, with no disciplinary action taken against it in the 5 years preceding the date of submission of the application;
- An Affidavit that he or she is not, at the time of submission, the subject of a disciplinary proceeding in a jurisdiction in which he or she holds a license or by the United States Department of Defense for reasons related to the practice of the profession for which he or she is applying;
- Documentation of actively practicing his or her profession for the 3 years preceding the date of submission of the application; and

¹ Florida Dep't of Health, Medical Quality Assurance, *Annual Report and Long Range Plan, 2014-2015*, p.6, available at: http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/_documents/annual-report-1415.pdf

² Section 456.013, F.S.

³ See chs. 401, 456-468, 478, 480, 483, 484, 486, 490, and 491, F.S.

⁴ A form DD-214 or an NGB-22 is required as proof of honorable discharge. Department of Health, *Veterans*, <http://www.floridahealth.gov/licensing-and-regulation/armed-forces/veterans/index.html> (last visited Dec. 15, 2015).

- Fingerprints for a background screening, if required for the profession for which he or she is applying.⁵

Florida offers an expedited licensure process to facilitate veterans seeking licensure in a health care profession in Florida through its Veterans Application for Licensure Online Response System (VALOR).⁶ In order to qualify, a veteran must apply for the license within 6 months before, or 6 months after, he or she is honorably discharged from the Armed Forces; and there is no application fee, licensure fee, or unlicensed activity fee.⁷

A board, or the department if there is no board, may also issue a temporary health care professional license to the spouse of an active duty member of the Armed Forces upon submission of an application form and fees. The applicant must hold a valid license for the profession issued by another state, the District of Columbia, or a possession or territory of the United States and may not be the subject of any disciplinary proceeding in any jurisdiction relating to the practice of a regulated health care profession in Florida. A spouse who is issued a temporary professional license to practice as a dentist under this authority must practice under the indirect supervision of a Florida dentist.

HIV and AIDS Course Requirements

Section 381.0034(3), F.S. and s. 468.1201, F.S., require prospective licensees for midwifery, radiology technology, laboratory technicians, medical physicists, speech-language pathology and audiology, as a condition of initial licensure, to complete an approved course on HIV and AIDS. An applicant who has not completed the required HIV and AIDS course at the time of initial licensure will, upon submission of an affidavit showing good cause, be allowed 6 months to complete this requirement.

Medical Errors Course Requirements

Section 456.013(7), F. S., requires that every practitioner regulated by DOH complete a DOH approved 2-hour course relating to the prevention of medical errors as part of the licensure and renewal process. The 2-hour course shall count towards the total number of CEs required for the profession.

Licensure Renewal Requirements

CE Tracking

Under s. 456.025(7), F.S., the DOH is required to utilize an electronic CE tracking system for each new biennial renewal cycle; and all approved CE providers are to provide information on course attendance to DOH for this system. The initial CE tracking system was not linked to the DOH license renewal system so in order for a practitioner to renew his or her license, he or she certified that the required CEs had been completed. The DOH is currently deploying an

⁵ *Id.* The Military Veteran Fee Waiver Request Form, also must be submitted with the application for licensure to receive waiver of fees and is available on the DOH website.

⁶ Florida Dep't of Health, *Veterans*, <http://www.floridahealth.gov/licensing-and-regulation/armed-forces/veterans/index.html>, (last visited Dec. 15, 2015).

⁷ *Id.*

integrated CE tracking system for all professions. Several practice acts still reference the submission of sworn affidavits, audits for compliance, and other methods for proof of completion of CE requirements.⁸

Felons, Medicaid Fraud and Excluded Individuals

Section 456.0635(2), F.S., provides that a board or the DOH, if there is no board, must refuse to admit a candidate to any examination, and refuse to issue a license, certificate, or registration, to any applicant if the candidate, applicant, or principal, officer, agent, managing employee, or affiliated person of an applicant:

- Has been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, certain specified felonies;
- Has been terminated for cause from any Medicaid program; or
- Is listed on the U.S. Department of Health and Human Services' List of Excluded Individuals and Entities.

Section 456.0635(2), F.S., provides a tiered timeframe for these individuals to apply for a license, certificate, or registration, depending on the degree and age of the violation; and there is a general exception for candidates or applicants for initial licensure or certification who were enrolled in an educational or training program on or before July 1, 2009, and who applied for licensure after July 1, 2012.

According to the DOH, recently, when it refused to renew licenses based on the provisions of s. 456.0635(3), F.S., the licensees have immediately reapplied under the exception in s. 456.0635(2), F.S., and have been granted a license. By taking advantage of the exception, licensees who were convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, certain specified felonies; or were terminated for cause from the Florida Medicaid or any other state's Medicaid program; or are currently listed on the United States Department of Health and Human Services, List of Excluded Individuals and Entities have been able to regain a license to practice. When the next renewal cycle ends, those licensees will once again be denied renewal based on s. 456.0635(3), F.S., but can again reapply for licensure under the exception.⁹

Continuing Education Reporting for Renewal

Section 463.007, F.S., authorizes the DOH to periodically require an optometrist to demonstrate his or her professional competence, as a condition of licensure renewal, by completing up to 30 CE hours in the 2 years preceding renewal. For certified optometrists, the 30 hours of CE must include six or more hours of approved transcript-quality coursework in ocular and systemic pharmacology and the diagnosis, treatment, and management of ocular and systemic conditions and diseases.

Section 464.203, F.S., requires a Certified Nursing Assistant (CNA) to complete 12 CE hours of in service training every year.

⁸ See Florida Dep't of Health, *Senate Bill 918 Analysis*, p. 6, (Nov. 20, 2015) (on file with the Senate Committee on Health Policy).

⁹ *Id* at p. 7.

Sections 457.107(3), 458.347(4)(e)3., 466.0135(3), 466.014, 466.032(5), 484.047(2), and 486.109(4), F.S., require acupuncturists, physician assistants, dentists, dental hygienists, dental laboratories, hearing aid specialists, and physical therapists to provide an affidavit or written statement attesting to the completion of the required CEs for his or her biennial renewal period; and authorize the DOH to request a licensee, with or without cause, produce documentation of his or her completed CEs reported for the biennial renewal period.

Licensure Regulation Costs

Section 456.025, F.S., sets forth the legislative intent that all costs of regulating health care professions must be borne solely by licensees and license applicants, and that no profession is to operate with a negative cash flow balance. Fees are set by the board, or the DOH where there is no board; and are required to be reasonable, and not serve as a barrier to licensure. Fees are to be based on potential earnings of licensees, must be similar to similarly licensed professions, and must not be more than 10 percent higher than the actual cost of regulating a profession the previous biennium. All funds collected by the DOH from fees, fines or costs awarded to the agency by a court shall be paid into the Medical Quality Assurance Trust Fund. The DOH may not expend funds from one profession to pay for the expenses incurred by another profession, except that the Board of Nursing is responsible for the costs incurred in regulating certified nursing assistants.

The DOH may adopt rules for advancing funds to professions operating with a negative cash balance. However, it may not advance funds to one profession for more than two consecutive years, and must charge interest at the current rate earned on trust funds used by the DOH to implement ch. 456, F.S. Interest earned by the trust fund must be allocated to the professions in accordance with their respective investment. Each board or the DOH, by rule, may also assess a one-time fee to each active and inactive licensee in an amount necessary to eliminate a cash deficit in the profession, if there is no deficit, to maintain the financial integrity of the profession. Not more than one such assessment may be made in any 4-year period.

The DOH has provided the following recap of professions that have faced negative cash balances.¹⁰

- The boards have imposed four one-time assessments in the past 10 years as follows:
- Electrolysis – FY 05-06 \$1,306
- Nursing Home Administrators – FY 05-06 \$200
- Dentistry – FY 07-08 \$250
- Midwifery – FY 08-09 \$250

Three professions operate in a chronic deficit. Each is at their statutory fee cap and, according to the DOH, midwifery and electrologists does not have a large enough licensure base to generate adequate revenue to cover expenditures. The professions and the deficit amount under which they operate are:

	Cash Balance	Renewal Fee	Statutory Fee Cap	Total Licensees

¹⁰ *Id.* at p. 5.

Dentistry	\$ (2,144,333)	\$ 300	\$ 300	14,285
Electrologists	\$ (638,545)	\$ 100	\$ 100	1,591
Midwifery	\$ (900,115)	\$ 500	\$ 500	206

If the boards or department were to impose a one-time assessment, the amount to eliminate the deficit and result in solvency though FY 19-20 would be:

Dentistry - \$450 per active/inactive licensee

Electrolysis - \$900 per active/inactive licensee

Midwifery - \$5,500 per active/inactive licensee

Section 456.025, F.S., also allows the boards or DOH where there is no board to collect up to \$250.00 from CE providers seeking approval or renewal of individual courses. The fees are required to be used to review the proposed courses, and for implementation of the electronic CE tracking system which is integrated with the licensure and renewal systems.

Section 456.025, F.S., also requires the chairpersons of the boards and councils to meet annually to review the long range policy plan and current and proposed fee schedules. The chairpersons are required to make recommendations for any necessary statutory changes relating to fees and fee caps which must be compiled by DOH and included in its annual report to the Legislature.

Ownership and Control of Patient Records

Section 456.057(20), F.S., provides that the board or department may appoint a medical records custodian for patient records in the event of the death or incapacitation of a practitioner; or when patient records have been abandoned. The custodian is required to comply with all requirements of s. 456.057, F.S. The DOH reports that 10 or more times per year, most frequently upon the death or incarceration of a practitioner, patient records are abandoned and patients cannot access their own records. The DOH attempts to secure the abandoned records, but does not have the manpower or storage capacity to assume control and release the records to the patients.¹¹

Dispensing Practitioner Facility Inspections

Section 465.0276(3), F.S., requires DOH to inspect any facility where a dispensing practitioner dispenses medicinal drugs in the same manner, and with the same frequency, as it inspects pharmacies to determine whether the practitioner is in compliance with all applicable statutes and rules. The DOH currently inspects pharmacies upon opening, annually, when they change locations, and when changing ownership.¹² The DOH inspects the dispensing practitioner's practice location(s) prior to the registration being added to their license and annually thereafter.¹³

The DOH inspects dispensing practitioners annually for the following:

- Proper registration with the board;¹⁴

¹¹ *Supra* note 8.

¹² Florida Dep't of Health, *Inspection Programs – Who We Inspect* <http://www.floridahealth.gov/licensing-and-regulation/enforcement/inspection-program/index.html>, (last visited Dec. 23, 2015).

¹³ *Id.*

¹⁴ Section 465.0276(2)(a), F.S.

- A clean and safe dispensing area;¹⁵
- Display of a generic drug sign;¹⁶
- Appropriate labeling of stock medications from a licensed manufacturer;¹⁷
- Proof that medications were purchased from a Florida licensed wholesaler/distributor;¹⁸
- No outdated medications in stock;¹⁹
- Medications requiring refrigeration are appropriately stored;²⁰
- Medications dispensed are placed in childproof container;²¹
- Completed prescription medication is labeled properly;²²
- Presence of all written prescriptions for medication to be dispensed;²³
- Proof the practitioner is advising patients that prescription may be filled on premise or at any pharmacy;²⁴
- Use of counterfeit-resistant prescription blanks for all controlled substances;²⁵
- Documentation that prescriptions are written with the quantity of the drug prescribed in both text and numerical formats, and dated with the abbreviated month written out on the face of the prescription.²⁶
- That all labels for dispensed medication include expiration date;²⁷
- Documentation that practitioner is present when dispensing occurs;²⁸
- Documentation that practitioner is personally checking prescriptions for accuracy prior to the patient receiving them;²⁹
- Proof that patients received both verbal and printed offers to counsel;³⁰
- Documentation in patient record of medical history required for counseling;³¹
- Daily hard copy log of all prescriptions, dated-signed by each practitioner if computer system utilized;³²
- Retrievable pedigree records for medication;³³
- Documentation that controlled substances are being dispensed in compliance with s. 465.0276, F.S.;
- Documentation that Schedule II or Schedule III controlled substances are being dispensed pursuant to exemptions under s. 465.0276(1)(b), F.S.;

¹⁵ Rule 64B16-28.102(4), F.A.C.

¹⁶ Section 465.025(7), F.S., and Rule 64B8-8.011(3)(b)10, F.A.C.

¹⁷ Section 499.007(2), F.S.

¹⁸ Section 499.005(14), F.S.

¹⁹ Rule 64B16-28.110, F.A.C.

²⁰ Rule 64B16-28.102(3), F.A.C.

²¹ 16 CFR 1700.14 and 64B8-8.011(3)(b)16., F.A.C.

²² Section 893.04(1)(e), F.S., and Rule 64B16-28.108, F.A.C.

²³ Section 465.0276(2)(c), F.S.

²⁴ Section 465.0276(2)(c), F.S.

²⁵ Section 893.065, F.S.

²⁶ Section 456.42(1)(2), F.S.

²⁷ Rule 64B16-28.108(2)(h), F.A.C.

²⁸ Rule 64B16-27.1001, F.A.C.

²⁹ *Id.*

³⁰ Rule 64B16-27.820(1), F.A.C.

³¹ Rule 64B16-27.800, F.A.C.

³² Rule 64B16-28.140(3)(d)(e), F.A.C.

³³ Rule 64F-12.012 (3)(a)2.,(d), F.A.C.

- Documentation of proper reporting to the Prescription Drug Monitoring Program (PDMP)³⁴ within 7 days of dispensing controlled substances;³⁵
- Presence and use of a locking cabinet for controlled substances;³⁶
- Controlled substance prescriptions are signed and dated by practitioner;³⁷
- Controlled substance prescriptions include the patient's name and address filled in;³⁸ and
- That controlled substance prescriptions have the practitioner's name, address and DEA number on them.³⁹

Dispensing practitioners can dispense any prescription medication in their office, except Schedule II and III controlled substances, unless the controlled substance is:

- In connection with a surgical procedure, and then no more than a 14 day supply;
- In an approved clinical trial;
- In a medication-assisted opiate treatment facility licensed under s. 397.427, F.S.; or
- In a hospice facility licensed under part IV of chapter 400.⁴⁰

During the last two fiscal years the department conducted 15,062 dispensing practitioner inspections with a passing rate of 99 percent.⁴¹

Council on Certified Nursing Assistants

Section 464.2085, F.S., creates the council on certified nursing assistants within the DOH, under the board of nursing. The council consists of two members who are registered nurses, one member who is a licensed practical nurse, and two CNAs who are appointed by the State Surgeon General. The duties of the council are to make recommendations to the DOH and the board on:

- Policies and procedures for the certification of nursing assistants;
- Rules regulating the education, training, and certification process for nursing assistants; and
- Concerns and problems of certified nursing assistants to improve safety in the practice.

Historically, the council met every 2 months in conjunction with board of nursing meetings at an estimated cost of \$40,000 per year. The council's last face-to-face meeting was in 2013. Beginning in 2014, the council met by telephone conference call only on an as-needed basis.

³⁴ The PDMP, known as E-FORCSE® (Electronic-Florida Online Reporting of Controlled Substance Evaluation Program), was created by the 2009 Legislature in an initiative to encourage safer prescribing of controlled substances and to reduce drug abuse and diversion within the state of Florida. See Florida Dep't of Health, *E-FORCSE*, available at <http://www.floridahealth.gov/statistics-and-data/e-forcse/>, (last visited Dec. 22, 2015).

³⁵ Section 93.055(4), F.S.

³⁶ 21 CFR 1301.75.

³⁷ Section 893.04(1)(b), F.S.

³⁸ Section 893.04(1)(c) 1., F.S.

³⁹ Section 893.04(1)(c) 2., F.S.

⁴⁰ Florida Dep't of Health, Investigative Services, Form INV387, *Dispensing Practitioners*, available at: <http://www.floridahealth.gov/licensing-and-regulation/enforcement/inspection-program/documents/dispensing-practitioners.pdf>, (last visited Dec. 23, 2015).

⁴¹ *Supra* note 8, at p.8. The restrictions on dispensing controlled substances listed in Schedule II or Schedule III was enacted in 2011. *See*, ch. 2011-141, s. 15, Laws of Fla.

Both the board of nursing and the council have supported abolishment of the council since 2014.⁴²

Advisory Council of Medical Physicists

The Advisory Council of Medical Physicists (advisory council) was created in 1997 in s. 483.901(3), F.S., to advise the DOH in regulating the practice of medical physics. The nine-member advisory council is charged with recommending rules to administer the regulation of the practice of medical physics, recommending practice standards, and developing and recommending CE requirements for licensed medical physicists.

According to the DOH, the advisory council fulfilled its statutory role and last met in December 1998. The State Surgeon General appointed new members in 2015 and the advisory council will meet for the first time in 17 years at an estimated cost of \$3,535 per meeting. The DOH advises that an Advisory Council on Radiation Protection includes medical physicists as council members and that group may be used for guidance on matters of practice and public safety pertaining to the practice of medical physics.⁴³

III. Effect of Proposed Changes:

CS/SB 918 updates various sections of law relating to the regulation of health care practitioners.

Initial Licensure Requirements

Military Health Care Practitioners⁴⁴

The bill amends s. 456.024, F.S., to authorize the DOH to waive fees and issue health care licenses to active duty U.S. military personnel who apply either six months before, or 6 months after, an honorable discharge, in professions that do not require licensure in other states,⁴⁵ if the applicant can provide evidence of training or experience equivalent to that required in Florida, and proof of a passing score on a regional or national standards organization exam, if one is required in Florida.

The DOH may also issue temporary licenses to active duty military spouses, in professions that do not require licensure in other states,⁴⁶ if the applicant can provide evidence of training or experience equivalent to that required in Florida, and proof of a passing score on a regional or national standards organization exam, if one is required in Florida. The applicant must pay the required application fee.

⁴² *Supra* note 8, at p.8.

⁴³ *Supra* note 8, at p. 9.

⁴⁴ See section 3 of the bill.

⁴⁵ Professions not licensed in all states: Respiratory therapists (and assistants), Clinical Laboratory Personnel, Medical Physicists, Opticians, Athletics trainers, Electrologists, Nursing home administrators, Midwives, Orthotists (and assistants), Prosthetists (and assistants), Pedorthotists (and assistants), Orthotic fitters (and assistants), Certified chiropractic physician assistants, Pharmacy Technicians.

⁴⁶ *Id.*

The bill also eliminates the requirement that a military spouse who has been issued a temporary dental license practice under the indirect supervision of a Florida dentist.

Temporary Licensure for Medical Physicists

CS/SB 918 amends s. 483.901, F.S., to allow the DOH to issue a temporary license for no more than one year upon proof that the physicist has completed a residency program and payment of a fee set forth by rule. The department may adopt by rule requirements for temporary licensure and renewal of temporary licenses.

HIV and AIDS Course Requirement - Deleted⁴⁷

CS/SB 918 amends s. 381.0034, F.S., and repeals s. 468.1201, F.S., to delete the requirement that applicants under part IV of ch. 468, F.S., (radiological personnel), medical physicists under ch. 483, F.S., speech and language pathology practitioners, and audiology practitioners complete courses in HIV and AIDS before their license may be initially issued. According to the DOH, this will accelerate the initial licensure process and reduce costs to licensees.⁴⁸

Medical Errors Course Requirement - Deleted⁴⁹

CS/SB 918 amends s. 456.013(7), F.S., to delete the requirement that health care practitioners take two hours of Continuing Education (CE) in medical errors before a license may be issued; but keeps that requirement for biennial renewal. The bill clarifies that the two course hours count toward the total required CE hours for renewal, and are not in addition to the required hours.

Licensure Renewal Requirements

CE Tracking⁵⁰

CS/SB 918 moves the requirement that DOH establish an electronic continuing education (CE) tracking system which integrates tracking licensee CEs with the DOH licensure and renewal process from s. 456.025, F.S., to a newly created s. 456.0361, F.S. The new section of law prohibits the DOH from renewing licenses unless the licensee's CE requirements are complete, authorizes the imposition of additional penalties under the applicable practice act for the failure to comply with CE requirements, and authorizes the DOH to adopt rules to implement this section. This codifies in statute DOH's new CE tracking system and allows for uniformity in handling CEs across the various professions.

Accordingly, the bill amends ss. 457.107(3), 458.347(4)(e)3, 466.0135(3), 466.014, 466.032(5), 484.047(2), and 486.109(4), F.S., to simplify and conform the license renewal process for acupuncturists, physician assistants, dentists, dental hygienists, dental laboratories, hearing aid specialists, and physical therapists by eliminating the requirement of an affidavit or written statement attesting to the completion of the required CEs for the biennial renewal period, and

⁴⁷ See sections 1 and 18 of the bill.

⁴⁸ *Supra* note 8 at pp. 9 and 12.

⁴⁹ See section 2 of the bill.

⁵⁰ See sections 4 and 5 of the bill.

eliminating the DOH's authority to request a licensee, with or without cause, to produce documentation of his or her completed CEs for the biennial renewal period.⁵¹

Similarly, the bill amends s. 463.007, F.S., to clarify and conform the CE requirements of an optometrist, as a condition of license renewal and amends s. 464.203, F.S., to require CNAs to complete 24 CE hours of in service training every biennium, rather than requiring hours annually. This change matches the 2-year renewal cycle.⁵²

Felons, Medicaid Fraud and Excluded Individuals⁵³

CS/SB 918 amends s. 456.0635(2), F.S., to delete the exception to the requirement that a board or department deny the initial licensure of candidates or applicants who were convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, certain specified felonies primarily relating to health care fraud; have been terminated for cause from a Medicaid program; or who are listed on the U.S. Department of Health and Human Services, List of Excluded Individuals and Entities. The exception applies to candidates or applicants for initial licensure or certification who were enrolled in an educational or training program on or before July 1, 2009, and who applied for licensure after July 1, 2012. These individual are unable to re-apply unless their sentence, and any probation, would end within the time frame set out in s. 256.0635(2), F.S. similar grounds exist for denial of a license renewal under s. 456.0635(3), F.S.

According to DOH, recently, when it refused to renew licenses based on the provisions of s. 456.0635(3), F.S., the licensees have immediately reapplied under the exception in s. 456.0635(2), F.S., and have been granted a license. By taking advantage of the exception, licensees who were convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, certain specified felonies; or were terminated for cause from the Florida Medicaid or any other state's Medicaid program; or are currently listed on the United States Department of Health and Human Services, List of Excluded Individuals and Entities, have been able to regain a license to practice. Removal of the exception will end this cycle of applying for license renewal and when denied reapplying for initial licensure under the exception.⁵⁴

Licensure Regulation Costs⁵⁵

CS/SB 918 amends s. 456.025, F.S., to include a method to address professions which operate in a chronic deficit and that are at their statutory fee cap. The bill:

- Deletes the requirement for the department to increase license fees if the cap has not been reached;
- Deletes the requirement to include recommendations for increases to fee caps in the annual report;
- Deletes rule authority to authorize advances to the profession's account with interest;
- Deletes the prohibition on using funds from one profession for operating another profession;

⁵¹ See sections 8, 9, 14, 15, 16, 19 and 20 of the bill.

⁵² See sections 10 and 11 of the bill.

⁵³ See section 7 of the bill.

⁵⁴ *Supra* note 8 at p.7.

⁵⁵ See section 4 of the bill.

- Allows the DOH to waive the deficit profession's allocated indirect administrative and operational costs until the profession has a positive cash balance; and
- Allows cash in the unlicensed activity account of the profession whose indirect costs have been waived to be transferred to the operating account up to the amount of the deficit.

According to the DOH, as of June 30, 2014, three of 34 professions regulated under ch. 456, F.S. were in a chronic cash flow deficit and at their statutory fee cap. These three professions are dentistry, electrolysis, and midwifery. The total amount of the deficit was \$3,682,993.⁵⁶

The bill deletes the requirement that the chairpersons of the boards and councils meet annually to review the long range policy plan and current and proposed fee schedules, and recommend statutory changes relating to fees and fee caps for compilation by the DOH for inclusion in its annual report to the Legislature.

Council on Certified Nursing Assistants⁵⁷

CS/SB 918 repeals s. 464.2085, F.S., which created the Council on Certified Nursing Assistants within the DOH under the Board of Nursing. According to the DOH the council has been meeting only to recommend new rules and amendments to existing rules affecting CNAs. Historically, the Council met every 2 months in conjunction with Board of Nursing meetings at an estimated cost of \$40,000 per year. Its last face-to-face meeting was in 2013. Beginning in 2014, the Council met by telephone conference call only on an as needed basis. The Board of Nursing has responsibility for determinations regarding CNA applications and discipline. According to the DOH, the Board of Nursing, in conjunction with stakeholders, has the knowledge and experience to undertake rule promulgation for the CNAs. The Board of Nursing and Council have supported abolishment of the council since 2014. The Board of Nursing would assume responsibility for all matters relating to the CNAs.⁵⁸

Advisory Council of Medical Physicists⁵⁹

CS/SB 918 repeals the advisory council in s. 483.901(3), F.S. According to the DOH, the advisory council fulfilled its statutory role and last met in December 1998. The State Surgeon General appointed new members in 2015 and the advisory council will meet for the first time in 17 years at an estimated cost of \$3,535 per meeting. However, the DOH advises that an Advisory Council on Radiation Protection includes medical physicists as council members and that group may be used for guidance on matters of practice and public safety pertaining to the practice of medical physics.⁶⁰

⁵⁶ *Supra* note 8 at p.10.

⁵⁷ See section 12 of the bill.

⁵⁸ *Supra* note 8 at p.11.

⁵⁹ See section 18 of the bill.

⁶⁰ *Supra* note 4, at p.9.

Ownership and Control of Patient Records⁶¹

CS/SB 918 amends s. 456.057(20), F.S., to require DOH approval of all board-appointed medical records custodians for the patient medical records of a practitioner who has died, become incapacitated or abandoned his or her records. It further authorizes the DOH to contract with a third party to function as the medical records custodian in these instances and designates the vendor the “records owner,” under the same disclosure and confidentiality requirements imposed on licensees.

Dispensing Practitioner Facility Inspections⁶²

CS/SB 918 amends s.465.0276, F.S., to eliminate any required DOH inspection of the facilities of dispensing practitioners. Dispensing practitioners will still be required to register with their appropriate boards,⁶³ but there will no longer be any statutory mandate for the DOH to inspect those facilities within specified timeframes. The DOH may inspect dispensing practitioner locations at such times as it determines necessary as a random, unannounced inspection or during the course of an investigation.⁶⁴ The DOH indicates that due to the restrictions on dispensing controlled substances in Schedules II or III, the frequency and manner in which inspections are conducted may no longer be necessary.⁶⁵

Technical Revisions and Effective Date

The bill makes technical and conforming changes and reenact s. 921.022, F.S.

The bill is effective July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁶¹ See section 6 of bill.

⁶² See section 13 of the bill.

⁶³ Section 465.0276(2)(a), F.S.

⁶⁴ See s. 456.069, F.S.

⁶⁵ See Florida Dep’t of Health, *Senate Bill 918 Agency Analysis*, pp. 11-12, (Nov. 20, 2015) (on file with the Senate Committee on Health Policy).

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

None.

B. Private Sector Impact:

Sections 8, 9, 11, 14, 15, 16, 17, 19, and 20 of the bill will reduce the costs associated with initial applications for licensure, and renewals, as practitioners will not incur the costs of taking additional specific courses, or for obtaining notarized affidavits before initial licensure or renewal.

Section 13 of the bill eliminates the DOH's routine inspection of dispensing practitioners' facilities. Although speculative, this lack of routine oversight could result in a public health and safety risk to patients due to issues relating to cleanliness, improper storage and labeling of medications, use of counterfeit medication, etc. However, dispensing practitioners may experience less disruption in routine practice due to fewer inspections.

C. Government Sector Impact:

Section 6 of the bill may require the DOH to incur costs related to the vendor maintaining the security and distribution of medical records for practitioners who have left practice. The DOH estimates a recurring cost of approximately \$4,020 for which current spending authority is reported to be adequate to absorb.

Section 12 of the bill eliminates the CNA Council which will result in a cost savings to the DOH of approximately \$40,000 per fiscal year for face-to-face meetings. Section 19 of the bill eliminates the Advisory Council of Medical Physicists which will result in a cost avoidance for reactivating the advisory council.

Section 13 of the bill eliminates the DOH's costs associated with the annual routine inspection of dispensing practitioners' facilities. The DOH reports that based on Fiscal Year 14-15 data, the total cost to complete these mandatory inspections was \$597,707.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 381.0034, 456.013, 456.024, 456.025, 456.0361, 456.057, 456.0635, 457.107, 458.347, 463.007, 464.203, 465.0276, 466.0135, 466.014, 466.032, 483.901, 484.047, 486.109, 499.028, and 921.0022.

This bill repeals the following sections of the Florida Statutes: 464.2085 and 468.1201.

IX. Additional Information:

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

CS by Health Policy on January 11, 2016:

The committee substitute recognizes a passing score for examinations approved by a regional, in addition to a national, standards organization for both the military and spousal exceptions from licensure in another state and provides a technical clarification pertaining to the description of the spouse's practice in health care.

The committee substitute also deletes sections pertaining to the Impaired Practitioner program.

- B. **Amendments:**

None.



956544

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/11/2016	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 170 - 207
and insert:
passing score on the appropriate examination of a national or regional standards organization if required for licensure in this state.

4. Attests that he or she is not, at the time of submission, the subject of a disciplinary proceeding in a jurisdiction in which he or she holds a license or by the United



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11 States Department of Defense for reasons related to the practice
12 of the profession for which he or she is applying.

13 5. Actively practiced the profession for which he or she is
14 applying for the 3 years preceding the date of submission of the
15 application.

16 6. Submits a set of fingerprints for a background screening
17 pursuant to s. 456.0135, if required for the profession for
18 which he or she is applying.

19

20 The department shall verify information submitted by the
21 applicant under this subsection using the National Practitioner
22 Data Bank.

23 (4) (a) The board, or the department if there is no board,
24 may issue a temporary professional license to the spouse of an
25 active duty member of the Armed Forces of the United States who
26 submits to the department:

27 1. A completed application upon a form prepared and
28 furnished by the department in accordance with the board's
29 rules;

30 2. The required application fee;

31 3. Proof that the applicant is married to a member of the
32 Armed Forces of the United States who is on active duty;

33 4. Proof that the applicant holds a valid license for the
34 profession issued by another state, the District of Columbia, or
35 a possession or territory of the United States, and is not the
36 subject of any disciplinary proceeding in any jurisdiction in
37 which the applicant holds a license to practice a profession
38 regulated by this chapter; or proof that the applicant is a
39 practitioner of health care in a profession for which licensure



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40 in another state or jurisdiction is not required, has training
41 or experience substantially equivalent to the requirements for
42 licensure in this state in that profession, and has obtained a
43 passing score on the appropriate examination of a national or
44 regional



119844

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/11/2016	.	
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	.	

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

Senate Amendment (with title amendment)

Delete lines 430 - 681.

Delete lines 1103 - 1129.

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

And the title is amended as follows:

Delete lines 53 - 61

and insert:

relating to the issuance of licenses; amending s.



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11 457.107, F.S.; deleting a provision
12 Delete lines 98 - 99
13 and insert:
14 for certain information; amending ss. 499.028 and
15 921.0022, F.S.; conforming



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/11/2016	.	
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	.	

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

Senate Amendment (with title amendment)

Between lines 116 and 117

insert:

Section 2. Subsection (4) of section 400.9905, Florida Statutes, is amended to read:

400.9905 Definitions.—

(4) "Clinic" means an entity, including a mobile clinic and a portable equipment provider, which provides ~~where~~ health care services ~~are provided~~ to individuals and which receives



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11 remuneration or tenders charges for reimbursement for such
12 services, including a mobile clinic and a portable equipment
13 provider. As used in this part, the term does not include and
14 the licensure requirements of this part do not apply to:

15 (a) Entities licensed or registered by the state under
16 chapter 395; entities licensed or registered by the state and
17 providing only health care services within the scope of services
18 authorized under their respective licenses under ss. 383.30-
19 383.335, chapter 390, chapter 394, chapter 397, this chapter
20 except part X, chapter 429, chapter 463, chapter 465, chapter
21 466, chapter 478, part I of chapter 483, chapter 484, or chapter
22 651; end-stage renal disease providers authorized under 42
23 C.F.R. part 405, subpart U; providers certified under 42 C.F.R.
24 part 485, subpart B or subpart H; or an ~~any~~ entity that provides
25 neonatal or pediatric hospital-based health care services or
26 other health care services by licensed practitioners solely
27 within a hospital licensed under chapter 395.

28 (b) Entities that own, directly or indirectly, entities
29 licensed or registered by the state pursuant to chapter 395;
30 entities that own, directly or indirectly, entities licensed or
31 registered by the state and providing only health care services
32 within the scope of services authorized pursuant to their
33 respective licenses under ss. 383.30-383.335, chapter 390,
34 chapter 394, chapter 397, this chapter except part X, chapter
35 429, chapter 463, chapter 465, chapter 466, chapter 478, part I
36 of chapter 483, chapter 484, or chapter 651; end-stage renal
37 disease providers authorized under 42 C.F.R. part 405, subpart
38 U; providers certified under 42 C.F.R. part 485, subpart B or
39 subpart H; or an ~~any~~ entity that provides neonatal or pediatric



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40 hospital-based health care services by licensed practitioners
41 solely within a hospital licensed under chapter 395.

42 (c) Entities that are owned, directly or indirectly, by an
43 entity licensed or registered by the state pursuant to chapter
44 395; entities that are owned, directly or indirectly, by an
45 entity licensed or registered by the state and providing only
46 health care services within the scope of services authorized
47 pursuant to their respective licenses under ss. 383.30-383.335,
48 chapter 390, chapter 394, chapter 397, this chapter except part
49 X, chapter 429, chapter 463, chapter 465, chapter 466, chapter
50 478, part I of chapter 483, chapter 484, or chapter 651; end-
51 stage renal disease providers authorized under 42 C.F.R. part
52 405, subpart U; providers certified under 42 C.F.R. part 485,
53 subpart B or subpart H; or an ~~any~~ entity that provides neonatal
54 or pediatric hospital-based health care services by licensed
55 practitioners solely within a hospital licensed under chapter
56 395.

57 (d) Entities that are under common ownership, directly or
58 indirectly, with an entity licensed or registered by the state
59 pursuant to chapter 395; entities that are under common
60 ownership, directly or indirectly, with an entity licensed or
61 registered by the state and providing only health care services
62 within the scope of services authorized pursuant to their
63 respective licenses under ss. 383.30-383.335, chapter 390,
64 chapter 394, chapter 397, this chapter except part X, chapter
65 429, chapter 463, chapter 465, chapter 466, chapter 478, part I
66 of chapter 483, chapter 484, or chapter 651; end-stage renal
67 disease providers authorized under 42 C.F.R. part 405, subpart
68 U; providers certified under 42 C.F.R. part 485, subpart B or



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69 subpart H; or an ~~any~~ entity that provides neonatal or pediatric
70 hospital-based health care services by licensed practitioners
71 solely within a hospital licensed under chapter 395.

72 (e) An entity that is exempt from federal taxation under 26
73 U.S.C. s. 501(c)(3) or (4), an employee stock ownership plan
74 under 26 U.S.C. s. 409 that has a board of trustees at least
75 two-thirds of which are Florida-licensed health care
76 practitioners and provides only physical therapy services under
77 physician orders, a ~~any~~ community college or university clinic,
78 and an ~~any~~ entity owned or operated by the federal or state
79 government, including agencies, subdivisions, or municipalities
80 thereof.

81 (f) A sole proprietorship, group practice, partnership, or
82 corporation that provides health care services by physicians
83 covered by s. 627.419, that is directly supervised by one or
84 more of such physicians, and that is wholly owned by one or more
85 of those physicians or by a physician and the spouse, parent,
86 child, or sibling of that physician.

87 (g) A sole proprietorship, group practice, partnership, or
88 corporation that provides health care services by licensed
89 health care practitioners under chapter 457, chapter 458,
90 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,
91 chapter 466, chapter 467, chapter 480, chapter 484, chapter 486,
92 chapter 490, chapter 491, or part I, part III, part X, part
93 XIII, or part XIV of chapter 468, or s. 464.012, and that is
94 wholly owned by one or more licensed health care practitioners,
95 or the licensed health care practitioners set forth in this
96 paragraph and the spouse, parent, child, or sibling of a
97 licensed health care practitioner if one of the owners who is a



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98 licensed health care practitioner is supervising the business
99 activities and is legally responsible for the entity's
100 compliance with all federal and state laws. However, a health
101 care practitioner may not supervise services beyond the scope of
102 the practitioner's license, except that, for the purposes of
103 this part, a clinic owned by a licensee in s. 456.053(3)(b)
104 which provides only services authorized pursuant to s.
105 456.053(3)(b) may be supervised by a licensee specified in s.
106 456.053(3)(b).

107 (h) Clinical facilities affiliated with an accredited
108 medical school at which training is provided for medical
109 students, residents, or fellows.

110 (i) Entities that provide only oncology or radiation
111 therapy services by physicians licensed under chapter 458 or
112 chapter 459 or entities that provide oncology or radiation
113 therapy services by physicians licensed under chapter 458 or
114 chapter 459 which are owned by a corporation whose shares are
115 publicly traded on a recognized stock exchange.

116 (j) Clinical facilities affiliated with a college of
117 chiropractic accredited by the Council on Chiropractic Education
118 at which training is provided for chiropractic students.

119 (k) Entities that provide licensed practitioners to staff
120 emergency departments or to deliver anesthesia services in
121 facilities licensed under chapter 395 and that derive at least
122 90 percent of their gross annual revenues from the provision of
123 such services. Entities claiming an exemption from licensure
124 under this paragraph must provide documentation demonstrating
125 compliance.

126 (l) Orthotic, prosthetic, pediatric cardiology, or



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127 perinatology clinical facilities or anesthesia clinical
128 facilities that are not otherwise exempt under paragraph (a) or
129 paragraph (k) and that are a publicly traded corporation or are
130 wholly owned, directly or indirectly, by a publicly traded
131 corporation. As used in this paragraph, a publicly traded
132 corporation is a corporation that issues securities traded on an
133 exchange registered with the United States Securities and
134 Exchange Commission as a national securities exchange.

135 (m) Entities that are owned by a corporation that has \$250
136 million or more in total annual sales of health care services
137 provided by licensed health care practitioners where one or more
138 of the persons responsible for the operations of the entity is a
139 health care practitioner who is licensed in this state and who
140 is responsible for supervising the business activities of the
141 entity and is responsible for the entity's compliance with state
142 law for purposes of this part.

143 (n) Entities that employ 50 or more licensed health care
144 practitioners licensed under chapter 458 or chapter 459 where
145 the billing for medical services is under a single tax
146 identification number. The application for exemption under this
147 subsection must ~~shall~~ contain information that includes: the
148 name, residence, and business address and phone number of the
149 entity that owns the practice; a complete list of the names and
150 contact information of all the officers and directors of the
151 corporation; the name, residence address, business address, and
152 medical license number of each licensed Florida health care
153 practitioner employed by the entity; the corporate tax
154 identification number of the entity seeking an exemption; a
155 listing of health care services to be provided by the entity at



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156 the health care clinics owned or operated by the entity and a
157 certified statement prepared by an independent certified public
158 accountant which states that the entity and the health care
159 clinics owned or operated by the entity have not received
160 payment for health care services under personal injury
161 protection insurance coverage for the preceding year. If the
162 agency determines that an entity which is exempt under this
163 subsection has received payments for medical services under
164 personal injury protection insurance coverage, the agency may
165 deny or revoke the exemption from licensure under this
166 subsection.

167

168 Notwithstanding this subsection, an entity shall be deemed
169 a clinic and must be licensed under this part in order to
170 receive reimbursement under the Florida Motor Vehicle No-Fault
171 Law, ss. 627.730-627.7405, unless exempted under s.
172 627.736(5)(h).

173 Section 3. Paragraphs (a) and (b) of subsection (5) of
174 section 400.991, Florida Statutes, are amended, present
175 subsection (6) of that section is redesignated as subsection
176 (7), and a new subsection (6) is added to that section, to read:

177 400.991 License requirements; background screenings;
178 prohibitions.-

179 (5)(a) As used in this subsection and subsection (6), the
180 term:

181 1. "Applicant" means an individual who owns or controls
182 ~~individuals owning or controlling~~, directly or indirectly, any 5
183 ~~percent or more of an~~ interest in a clinic; the medical or
184 clinic director, or a similarly titled individual ~~person~~ who is



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185 responsible for the day-to-day operation of the licensed clinic;
186 the financial officer or similarly titled individual who is
187 responsible for the financial operation of the clinic; and a
188 licensed health care practitioner ~~practitioners~~ at the clinic.

189 2. "Convicted" means a finding of guilt, regardless of
190 adjudication, the acceptance of a plea of nolo contendere or
191 guilty by a court, or an adjudication of delinquency if the
192 record has not been sealed or expunged.

193 (b) The agency shall require level 2 background screening
194 for applicants and personnel as required in s. 408.809(1)(e)
195 pursuant to chapter 435 and s. 408.809. In addition to the
196 disqualifying offenses listed in ss. 408.809 and 435.04, an
197 applicant may not have an arrest awaiting final disposition for,
198 or have been convicted of, a felony or a crime punishable by
199 imprisonment of 1 year or more under state or federal law or the
200 law of any other country.

201 (6) The agency shall deny the application for a health care
202 clinic license or license renewal by an applicant who has been
203 previously found by a state or federal regulatory agency or
204 court to have committed an act that resulted in the suspension
205 or revocation of a health care clinic license or its equivalent.

206 Section 4. Subsection (4) of section 400.995, Florida
207 Statutes, is amended to read:

208 400.995 Agency administrative penalties.—

209 (4) A ~~Any~~ licensed clinic shall be subject to an
210 administrative fine of \$5,000 per day if its:

211 (a) ~~whose~~ Owner, medical director, or clinic director
212 concurrently operates an unlicensed clinic ~~shall be subject to~~
213 ~~an administrative fine of \$5,000 per day.~~



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214 (b) Medical director or clinic director violates s.
215 400.9935(1) (b) .

216 Section 5. Subsection (2) of s. 400.991, subsection (6) of
217 s. 400.9935, paragraph (a) of subsection (1) of s. 480.0475, and
218 paragraph (c) of subsection (8) of s. 817.234, Florida Statutes,
219 are reenacted for the purpose of incorporating the amendment
220 made by this act to s. 400.9905, Florida Statutes, in references
221 thereto.

222
223 ===== T I T L E A M E N D M E N T =====

224 And the title is amended as follows:

225 Delete line 6

226 and insert:

227 courses; amending s. 400.9905, F.S.; redefining the
228 term "clinic"; amending s. 400.991, F.S.; redefining
229 the term "applicant"; defining the term "convicted";
230 prohibiting applicants for clinic licensure from
231 having an arrest awaiting final disposition for, or
232 having been convicted of, a felony or crime punishable
233 by a specified term of imprisonment; requiring the
234 Agency for Health Care Administration to deny an
235 application for a clinic license or license renewal
236 from an applicant who has been found by a state or
237 federal regulatory agency or court to have committed
238 an act that resulted in the suspension or revocation
239 of a clinic license; amending s. 400.995, F.S.;

240 providing that a licensed clinic is subject to a
241 specified administrative penalty if its medical
242 director or clinic director fails to ensure that a



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243 practitioner providing health care services or
244 supplies to a patient has a valid license; reenacting
245 ss. 400.991(2), 400.9935(6), 480.0475(1)(a), and
246 817.234(8)(c), F.S., to incorporate the amendment made
247 to s. 400.9905, F.S., in references thereto; amending
248 s. 456.013, F.S.; revising course

By Senator Richter

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1 A bill to be entitled
 2 An act relating to licensure of health care
 3 professionals; amending s. 381.0034, F.S.; deleting
 4 the requirement that applicants making initial
 5 application for certain licensure complete certain
 6 courses; amending s. 456.013, F.S.; revising course
 7 requirements for renewing a certain license; amending
 8 s. 456.024, F.S.; providing for the issuance of a
 9 license to practice under certain conditions to a
 10 military health care practitioner in a profession for
 11 which licensure in a state or jurisdiction is not
 12 required to practice in the military; providing for
 13 the issuance of a temporary professional license under
 14 certain conditions to the spouse of an active duty
 15 member of the Armed Forces of the United States who is
 16 a healthcare practitioner in a profession for which
 17 licensure in a state or jurisdiction may not be
 18 required; deleting the requirement that an applicant
 19 who is issued a temporary professional license to
 20 practice as a dentist must practice under the indirect
 21 supervision of a licensed dentist; amending s.
 22 456.025, F.S.; deleting the requirement for an annual
 23 meeting of chairpersons of Division of Medical Quality
 24 Assurance boards and professions; deleting the
 25 requirement that certain recommendations be included
 26 in a report to the Legislature; deleting a requirement
 27 that the Department of Health set license fees and
 28 recommend fee cap increases in certain circumstances;
 29 providing that a profession may operate at a deficit

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30 for a certain time period; deleting a provision
 31 authorizing the department to advance funds under
 32 certain circumstances; deleting a requirement that the
 33 department implement an electronic continuing
 34 education tracking system; authorizing the department
 35 to waive specified costs under certain circumstances;
 36 revising legislative intent; deleting a prohibition
 37 against the expenditure of funds by the department
 38 from the account of a profession to pay for the
 39 expenses of another profession; deleting a requirement
 40 that the department include certain information in an
 41 annual report to the Legislature; creating s.
 42 456.0361, F.S.; requiring the department to establish
 43 an electronic continuing education tracking system;
 44 prohibiting the department from renewing a license
 45 unless the licensee has complied with all continuing
 46 education requirements; authorizing the department to
 47 adopt rules; amending s. 456.057, F.S.; revising a
 48 provision for a person or an entity appointed by the
 49 board to be approved by the department; authorizing
 50 the department to contract with a third party to
 51 provide record custodian services; amending s.
 52 456.0635, F.S.; deleting a provision on applicability
 53 relating to the issuance of licenses; amending s.
 54 456.076, F.S.; defining terms; providing for approval
 55 of treatment programs by department rule; providing
 56 that the department is not responsible for paying for
 57 the care provided by approved treatment programs or
 58 for consultant services; deleting a requirement for a

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59 communication from a consultant to the State Surgeon
 60 General; conforming provisions to changes made by the
 61 act; amending s. 457.107, F.S.; deleting a provision
 62 authorizing the Board of Acupuncture to request
 63 certain documentation from applicants; amending s.
 64 458.347, F.S.; deleting a requirement that a physician
 65 assistant file a signed affidavit with the department;
 66 amending s. 463.007, F.S.; making technical changes;
 67 amending s. 464.203, F.S.; revising inservice training
 68 requirements for certified nursing assistants;
 69 deleting a rulemaking requirement; repealing s.
 70 464.2085, F.S., relating to the Council on Certified
 71 Nursing Assistants; amending s. 465.0276, F.S.;
 72 deleting a requirement that the department inspect
 73 certain facilities; amending s. 466.0135, F.S.;
 74 deleting a requirement that a dentist file a signed
 75 affidavit with the department; deleting a provision
 76 authorizing the Board of Dentistry to request certain
 77 documentation from applicants; amending s. 466.014,
 78 F.S.; deleting a requirement that a dental hygienist
 79 file a signed affidavit with the department; deleting
 80 a provision authorizing the board to request certain
 81 documentation from applicants; amending s. 466.032,
 82 F.S.; deleting a requirement that a dental laboratory
 83 file a signed affidavit with the department; deleting
 84 a provision authorizing the department to request
 85 certain documentation from applicants; repealing s.
 86 468.1201, F.S., relating to a requirement for
 87 instruction on human immunodeficiency virus and

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88 acquired immune deficiency syndrome; amending s.
 89 483.901, F.S.; deleting provisions relating to the
 90 Advisory Council of Medical Physicists in the
 91 department; authorizing the department to issue
 92 temporary licenses in certain circumstances;
 93 authorizing the department to adopt rules; amending s.
 94 484.047, F.S.; deleting a requirement for a written
 95 statement from an applicant in certain circumstances;
 96 amending s. 486.109, F.S.; deleting a provision
 97 authorizing the department to conduct a random audit
 98 for certain information; amending ss. 458.331,
 99 459.015, 499.028, and 921.0022, F.S.; conforming
 100 cross-references; providing an effective date.

101
 102 Be It Enacted by the Legislature of the State of Florida:

103
 104 Section 1. Subsection (3) of section 381.0034, Florida
 105 Statutes, is amended to read:

106 381.0034 Requirement for instruction on HIV and AIDS.—

107 (3) The department shall require, as a condition of
 108 granting a license under chapter 467 or part III of chapter 483
 109 ~~the chapters specified in subsection (1)~~, that an applicant
 110 making initial application for licensure complete an educational
 111 course acceptable to the department on human immunodeficiency
 112 virus and acquired immune deficiency syndrome. Upon submission
 113 of an affidavit showing good cause, an applicant who has not
 114 taken a course at the time of licensure ~~must shall, upon an~~
 115 ~~affidavit showing good cause~~, be allowed 6 months to complete
 116 this requirement.

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117 Section 2. Subsection (7) of section 456.013, Florida
 118 Statutes, is amended to read:
 119 456.013 Department; general licensing provisions.—
 120 (7) The boards, or the department when there is no board,
 121 shall require the completion of a 2-hour course relating to
 122 prevention of medical errors as part of the biennial licensure
 123 ~~and~~ renewal process. The 2-hour course counts toward ~~shall count~~
 124 ~~towards~~ the total number of continuing education hours required
 125 for the profession. The course must ~~shall~~ be approved by the
 126 board or department, as appropriate, and must ~~shall~~ include a
 127 study of root-cause analysis, error reduction and prevention,
 128 and patient safety. In addition, the course approved by the
 129 Board of Medicine and the Board of Osteopathic Medicine must
 130 ~~shall~~ include information relating to the five most misdiagnosed
 131 conditions during the previous biennium, as determined by the
 132 board. If the course is being offered by a facility licensed
 133 pursuant to chapter 395 for its employees, the board may approve
 134 up to 1 hour of the 2-hour course to be specifically related to
 135 error reduction and prevention methods used in that facility.

136 Section 3. Paragraph (a) of subsection (3) and paragraphs
 137 (a) and (j) of subsection (4) of section 456.024, Florida
 138 Statutes, are amended to read:

139 456.024 Members of Armed Forces in good standing with
 140 administrative boards or the department; spouses; licensure.—

141 (3) A person who serves or has served as a health care
 142 practitioner in the United States Armed Forces, United States
 143 Reserve Forces, or the National Guard or a person who serves or
 144 has served on active duty with the United States Armed Forces as
 145 a health care practitioner in the United States Public Health

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146 Service is eligible for licensure in this state. The department
 147 shall develop an application form, and each board, or the
 148 department if there is no board, shall waive the application
 149 fee, licensure fee, and unlicensed activity fee for such
 150 applicants. For purposes of this subsection, "health care
 151 practitioner" means a health care practitioner as defined in s.
 152 456.001 and a person licensed under part III of chapter 401 or
 153 part IV of chapter 468.

154 (a) The board, or department if there is no board, shall
 155 issue a license to practice in this state to a person who:

- 156 1. Submits a complete application.
- 157 2. Receives an honorable discharge within 6 months before,
 158 or will receive an honorable discharge within 6 months after,
 159 the date of submission of the application.
- 160 3. Holds an active, unencumbered license issued by another
 161 state, the District of Columbia, or a possession or territory of
 162 the United States and who has not had disciplinary action taken
 163 against him or her in the 5 years preceding the date of
 164 submission of the application, or who is a military health care
 165 practitioner in a profession for which licensure in a state or
 166 jurisdiction is not required to practice in the United States
 167 Armed Services, who provides evidence of military training or
 168 experience substantially equivalent to the requirements for
 169 licensure in this state in that profession, and who obtained a
 170 passing score on the appropriate examination of a national
 171 standards organization if required for licensure in this state.

172 4. Attests that he or she is not, at the time of
 173 submission, the subject of a disciplinary proceeding in a
 174 jurisdiction in which he or she holds a license or by the United

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175 States Department of Defense for reasons related to the practice
176 of the profession for which he or she is applying.

177 5. Actively practiced the profession for which he or she is
178 applying for the 3 years preceding the date of submission of the
179 application.

180 6. Submits a set of fingerprints for a background screening
181 pursuant to s. 456.0135, if required for the profession for
182 which he or she is applying.

183

184 The department shall verify information submitted by the
185 applicant under this subsection using the National Practitioner
186 Data Bank.

187 (4) (a) The board, or the department if there is no board,
188 may issue a temporary professional license to the spouse of an
189 active duty member of the Armed Forces of the United States who
190 submits to the department:

191 1. A completed application upon a form prepared and
192 furnished by the department in accordance with the board's
193 rules;

194 2. The required application fee;

195 3. Proof that the applicant is married to a member of the
196 Armed Forces of the United States who is on active duty;

197 4. Proof that the applicant holds a valid license for the
198 profession issued by another state, the District of Columbia, or
199 a possession or territory of the United States, and is not the
200 subject of any disciplinary proceeding in any jurisdiction in
201 which the applicant holds a license to practice a profession
202 regulated by this chapter, or is a health care practitioner in a
203 profession for which licensure in another state or jurisdiction

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204 may not be required, who provides evidence of training or
205 experience substantially equivalent to the requirements for
206 licensure in this state in that profession and proof of a
207 passing score on the appropriate examination of a national
208 standards organization if required for licensure in this state;
209 and

210 5. Proof that the applicant's spouse is assigned to a duty
211 station in this state pursuant to the member's official active
212 duty military orders. ~~and~~

213 ~~6. Proof that the applicant would otherwise be entitled to~~
214 ~~full licensure under the appropriate practice act, and is~~
215 ~~eligible to take the respective licensure examination as~~
216 ~~required in Florida.~~

217 ~~(j) An applicant who is issued a temporary professional~~
218 ~~license to practice as a dentist pursuant to this section must~~
219 ~~practice under the indirect supervision, as defined in s.~~
220 ~~466.003, of a dentist licensed pursuant to chapter 466.~~

221 Section 4. Present subsections (3) through (11) of section
222 456.025, Florida Statutes, are redesignated as subsections (2)
223 through (10), respectively, and present subsections (2), (3),
224 (7), and (8) of that section are amended, to read:

225 456.025 Fees; receipts; disposition.—

226 ~~(2) The chairpersons of the boards and councils listed in~~
227 ~~s. 20.43(3)(g) shall meet annually at division headquarters to~~
228 ~~review the long-range policy plan required by s. 456.005 and~~
229 ~~current and proposed fee schedules. The chairpersons shall make~~
230 ~~recommendations for any necessary statutory changes relating to~~
231 ~~fees and fee caps. Such recommendations shall be compiled by the~~
232 ~~Department of Health and be included in the annual report to the~~

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233 ~~Legislature required by s. 456.026 as well as be included in the~~
 234 ~~long-range policy plan required by s. 456.005.~~

235 ~~(2)(3) Each board within the jurisdiction of the~~
 236 ~~department, or the department when there is no board, shall~~
 237 ~~determine by rule the amount of license fees for the profession~~
 238 ~~it regulates, based upon long-range estimates prepared by the~~
 239 ~~department of the revenue required to implement laws relating to~~
 240 ~~the regulation of professions by the department and the board.~~
 241 ~~Each board, or the department if there is no board, shall ensure~~
 242 ~~that license fees are adequate to cover all anticipated costs~~
 243 ~~and to maintain a reasonable cash balance, as determined by rule~~
 244 ~~of the agency, with advice of the applicable board. ~~ff~~~~
 245 ~~sufficient action is not taken by a board within 1 year after~~
 246 ~~notification by the department that license fees are projected~~
 247 ~~to be inadequate, the department shall set license fees on~~
 248 ~~behalf of the applicable board to cover anticipated costs and to~~
 249 ~~maintain the required cash balance. The department shall include~~
 250 ~~recommended fee cap increases in its annual report to the~~
 251 ~~Legislature. Further, it is the intent of the Legislature~~
 252 ~~legislative intent that a no regulated profession not operate~~
 253 ~~with a negative cash balance. If, however, a profession's fees~~
 254 ~~are at their statutory fee cap and the requirements of~~
 255 ~~subsections (1) and (4) are met, a profession may operate at a~~
 256 ~~deficit until the deficit is eliminated The department may~~
 257 ~~provide by rule for advancing sufficient funds to any profession~~
 258 ~~operating with a negative cash balance. The advancement may be~~
 259 ~~for a period not to exceed 2 consecutive years, and the~~
 260 ~~regulated profession must pay interest. Interest shall be~~
 261 ~~calculated at the current rate earned on investments of a trust~~

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262 ~~fund used by the department to implement this chapter. Interest~~
 263 ~~earned shall be allocated to the various funds in accordance~~
 264 ~~with the allocation of investment earnings during the period of~~
 265 ~~the advance.~~

266 ~~(6)(7) Each board, or the department if there is no board,~~
 267 ~~shall establish, by rule, a fee of up to not to exceed \$250 for~~
 268 ~~anyone seeking approval to provide continuing education courses~~
 269 ~~or programs and ~~shall establish by rule~~ a biennial renewal fee~~
 270 ~~of up to not to exceed \$250 for the renewal of an approval to~~
 271 ~~provide providership of such courses. The fees collected from~~
 272 ~~continuing education providers shall be used for the purposes of~~
 273 ~~reviewing course provider applications, monitoring the integrity~~
 274 ~~of the courses provided, covering legal expenses incurred as a~~
 275 ~~result of not granting or renewing an approval a providership,~~
 276 ~~and developing and maintaining an electronic continuing~~
 277 ~~education tracking system pursuant to s. 456.0361. The~~
 278 ~~department shall implement an electronic continuing education~~
 279 ~~tracking system for each new biennial renewal cycle for which~~
 280 ~~electronic renewals are implemented after the effective date of~~
 281 ~~this act and shall integrate such system into the licensure and~~
 282 ~~renewal system. All approved continuing education providers~~
 283 ~~shall provide information on course attendance to the department~~
 284 ~~necessary to implement the electronic tracking system. The~~
 285 ~~department shall, by rule, specify the form and procedures by~~
 286 ~~which the information is to be submitted.~~

287 ~~(7)(8) All moneys collected by the department from fees or~~
 288 ~~finances or from costs awarded to the agency by a court shall be~~
 289 ~~paid into a trust fund used by the department to implement this~~
 290 ~~chapter. The Legislature shall appropriate funds from this trust~~

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291 fund sufficient to ~~administer~~ ~~carry out~~ this chapter and the
 292 provisions of law with respect to professions regulated by the
 293 Division of Medical Quality Assurance within the department and
 294 the boards. The department may contract with public and private
 295 entities to receive and deposit revenue pursuant to this
 296 section. The department shall maintain separate accounts in the
 297 trust fund used by the department to implement this chapter for
 298 every profession within the department. To the maximum extent
 299 possible, the department shall directly charge all expenses to
 300 the account of each regulated profession. For the purpose of
 301 this subsection, direct charge expenses include, but are not
 302 limited to, costs for investigations, examinations, and legal
 303 services. For expenses that cannot be charged directly, the
 304 department shall provide for the proportionate allocation among
 305 the accounts of expenses incurred by the department in the
 306 performance of its duties with respect to each regulated
 307 profession. If a profession has established renewal fees that
 308 meet the requirements of subsection (1), has fees that are at
 309 the statutory fee cap, and has been operating in a deficit for 2
 310 or more fiscal years, the department may waive allocated
 311 administrative and operational indirect costs until such time as
 312 the profession has a positive cash balance. The costs related to
 313 administration and operations include, but are not limited to,
 314 the costs of the director's office and the costs of system
 315 support, communications, central records, and other such
 316 administrative functions. Such waived costs shall be allocated
 317 to the other professions that must meet the requirements of this
 318 section, and cash in the unlicensed activity account under s.
 319 456.065 of the profession whose costs have been waived shall be

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320 transferred to the operating account in an amount not to exceed
 321 the amount of the deficit. The regulation by the department of
 322 professions, as defined in this chapter, ~~must~~ ~~shall~~ be financed
 323 solely from revenue collected by the department ~~it~~ from fees and
 324 other charges and deposited in the Medical Quality Assurance
 325 Trust Fund, and all such revenue is hereby appropriated to the
 326 department, ~~which.~~ ~~However, it is legislative intent that each~~
 327 ~~profession shall operate within its anticipated fees. The~~
 328 ~~department may not expend funds from the account of a profession~~
 329 ~~to pay for the expenses incurred on behalf of another~~
 330 ~~profession, except that the Board of Nursing must pay for any~~
 331 ~~costs incurred in the regulation of certified nursing~~
 332 ~~assistants. The department shall maintain adequate records to~~
 333 support its allocation of agency expenses. The department shall
 334 provide any board with reasonable access to these records upon
 335 request. On or before October 1 of each year, the department
 336 shall provide each board an annual report of revenue and direct
 337 and allocated expenses related to the operation of that
 338 profession. The board shall use these reports and the
 339 department's adopted long-range plan to determine the amount of
 340 license fees. ~~A condensed version of this information, with the~~
 341 ~~department's recommendations, shall be included in the annual~~
 342 ~~report to the Legislature prepared under s. 456.026.~~
 343 Section 5. Section 456.0361, Florida Statutes, is created
 344 to read:
 345 456.0361 Compliance with continuing education
 346 requirements.—
 347 (1) The department shall establish an electronic continuing
 348 education tracking system to monitor licensee compliance with

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349 applicable continuing education requirements and to determine
 350 whether a licensee is in full compliance with the requirements
 351 at the time of his or her application for license renewal. The
 352 tracking system shall be integrated into the department's
 353 licensure and renewal process.

354 (2) The department may not renew a license until the
 355 licensee complies with all applicable continuing education
 356 requirements. This subsection does not prohibit the department
 357 or the boards from imposing additional penalties under the
 358 applicable professional practice act or applicable rules for
 359 failure to comply with continuing education requirements.

360 (3) The department may adopt rules to implement this
 361 section.

362 Section 6. Subsection (20) of section 456.057, Florida
 363 Statutes, is amended to read:

364 456.057 Ownership and control of patient records; report or
 365 copies of records to be furnished; disclosure of information.—

366 (20) The board with department approval, or department when
 367 there is no board, may temporarily or permanently appoint a
 368 person or an entity as a custodian of medical records in the
 369 event of the death of a practitioner, the mental or physical
 370 incapacitation of ~~a~~ the practitioner, or the abandonment of
 371 medical records by a practitioner. Such ~~The~~ custodian ~~appointed~~
 372 shall comply with ~~all provisions of~~ this section. The department
 373 may contract with a third party to provide these services under
 374 the confidentiality and disclosure requirements of this section,
 375 ~~including the release of patient records.~~

376 Section 7. Subsection (2) of section 456.0635, Florida
 377 Statutes, is amended to read:

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378 456.0635 Health care fraud; disqualification for license,
 379 certificate, or registration.—

380 (2) Each board within the jurisdiction of the department,
 381 or the department if there is no board, shall refuse to admit a
 382 candidate to any examination and refuse to issue a license,
 383 certificate, or registration to any applicant if the candidate
 384 or applicant or any principal, officer, agent, managing
 385 employee, or affiliated person of the applicant:

386 (a) Has been convicted of, or entered a plea of guilty or
 387 nolo contendere to, regardless of adjudication, a felony under
 388 chapter 409, chapter 817, or chapter 893, or a similar felony
 389 offense committed in another state or jurisdiction, unless the
 390 candidate or applicant has successfully completed a drug court
 391 program for that felony and provides proof that the plea has
 392 been withdrawn or the charges have been dismissed. Any such
 393 conviction or plea shall exclude the applicant or candidate from
 394 licensure, examination, certification, or registration unless
 395 the sentence and any subsequent period of probation for such
 396 conviction or plea ended:

397 1. For felonies of the first or second degree, more than 15
 398 years before the date of application.

399 2. For felonies of the third degree, more than 10 years
 400 before the date of application, except for felonies of the third
 401 degree under s. 893.13(6) (a).

402 3. For felonies of the third degree under s. 893.13(6) (a),
 403 more than 5 years before the date of application;

404 (b) Has been convicted of, or entered a plea of guilty or
 405 nolo contendere to, regardless of adjudication, a felony under
 406 21 U.S.C. ss. 801-970, or 42 U.S.C. ss. 1395-1396, unless the

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407 sentence and any subsequent period of probation for such
 408 conviction or plea ended more than 15 years before the date of
 409 the application;

410 (c) Has been terminated for cause from the Florida Medicaid
 411 program pursuant to s. 409.913, unless the candidate or
 412 applicant has been in good standing with the Florida Medicaid
 413 program for the most recent 5 years;

414 (d) Has been terminated for cause, pursuant to the appeals
 415 procedures established by the state, from any other state
 416 Medicaid program, unless the candidate or applicant has been in
 417 good standing with a state Medicaid program for the most recent
 418 5 years and the termination occurred at least 20 years before
 419 the date of the application; or

420 (e) Is currently listed on the United States Department of
 421 Health and Human Services Office of Inspector General's List of
 422 Excluded Individuals and Entities.

423 ~~This subsection does not apply to candidates or applicants for~~
 424 ~~initial licensure or certification who were enrolled in an~~
 425 ~~educational or training program on or before July 1, 2009, which~~
 426 ~~was recognized by a board or, if there is no board, recognized~~
 427 ~~by the department, and who applied for licensure after July 1,~~
 428 ~~2012.~~

430 Section 8. Present subsections (1) through (9) of section
 431 456.076, Florida Statutes, are redesignated as subsections (2)
 432 through (10), respectively, a new subsection (1) is added to
 433 that section, and present subsection (1), paragraph (c) of
 434 present subsection (2), present subsection (3), paragraphs (a),
 435 (c), (e), and (f) of present subsection (4), and present

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436 subsections (6), (8), and (9) of that section are amended, to
 437 read:

438 456.076 Treatment programs for impaired practitioners.—

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

440 (a) "Approved impaired practitioner program" means a
 441 program designated by the department to provide services for
 442 impaired practitioners through a contract that requires the
 443 program to initiate interventions and to recommend evaluations
 444 of impaired practitioners, refer impaired practitioners to
 445 approved treatment programs or approved treatment providers, and
 446 monitor the progress of impaired practitioners during treatment.
 447 Approved impaired practitioner programs may not provide medical
 448 services.

449 (b) "Approved treatment program" means a state-licensed or
 450 nationally accredited residential, intensive outpatient, partial
 451 hospital, or other treatment program that employs a
 452 multidisciplinary team of providers to treat an impaired
 453 practitioner based on the impaired practitioner's individual
 454 diagnosis and a treatment plan for the impaired practitioner
 455 approved by the consultant who referred the impaired
 456 practitioner to the treatment program.

457 (c) "Approved treatment provider" means a state-licensed or
 458 nationally certified individual with experience in the treatment
 459 of specific types of impairment who provides treatment to an
 460 impaired practitioner based on the impaired practitioner's
 461 individual diagnosis and a treatment plan for the impaired
 462 practitioner approved by the consultant who referred the
 463 impaired practitioner to the treatment provider, or a treatment
 464 program employing such individual.

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465 (d) "Consultant" means an approved impaired practitioner
 466 program and the program's medical director. Consultants must
 467 receive allegations of a practitioner's impairment, intervene or
 468 arrange for an intervention with the practitioner, refer an
 469 impaired practitioner to an approved treatment program or an
 470 approved treatment provider, monitor and evaluate the progress
 471 of treatment of an impaired practitioner, and monitor the
 472 continued care provided by an approved treatment program or an
 473 approved treatment provider to an impaired practitioner.

474 ~~(2)(1)~~ For professions whose practice acts do not provide
 475 ~~for that do not have~~ impaired practitioner programs ~~provided for~~
 476 ~~in their practice acts,~~ the department shall, ~~by rule,~~ designate
 477 ~~by rule~~ approved impaired practitioner programs under this
 478 section. The department may adopt rules setting forth
 479 appropriate criteria for approval of treatment providers and
 480 treatment programs. The rules may specify the manner in which
 481 the consultant, retained as provided set forth in subsection (3)
 482 ~~subsection (2),~~ works with the department in intervention;
 483 ~~requirements for evaluating and treating a professional and~~
 484 ~~requirements~~ for continued care of impaired professionals by
 485 approved treatment providers; ~~requirements for~~ continued
 486 monitoring by the consultant of the care provided by approved
 487 treatment providers and approved treatment programs regarding
 488 the professionals under their care; ~~and~~ requirements related to
 489 the consultant's expulsion of professionals from the approved
 490 impaired practitioner program.

491 ~~(3)(2)~~

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

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494 section. This includes working with department investigators to
 495 determine whether a practitioner is, in fact, impaired.

496 2. The consultant may contract with a school or program to
 497 provide services to a student enrolled for the purpose of
 498 preparing for licensure as a health care practitioner as defined
 499 in this chapter or as a veterinarian under chapter 474 if the
 500 student is allegedly impaired as a result of the misuse or abuse
 501 of alcohol or drugs, or both, or due to a mental or physical
 502 condition. The department is not responsible for paying for the
 503 care provided by approved treatment providers or approved
 504 treatment programs or for consultant services a consultant.

505 ~~(4)(3)~~ Before certifying or declining to certify an
 506 application for licensure to the department, each board and
 507 profession within the Division of Medical Quality Assurance may
 508 delegate to its chair or other designee its authority to
 509 determine, ~~before certifying or declining to certify an~~
 510 ~~application for licensure to the department,~~ that an applicant
 511 for licensure under its jurisdiction may be impaired as a result
 512 of the misuse or abuse of alcohol or drugs, or both, or due to a
 513 mental or physical condition that could affect the applicant's
 514 ability to practice with skill and safety. Upon such
 515 determination, the chair or other designee may refer the
 516 applicant to the consultant for an evaluation before the board
 517 certifies or declines to certify his or her application to the
 518 department. If the applicant agrees to be evaluated ~~by the~~
 519 ~~consultant,~~ the department's deadline for approving or denying
 520 the application pursuant to s. 120.60(1) is tolled until the
 521 evaluation is completed and the result of the evaluation and
 522 recommendation ~~by the consultant~~ is communicated to the board by

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523 the consultant. If the applicant declines to be evaluated ~~by the~~
524 ~~consultant~~, the board shall certify or decline to certify the
525 applicant's application to the department notwithstanding the
526 lack of an evaluation and recommendation by the consultant.

527 ~~(5)(4)~~ (a) ~~When whenever~~ the department receives a written
528 or oral, legally sufficient complaint alleging that a licensee
529 under the jurisdiction of the Division of Medical Quality
530 Assurance within the department is impaired as a result of the
531 misuse or abuse of alcohol or drugs, or both, or due to a mental
532 or physical condition which could affect the licensee's ability
533 to practice with skill and safety, and no complaint against the
534 licensee other than impairment exists, the reporting of such
535 information does shall not constitute grounds for discipline
536 pursuant to s. 456.072 or ~~the corresponding grounds for~~
537 ~~discipline within~~ the applicable practice act if the probable
538 cause panel of the appropriate board, or the department when
539 there is no board, finds:

- 540 1. The licensee has acknowledged his or her ~~the~~ impairment
541 ~~problem~~.
- 542 2. The licensee has voluntarily enrolled in an appropriate,
543 approved treatment program.
- 544 3. The licensee has voluntarily withdrawn from practice or
545 has limited the scope of his or her practice as required by the
546 consultant, in each case, until such time as the panel, or the
547 department when there is no board, is satisfied the licensee has
548 successfully completed an approved treatment program.
- 549 4. The licensee has executed releases for medical records,
550 authorizing ~~the~~ release to the consultant of all records of
551 evaluations, diagnoses, and treatment of the licensee, including

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552 records of treatment for emotional or mental conditions, ~~to the~~
553 ~~consultant~~. The consultant may not shall make ~~no~~ copies or
554 reports of records that are unrelated to do not regard the issue
555 of the licensee's impairment and his or her participation in an
556 approved a treatment program.

557 (c) Inquiries by a licensee or others ~~related to approved~~
558 ~~impairment~~ treatment programs which are intended designed to
559 allow provide information to the licensee and others to obtain
560 information and which do not indicate that the licensee presents
561 a danger to the public do shall not constitute a complaint
562 within the meaning of s. 456.073 and are shall be exempt from
563 ~~the provisions of~~ this subsection.

564 (e) The probable cause panel, or the department when there
565 is no board, shall work directly with the consultant, and all
566 information concerning a practitioner obtained from the
567 consultant by the panel, or the department when there is no
568 board, shall remain confidential and exempt from the provisions
569 of s. 119.07(1), subject to the provisions of subsections (7)
570 and (8) subsections (6) and (7).

571 (f) A finding of probable cause may shall not be made if,
572 based upon information it receives from the consultant and the
573 department, as long as the panel, or the department when there
574 is no board, is satisfied, ~~based upon information it receives~~
575 ~~from the consultant and the department,~~ that the licensee is
576 progressing satisfactorily in an approved ~~impaired practitioner~~
577 treatment program and it is determined that no other complaint
578 has been made against the licensee ~~exists~~.

579 ~~(7)(6)~~ (a) Upon request, an approved treatment provider
580 shall, ~~upon request,~~ disclose to the consultant all information

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 581 in his or her ~~its~~ possession regarding the issue of a licensee's
 582 impairment and the licensee's participation in the approved
 583 treatment program. All information obtained by the consultant
 584 and department pursuant to this section is confidential and
 585 exempt from the provisions of s. 119.07(1), subject to the
 586 provisions of this subsection and subsection (8) ~~(7)~~. Failure to
 587 provide such information to the consultant is grounds for
 588 withdrawal of approval of the approved treatment ~~such program or~~
 589 provider.

590 (b) If, after consultation with the approved treatment
 591 provider, ~~in the opinion of the consultant believes that, after~~
 592 ~~consultation with the treatment provider,~~ an impaired licensee
 593 has not progressed satisfactorily in an approved ~~a~~ treatment
 594 program, all information regarding the issue of a licensee's
 595 impairment and participation in the approved ~~a~~ treatment program
 596 which is in the consultant's possession shall be disclosed to
 597 the department. Such disclosure constitutes ~~shall constitute~~ a
 598 complaint pursuant to the general provisions of s. 456.073.
 599 ~~Whenever the consultant concludes that impairment affects a~~
 600 ~~licensee's practice and constitutes an immediate, serious danger~~
 601 ~~to the public health, safety, or welfare, that conclusion shall~~
 602 ~~be communicated to the State Surgeon General.~~

603 (9)(8) (a) A consultant retained pursuant to subsection (3)
 604 ~~subsection (2)~~, a consultant's officers and employees, and those
 605 acting at the direction of the consultant for the limited
 606 purpose of an emergency intervention on behalf of a licensee or
 607 student as described in subsection (3) ~~subsection (2)~~ when the
 608 consultant is unable to perform such intervention shall be
 609 considered agents of the department for purposes of s. 768.28

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 610 while acting within the scope of the consultant's duties under
 611 the contract with the department if the contract complies with
 612 the requirements of this section. The contract must require
 613 that:
 614 1. The consultant indemnify the state for any liabilities
 615 incurred up to the limits set out in chapter 768.
 616 2. The consultant establish a quality assurance program to
 617 monitor services delivered under the contract.
 618 3. The consultant's quality assurance program, treatment,
 619 and monitoring records be evaluated quarterly.
 620 4. The consultant's quality assurance program be subject to
 621 review and approval by the department.
 622 5. The consultant operate under policies and procedures
 623 approved by the department.
 624 6. The consultant provide to the department for approval a
 625 policy and procedure manual that comports with all statutes,
 626 rules, and contract provisions approved by the department.
 627 7. The department be entitled to review the records
 628 relating to the consultant's performance under the contract for
 629 the purpose of management audits, financial audits, or program
 630 evaluation.
 631 8. All performance measures and standards be subject to
 632 verification and approval by the department.
 633 9. The department be entitled to terminate the contract
 634 with the consultant for noncompliance with the contract.
 635 (b) In accordance with s. 284.385, the Department of
 636 Financial Services shall defend any claim, suit, action, or
 637 proceeding, including a claim, suit, action, or proceeding for
 638 injunctive, affirmative, or declaratory relief, against the

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639 consultant, the consultant's officers or employees, or those
 640 acting at the direction of the consultant for the limited
 641 purpose of an emergency intervention on behalf of a licensee or
 642 student as described in subsection (3) ~~subsection (2)~~ when the
 643 consultant is unable to perform such intervention, which claim,
 644 suit, action, or proceeding is brought as a result of an act or
 645 omission by any of the consultant's officers and employees and
 646 those acting under the direction of the consultant for the
 647 limited purpose of an emergency intervention on behalf of the
 648 licensee or student when the consultant is unable to perform
 649 such intervention, if the act or omission arises out of and is
 650 in the scope of the consultant's duties under its contract with
 651 the department.

652 (c) If the consultant retained pursuant to subsection (3)
 653 ~~subsection (2)~~ is retained by any other state agency, and if the
 654 contract between such state agency and the consultant complies
 655 with the requirements of this section, the consultant, the
 656 consultant's officers and employees, and those acting under the
 657 direction of the consultant for the limited purpose of an
 658 emergency intervention on behalf of a licensee or student as
 659 described in subsection (3) ~~subsection (2)~~ when the consultant
 660 is unable to perform such intervention shall be considered
 661 agents of the state for the purposes of this section while
 662 acting within the scope of and pursuant to guidelines
 663 established in the contract between such state agency and the
 664 consultant.

665 ~~(10)(9)~~ An impaired practitioner consultant is the official
 666 custodian of records relating to the referral of an impaired
 667 licensee or applicant to that consultant and any other

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668 interaction between the licensee or applicant and the
 669 consultant. The consultant may disclose to the impaired licensee
 670 or applicant or his or her designee any information that is
 671 disclosed to or obtained by the consultant or that is
 672 confidential under paragraph (7) (a) ~~paragraph (6) (a)~~, but only
 673 to the extent that it is necessary to do so to carry out the
 674 consultant's duties under this section. The department, and any
 675 other entity that enters into a contract with the consultant to
 676 receive the services of the consultant, has direct
 677 administrative control over the consultant to the extent
 678 necessary to receive disclosures from the consultant as allowed
 679 by federal law. If a disciplinary proceeding is pending, an
 680 impaired licensee may obtain such information from the
 681 department under s. 456.073.

682 Section 9. Subsection (3) of section 457.107, Florida
 683 Statutes, is amended to read:

684 457.107 Renewal of licenses; continuing education.—

685 (3) The board shall ~~by rule~~ prescribe by rule continuing
 686 education requirements of up to, ~~not to exceed~~ 30 hours
 687 biennially, as a condition for renewal of a license. All
 688 education programs that contribute to the advancement,
 689 extension, or enhancement of professional skills and knowledge
 690 related to the practice of acupuncture, whether conducted by a
 691 nonprofit or profitmaking entity, are eligible for approval. The
 692 continuing professional education requirements must be in
 693 acupuncture or oriental medicine subjects, including, but not
 694 limited to, anatomy, biological sciences, adjunctive therapies,
 695 sanitation and sterilization, emergency protocols, and diseases.
 696 The board may ~~shall have the authority to~~ set a fee of up to,

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697 ~~not to exceed \$100,~~ for each continuing education provider. The
 698 licensee shall retain in his or her records the certificates of
 699 completion of continuing professional education requirements ~~to~~
 700 ~~prove compliance with this subsection. The board may request~~
 701 ~~such documentation without cause from applicants who are~~
 702 ~~selected at random.~~ All national and state acupuncture and
 703 oriental medicine organizations and acupuncture and oriental
 704 medicine schools are approved to provide continuing professional
 705 education in accordance with this subsection.

706 Section 10. Paragraph (e) of subsection (4) of section
 707 458.347, Florida Statutes, is amended to read:

708 458.347 Physician assistants.—

709 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

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

717 1. A physician assistant must clearly identify to the
 718 patient that he or she is a physician assistant and
 719 ~~Furthermore, the physician assistant must~~ inform the patient
 720 that the patient has the right to see the physician before a
 721 ~~prior to any~~ prescription is being prescribed or dispensed by
 722 the physician assistant.

723 2. The supervisory physician must notify the department of
 724 his or her intent to delegate, on a department-approved form,
 725 before delegating such authority and ~~notify the department of~~

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726 any change in prescriptive privileges of the physician
 727 assistant. Authority to dispense may be delegated only by a
 728 supervising physician who is registered as a dispensing
 729 practitioner in compliance with s. 465.0276.

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

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

741 5. The prescription must be written in a form that complies
 742 with chapter 499 and, in addition to the supervisory physician's
 743 name, address, and telephone number, ~~in addition~~
 744 ~~to the supervisory physician's name, address, and telephone~~
 745 ~~number,~~ the physician assistant's prescriber number. Unless it
 746 is a drug or drug sample dispensed by the physician assistant,
 747 the prescription must be filled in a pharmacy permitted under
 748 chapter 465 and must be dispensed in that pharmacy by a
 749 pharmacist licensed under chapter 465. The inclusion ~~appearance~~
 750 of the prescriber number creates a presumption that the
 751 physician assistant is authorized to prescribe the medicinal
 752 drug and the prescription is valid.

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

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755 Section 11. Subsection (3) of section 463.007, Florida
 756 Statutes, is amended to read:
 757 463.007 Renewal of license; continuing education.—
 758 (3) As a condition of license renewal, a licensee must
 759 ~~Unless otherwise provided by law, the board shall require~~
 760 ~~licensees to periodically demonstrate his or her their~~
 761 ~~professional competence, as a condition of renewal of a license,~~
 762 by completing up to 30 hours of continuing education during the
 763 2-year period preceding license renewal. For certified
 764 optometrists, the 30-hour continuing education requirement
 765 includes shall include 6 or more hours of approved transcript-
 766 quality coursework in ocular and systemic pharmacology and the
 767 diagnosis, treatment, and management of ocular and systemic
 768 conditions and diseases during the 2-year period preceding
 769 application for license renewal.

770 Section 12. Subsection (7) of section 464.203, Florida
 771 Statutes, is amended to read:
 772 464.203 Certified nursing assistants; certification
 773 requirement.—
 774 (7) A certified nursing assistant shall complete 24 12
 775 hours of inservice training during each biennium calendar year.
 776 The certified nursing assistant shall maintain be responsible
 777 ~~for maintaining~~ documentation demonstrating compliance with
 778 these provisions. ~~The Council on Certified Nursing Assistants,~~
 779 ~~in accordance with s. 464.2085(2)(b), shall propose rules to~~
 780 ~~implement this subsection.~~

781 Section 13. Section 464.2085, Florida Statutes, is
 782 repealed.

783 Section 14. Paragraph (b) of subsection (1) and subsection

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784 (3) of section 465.0276, Florida Statutes, are amended to read:
 785 465.0276 Dispensing practitioner.—
 786 (1)
 787 (b) A practitioner registered under this section may not
 788 dispense a controlled substance listed in Schedule II or
 789 Schedule III as provided in s. 893.03. This paragraph does not
 790 apply to:

791 1. The dispensing of complimentary packages of medicinal
 792 drugs which are labeled as a drug sample or complimentary drug
 793 as defined in s. 499.028 to the practitioner's own patients in
 794 the regular course of her or his practice without the payment of
 795 a fee or remuneration of any kind, whether direct or indirect,
 796 as provided in subsection (4) subsection (5).

797 2. The dispensing of controlled substances in the health
 798 care system of the Department of Corrections.

799 3. The dispensing of a controlled substance listed in
 800 Schedule II or Schedule III in connection with the performance
 801 of a surgical procedure. The amount dispensed pursuant to the
 802 subparagraph may not exceed a 14-day supply. This exception does
 803 not allow for the dispensing of a controlled substance listed in
 804 Schedule II or Schedule III more than 14 days after the
 805 performance of the surgical procedure. For purposes of this
 806 subparagraph, the term "surgical procedure" means any procedure
 807 in any setting which involves, or reasonably should involve:

808 a. Perioperative medication and sedation that allows the
 809 patient to tolerate unpleasant procedures while maintaining
 810 adequate cardiorespiratory function and the ability to respond
 811 purposefully to verbal or tactile stimulation and makes intra-
 812 and postoperative monitoring necessary; or

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813 b. The use of general anesthesia or major conduction
814 anesthesia and preoperative sedation.

815 4. The dispensing of a controlled substance listed in
816 Schedule II or Schedule III pursuant to an approved clinical
817 trial. For purposes of this subparagraph, the term "approved
818 clinical trial" means a clinical research study or clinical
819 investigation that, in whole or in part, is state or federally
820 funded or is conducted under an investigational new drug
821 application that is reviewed by the United States Food and Drug
822 Administration.

823 5. The dispensing of methadone in a facility licensed under
824 s. 397.427 where medication-assisted treatment for opiate
825 addiction is provided.

826 6. The dispensing of a controlled substance listed in
827 Schedule II or Schedule III to a patient of a facility licensed
828 under part IV of chapter 400.

829 ~~(3) The department shall inspect any facility where a
830 practitioner dispenses medicinal drugs pursuant to subsection
831 (2) in the same manner and with the same frequency as it
832 inspects pharmacies for the purpose of determining whether the
833 practitioner is in compliance with all statutes and rules
834 applicable to her or his dispensing practice.~~

835 Section 15. Subsection (3) of section 466.0135, Florida
836 Statutes, is amended to read:

837 466.0135 Continuing education; dentists.-

838 (3) ~~A In applying for license renewal, the dentist shall~~
839 ~~complete submit a sworn affidavit, on a form acceptable to the~~
840 ~~department, attesting that she or he has completed the required~~
841 ~~continuing education as provided required in this section in~~

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842 ~~accordance with the guidelines and provisions of this section~~
843 ~~and listing the date, location, sponsor, subject matter, and~~
844 ~~hours of completed continuing education courses. An The~~
845 ~~applicant shall retain in her or his records any such receipts,~~
846 ~~vouchers, or certificates as may be necessary to document~~
847 ~~completion of such the continuing education courses listed in~~
848 ~~accordance with this subsection. With cause, the board may~~
849 ~~request such documentation by the applicant, and the board may~~
850 ~~request such documentation from applicants selected at random~~
851 ~~without cause.~~

852 Section 16. Section 466.014, Florida Statutes, is amended
853 to read:

854 466.014 Continuing education; dental hygienists.-In
855 addition to the other requirements for relicensure for dental
856 hygienists set out in this chapter ~~act~~, the board shall require
857 each licensed dental hygienist to complete at least not less
858 than 24 hours but not ex more than 36 hours of continuing
859 professional education in dental subjects, biennially, in
860 programs prescribed or approved by the board or in equivalent
861 programs of continuing education. Programs of continuing
862 education approved by the board are ~~shall be~~ programs of
863 learning which, in the opinion of the board, contribute directly
864 to the dental education of the dental hygienist. The board shall
865 adopt rules and guidelines to administer and enforce ~~the~~
866 ~~provisions of this section. In applying for license renewal, the~~
867 ~~dental hygienist shall submit a sworn affidavit, on a form~~
868 ~~acceptable to the department, attesting that she or he has~~
869 ~~completed the continuing education required in this section in~~
870 ~~accordance with the guidelines and provisions of this section~~

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871 ~~and listing the date, location, sponsor, subject matter, and~~
 872 ~~hours of completed continuing education courses. An The~~
 873 applicant shall retain in her or his records any such receipts,
 874 vouchers, or certificates ~~as may be necessary to document~~
 875 completion of such the continuing education courses ~~listed in~~
 876 ~~accordance with this section. With cause, the board may request~~
 877 ~~such documentation by the applicant, and the board may request~~
 878 ~~such documentation from applicants selected at random without~~
 879 ~~cause.~~ Compliance with the continuing education requirements is
 880 ~~shall be~~ mandatory for issuance of the renewal certificate. The
 881 board may ~~shall have the authority to~~ excuse licensees, as a
 882 group or as individuals, from all or part of the continuing
 883 educational requirements ~~if, or any part thereof, in the event~~
 884 an unusual circumstance, emergency, or hardship has prevented
 885 compliance with this section.

886 Section 17. Subsection (5) of section 466.032, Florida
 887 Statutes, is amended to read:

888 466.032 Registration.—

889 (5) A ~~The~~ dental laboratory owner or at least one employee
 890 of any dental laboratory renewing registration on or after July
 891 1, 2010, shall complete 18 hours of continuing education
 892 biennially. Programs of continuing education must shall be
 893 programs of learning that contribute directly to the education
 894 of the dental technician and may include, but are not limited
 895 to, attendance at lectures, study clubs, college courses, or
 896 scientific sessions of conventions and research.

897 (a) The aim of continuing education for dental technicians
 898 is to improve dental health care delivery to the public as such
 899 is impacted through the design, manufacture, and use of

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900 artificial human oral prosthetics and related restorative
 901 appliances.

902 (b) Continuing education courses shall address one or more
 903 of the following areas of professional development, including,
 904 but not limited to:

905 1. Laboratory and technological subjects, including, but
 906 not limited to, laboratory techniques and procedures, materials,
 907 and equipment; and

908 2. Subjects pertinent to oral health, infection control,
 909 and safety.

910 (c) Programs that meet ~~meeting~~ the general requirements of
 911 continuing education may be developed and offered to dental
 912 technicians by the Florida Dental Laboratory Association and the
 913 Florida Dental Association. Other organizations, schools, or
 914 agencies may also be approved to develop and offer continuing
 915 education in accordance with specific criteria established by
 916 the department.

917 ~~(d) Any dental laboratory renewing a registration on or~~
 918 ~~after July 1, 2010, shall submit a sworn affidavit, on a form~~
 919 ~~approved by the department, attesting that either the dental~~
 920 ~~laboratory owner or one dental technician employed by the~~
 921 ~~registered dental laboratory has completed the continuing~~
 922 ~~education required in this subsection in accordance with the~~
 923 ~~guidelines and provisions of this subsection and listing the~~
 924 ~~date, location, sponsor, subject matter, and hours of completed~~
 925 ~~continuing education courses. The dental laboratory shall retain~~
 926 ~~in its records such receipts, vouchers, or certificates as may~~
 927 ~~be necessary to document completion of the continuing education~~
 928 ~~courses listed in accordance with this subsection. With cause,~~

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929 the department may request that the documentation be provided by
 930 the applicant. The department may also request the documentation
 931 from applicants selected at random without cause.

932 ~~(d)(e)~~1. This subsection does not apply to a dental
 933 laboratory that is physically located within a dental practice
 934 operated by a dentist licensed under this chapter.

935 2. A dental laboratory in another state or country which
 936 provides service to a dentist licensed under this chapter is not
 937 required to register with the state and may continue to provide
 938 services to such dentist with a proper prescription. However, a
 939 dental laboratory in another state or country, ~~however~~, may
 940 voluntarily comply with this subsection.

941 Section 18. Section 468.1201, Florida Statutes, is
 942 repealed.

943 Section 19. Paragraph (a) of subsection (3), subsections
 944 (4) and (5), paragraphs (a) and (e) of subsection (6), and
 945 subsection (7) of section 483.901, Florida Statutes, are
 946 amended, and paragraph (k) is added to subsection (6) of that
 947 section, to read:

948 483.901 Medical physicists; definitions; licensure.-

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

950 ~~(a) "Council" means the Advisory Council of Medical~~
 951 ~~Physicists in the Department of Health.~~

952 ~~(4) COUNCIL.-The Advisory Council of Medical Physicists is~~
 953 ~~created in the Department of Health to advise the department in~~
 954 ~~regulating the practice of medical physics in this state.~~

955 ~~(a) The council shall be composed of nine members appointed~~
 956 ~~by the State Surgeon General as follows:~~

957 1. A licensed medical physicist who specializes in

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958 ~~diagnostic radiological physics.~~

959 2. A licensed medical physicist who specializes in
 960 ~~therapeutic radiological physics.~~

961 3. A licensed medical physicist who specializes in medical
 962 ~~nuclear radiological physics.~~

963 4. A physician who is board certified by the American Board
 964 ~~of Radiology or its equivalent.~~

965 5. A physician who is board certified by the American
 966 ~~Osteopathic Board of Radiology or its equivalent.~~

967 6. A chiropractic physician who practices radiology.

968 7. Three consumer members who are not, and have never been,
 969 licensed as a medical physicist or licensed in any closely
 970 related profession.

971 ~~(b) The State Surgeon General shall appoint the medical~~
 972 ~~physicist members of the council from a list of candidates who~~
 973 ~~are licensed to practice medical physics.~~

974 ~~(c) The State Surgeon General shall appoint the physician~~
 975 ~~members of the council from a list of candidates who are~~
 976 ~~licensed to practice medicine in this state and are board~~
 977 ~~certified in diagnostic radiology, therapeutic radiology, or~~
 978 ~~radiation oncology.~~

979 ~~(d) The State Surgeon General shall appoint the public~~
 980 ~~members of the council.~~

981 ~~(e) As the term of each member expires, the State Surgeon~~
 982 ~~General shall appoint the successor for a term of 4 years. A~~
 983 ~~member shall serve until the member's successor is appointed,~~
 984 ~~unless physically unable to do so.~~

985 ~~(f) An individual is ineligible to serve more than two full~~
 986 ~~consecutive 4-year terms.~~

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987 ~~(g) If a vacancy on the council occurs, the State Surgeon~~
 988 ~~General shall appoint a member to serve for a 4-year term.~~
 989 ~~(h) A council member must be a United States citizen and~~
 990 ~~must have been a resident of this state for 2 consecutive years~~
 991 ~~immediately before being appointed.~~
 992 ~~1. A member of the council who is a medical physicist must~~
 993 ~~have practiced for at least 6 years before being appointed or be~~
 994 ~~board certified for the specialty in which the member practices.~~
 995 ~~2. A member of the council who is a physician must be~~
 996 ~~licensed to practice medicine in this state and must have~~
 997 ~~practiced diagnostic radiology or radiation oncology in this~~
 998 ~~state for at least 2 years before being appointed.~~
 999 ~~3. The public members of the council must not have a~~
 1000 ~~financial interest in any endeavor related to the practice of~~
 1001 ~~medical physics.~~
 1002 ~~(i) A council member may be removed from the council if the~~
 1003 ~~member:~~
 1004 ~~1. Did not have the required qualifications at the time of~~
 1005 ~~appointment;~~
 1006 ~~2. Does not maintain the required qualifications while~~
 1007 ~~serving on the council; or~~
 1008 ~~3. Fails to attend the regularly scheduled council meetings~~
 1009 ~~in a calendar year as required by s. 456.011.~~
 1010 ~~(j) Members of the council may not receive compensation for~~
 1011 ~~their services; however, they are entitled to reimbursement,~~
 1012 ~~from funds deposited in the Medical Quality Assurance Trust~~
 1013 ~~Fund, for necessary travel expenses as specified in s. 112.061~~
 1014 ~~for each day they engage in the business of the council.~~
 1015 ~~(k) At the first regularly scheduled meeting of each~~

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1016 ~~calendar year, the council shall elect a presiding officer and~~
 1017 ~~an assistant presiding officer from among its members. The~~
 1018 ~~council shall meet at least once each year and at other times in~~
 1019 ~~accordance with department requirements.~~
 1020 ~~(l) The department shall provide administrative support to~~
 1021 ~~the council for all licensing activities.~~
 1022 ~~(m) The council may conduct its meetings electronically.~~
 1023 ~~(5) POWERS OF COUNCIL. The council shall:~~
 1024 ~~(a) Recommend rules to administer this section.~~
 1025 ~~(b) Recommend practice standards for the practice of~~
 1026 ~~medical physics which are consistent with the Guidelines for~~
 1027 ~~Ethical Practice for Medical Physicists prepared by the American~~
 1028 ~~Association of Physicists in Medicine and disciplinary~~
 1029 ~~guidelines adopted under s. 456.079.~~
 1030 ~~(c) Develop and recommend continuing education requirements~~
 1031 ~~for licensed medical physicists.~~
 1032 ~~(4)(6) LICENSE REQUIRED.—An individual may not engage in~~
 1033 ~~the practice of medical physics, including the specialties of~~
 1034 ~~diagnostic radiological physics, therapeutic radiological~~
 1035 ~~physics, medical nuclear radiological physics, or medical health~~
 1036 ~~physics, without a license issued by the department for the~~
 1037 ~~appropriate specialty.~~
 1038 ~~(a) The department shall adopt rules to administer this~~
 1039 ~~section which specify license application and renewal fees,~~
 1040 ~~continuing education requirements, and standards for practicing~~
 1041 ~~medical physics. The council shall recommend to the department~~
 1042 ~~continuing education requirements that shall be a condition of~~
 1043 ~~license renewal. The department shall require a minimum of 24~~
 1044 ~~hours per biennium of continuing education offered by an~~

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1045 organization ~~recommended by the council and~~ approved by the
1046 department. The department, ~~upon recommendation of the council,~~
1047 may adopt rules to specify continuing education requirements for
1048 persons who hold a license in more than one specialty.

1049 (e) ~~Upon~~ ~~on~~ receipt of an application and fee as specified
1050 in this section, the department may issue a license to practice
1051 medical physics in this state ~~on or after October 1, 1997,~~ to a
1052 person who is board certified in the medical physics specialty
1053 in which the applicant applies to practice by the American Board
1054 of Radiology for diagnostic radiological physics, therapeutic
1055 radiological physics, or medical nuclear radiological physics;
1056 by the American Board of Medical Physics for diagnostic
1057 radiological physics, therapeutic radiological physics, or
1058 medical nuclear radiological physics; or by the American Board
1059 of Health Physics or an equivalent certifying body approved by
1060 the department.

1061 (k) Upon proof of a completed residency program and receipt
1062 of the fee set forth by rule, the department may issue a
1063 temporary license for no more than 1 year. The department may
1064 adopt by rule requirements for temporary licensure and renewal
1065 of temporary licenses.

1066 ~~(5)-(7)~~ FEES.—The fee for the initial license application
1067 shall be \$500 and is nonrefundable. The fee for license renewal
1068 may not be more than \$500. These fees may cover only the costs
1069 incurred by the department ~~and the council~~ to administer this
1070 section. By July 1 each year, the department shall determine
1071 ~~advise the council~~ if the fees are insufficient to administer
1072 this section.

1073 Section 20. Subsection (2) of section 484.047, Florida

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1074 Statutes, is amended to read:

1075 484.047 Renewal of license.—

1076 (2) In addition to the other requirements for renewal
1077 provided in this section and by the board, the department shall
1078 renew a license upon receipt of the renewal application ~~and,~~ the
1079 renewal fee, ~~and a written statement affirming compliance with~~
1080 ~~all other requirements set forth in this section and by the~~
1081 ~~board.~~ A licensee must maintain, if applicable, a certificate
1082 from a manufacturer or independent testing agent certifying that
1083 the testing room meets the requirements of s. 484.0501(6) and,
1084 if applicable, a certificate from a manufacturer or independent
1085 testing agent stating that all audiometric testing equipment
1086 used by the licensee has been calibrated acoustically to
1087 American National Standards Institute standards on an annual
1088 ~~basis acoustically to American National Standards Institute~~
1089 ~~standard specifications.~~ Possession of any applicable
1090 certificate is the certificates shall be a prerequisite to
1091 renewal.

1092 Section 21. Subsections (1) and (4) of section 486.109,
1093 Florida Statutes, are amended to read:

1094 486.109 Continuing education.—

1095 (1) The board shall require licensees to ~~periodically~~
1096 demonstrate their professional competence as a condition of
1097 renewal of a license by completing 24 hours of continuing
1098 education biennially.

1099 (4) Each licensee shall maintain ~~be responsible for~~
1100 ~~maintaining~~ sufficient records ~~in a format as determined by rule~~
1101 ~~which shall be subject to a random audit by the department to~~
1102 demonstrate ~~assure~~ compliance with this section.

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1103 Section 22. Paragraph (e) of subsection (1) of section
 1104 458.331, Florida Statutes, is amended to read:

1105 458.331 Grounds for disciplinary action; action by the
 1106 board and department.-

1107 (1) The following acts constitute grounds for denial of a
 1108 license or disciplinary action, as specified in s. 456.072(2):

1109 (e) Failing to report to the department any person who the
 1110 licensee knows is in violation of this chapter or of the rules
 1111 of the department or the board. A treatment provider approved
 1112 pursuant to s. 456.076 shall provide the department or
 1113 consultant with information in accordance with the requirements
 1114 of s. 456.076(5), (6), (7), (8), and (10) ~~s. 456.076(4), (5),~~
 1115 ~~(6), (7), and (9).~~

1116 Section 23. Paragraph (e) of subsection (1) of section
 1117 459.015, Florida Statutes, is amended to read:

1118 459.015 Grounds for disciplinary action; action by the
 1119 board and department.-

1120 (1) The following acts constitute grounds for denial of a
 1121 license or disciplinary action, as specified in s. 456.072(2):

1122 (e) Failing to report to the department or the department's
 1123 impaired professional consultant any person who the licensee or
 1124 certificateholder knows is in violation of this chapter or of
 1125 the rules of the department or the board. A treatment provider,
 1126 approved pursuant to s. 456.076, shall provide the department or
 1127 consultant with information in accordance with the requirements
 1128 of s. 456.076(5), (6), (7), (8), and (10) ~~s. 456.076(4), (5),~~
 1129 ~~(6), (7), and (9).~~

1130 Section 24. Paragraph (a) of subsection (15) of section
 1131 499.028, Florida Statutes, is amended to read:

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1132 499.028 Drug samples or complimentary drugs; starter packs;
 1133 permits to distribute.-

1134 (15) A person may not possess a prescription drug sample
 1135 unless:

1136 (a) The drug sample was prescribed to her or him as
 1137 evidenced by the label required in s. 465.0276(4) ~~s.~~
 1138 ~~465.0276(5).~~

1139 Section 25. Paragraph (g) of subsection (3) of section
 1140 921.0022, Florida Statutes, is amended to read:

1141 921.0022 Criminal Punishment Code; offense severity ranking
 1142 chart.-

1143 (3) OFFENSE SEVERITY RANKING CHART

1144 (g) LEVEL 7

1145

Florida Statute	Felony Degree	Description
1146 316.027(2)(c)	1st	Accident involving death, failure to stop; leaving scene.
1147 316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
1148 316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while

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1149	327.35(3)(c)2.	3rd		Vessel BUI resulting in serious bodily injury.
1150	402.319(2)	2nd		Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
1151	409.920 (2)(b)1.a.	3rd		Medicaid provider fraud; \$10,000 or less.
1152	409.920 (2)(b)1.b.	2nd		Medicaid provider fraud; more than \$10,000, but less than \$50,000.
1153	456.065(2)	3rd		Practicing a health care profession without a license.
1154	456.065(2)	2nd		Practicing a health care profession without a

	23-00631-16		2016918__	license which results in serious bodily injury.
1155	458.327(1)	3rd		Practicing medicine without a license.
1156	459.013(1)	3rd		Practicing osteopathic medicine without a license.
1157	460.411(1)	3rd		Practicing chiropractic medicine without a license.
1158	461.012(1)	3rd		Practicing podiatric medicine without a license.
1159	462.17	3rd		Practicing naturopathy without a license.
1160	463.015(1)	3rd		Practicing optometry without a license.
1161	464.016(1)	3rd		Practicing nursing without a license.
1162	465.015(2)	3rd		Practicing pharmacy without a license.

1163	23-00631-16		2016918__	
	466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.	
1164	467.201	3rd	Practicing midwifery without a license.	
1165	468.366	3rd	Delivering respiratory care services without a license.	
1166	483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.	
1167	<u>483.901(7)</u> 483.901(9)	3rd	Practicing medical physics without a license.	
1168	484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.	
1169	484.053	3rd	Dispensing hearing aids without a license.	
1170	494.0018(2)	1st	Conviction of any violation of chapter 494 in which the total money	

	23-00631-16		2016918__	and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
1171	560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business.	
1172	560.125(5)(a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.	
1173	655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.	
1174	775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew driver license or identification card; other registration violations.	
1175				

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	775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.
1176			
	775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
1177			
	782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
1178			
	782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
1179			
	782.071	2nd	Killing of a human being or unborn child by the operation of a motor vehicle in a reckless manner (vehicular homicide).
1180			
	782.072	2nd	Killing of a human being

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			by the operation of a vessel in a reckless manner (vessel homicide).
1181			
	784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
1182			
	784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
1183			
	784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
1184			
	784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
1185			
	784.048(7)	3rd	Aggravated stalking; violation of court order.
1186			
	784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
1187			
	784.074(1)(a)	1st	Aggravated battery on sexually violent predators facility staff.

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1188	784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
1189	784.081(1)	1st	Aggravated battery on specified official or employee.
1190	784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
1191	784.083(1)	1st	Aggravated battery on code inspector.
1192	787.06(3)(a)2.	1st	Human trafficking using coercion for labor and services of an adult.
1193	787.06(3)(e)2.	1st	Human trafficking using coercion for labor and services by the transfer or transport of an adult from outside Florida to within the state.
1194	790.07(4)	1st	Specified weapons violation subsequent to

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			previous conviction of s. 790.07(1) or (2).
1195	790.16(1)	1st	Discharge of a machine gun under specified circumstances.
1196	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
1197	790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
1198	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
1199	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
1200			

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	790.23	1st,PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
1201	794.08(4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
1202	796.05(1)	1st	Live on earnings of a prostitute; 2nd offense.
1203	796.05(1)	1st	Live on earnings of a prostitute; 3rd and subsequent offense.
1204	800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim younger than 12 years of age; offender younger than 18 years of age.
1205	800.04(5)(c)2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years of

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			age; offender 18 years of age or older.
1206	800.04(5)(e)	1st	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years; offender 18 years or older; prior conviction for specified sex offense.
1207	806.01(2)	2nd	Maliciously damage structure by fire or explosive.
1208	810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
1209	810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
1210	810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
1211	810.02(3)(e)	2nd	Burglary of authorized emergency vehicle.

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1212	812.014(2)(a)1.	1st	Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
1213	812.014(2)(b)2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
1214	812.014(2)(b)3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
1215	812.014(2)(b)4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
1216	812.0145(2)(a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
1217	812.019(2)	1st	Stolen property;

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			initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
1218	812.131(2)(a)	2nd	Robbery by sudden snatching.
1219	812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
1220	817.034(4)(a)1.	1st	Communications fraud, value greater than \$50,000.
1221	817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
1222	817.234(9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
1223	817.234(11)(c)	1st	Insurance fraud; property value \$100,000 or more.
1224	817.2341	1st	Making false entries of

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	(2) (b) & (3) (b)		material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.	
1225	817.535(2) (a)	3rd	Filing false lien or other unauthorized document.	
1226	825.102(3) (b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.	
1227	825.103(3) (b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$10,000 or more, but less than \$50,000.	
1228	827.03(2) (b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.	
1229	827.04(3)	3rd	Impregnation of a child	

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			under 16 years of age by person 21 years of age or older.	
1230	837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.	
1231	838.015	2nd	Bribery.	
1232	838.016	2nd	Unlawful compensation or reward for official behavior.	
1233	838.021(3) (a)	2nd	Unlawful harm to a public servant.	
1234	838.22	2nd	Bid tampering.	
1235	843.0855(2)	3rd	Impersonation of a public officer or employee.	
1236	843.0855(3)	3rd	Unlawful simulation of legal process.	
1237	843.0855(4)	3rd	Intimidation of a public officer or employee.	
1238				

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	847.0135 (3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
1239			
	847.0135 (4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
1240			
	872.06	2nd	Abuse of a dead human body.
1241			
	874.05(2) (b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
1242			
	874.10	1st,PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
1243			
	893.13(1) (c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or

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			(2) (c)4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
1244			
	893.13(1) (e)1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c)4., within 1,000 feet of property used for religious services or a specified business site.
1245			
	893.13(4) (a)	1st	Deliver to minor cocaine (or other s. 893.03(1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c)4. drugs).
1246			
	893.135(1) (a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
1247			

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	893.135	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
1248	(1) (b) 1.a.		
	893.135	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
1249	(1) (c) 1.a.		
	893.135	1st	Trafficking in hydrocodone, 14 grams or more, less than 28 grams.
1250	(1) (c) 2.a.		
	893.135	1st	Trafficking in hydrocodone, 28 grams or more, less than 50 grams.
1251	(1) (c) 2.b.		
	893.135	1st	Trafficking in oxycodone, 7 grams or more, less than 14 grams.
1252	(1) (c) 3.a.		
	893.135	1st	Trafficking in oxycodone, 14 grams or more, less than 25 grams.
1253	(1) (c) 3.b.		
	893.135(1) (d) 1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
1254			

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	893.135(1) (e) 1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
1255			
	893.135(1) (f) 1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
1256			
	893.135	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
1257	(1) (g) 1.a.		
	893.135	1st	Trafficking in gamma- hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
1258	(1) (h) 1.a.		
	893.135	1st	Trafficking in 1,4- Butanediol, 1 kilogram or more, less than 5 kilograms.
1259	(1) (j) 1.a.		
	893.135	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
1260	(1) (k) 2.a.		
	893.1351(2)	2nd	Possession of place for

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	23-00631-16		2016918__	
				trafficking in or manufacturing of controlled substance.
1261	896.101(5)(a)	3rd		Money laundering, financial transactions exceeding \$300 but less than \$20,000.
1262	896.104(4)(a)1.	3rd		Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
1263	943.0435(4)(c)	2nd		Sexual offender vacating permanent residence; failure to comply with reporting requirements.
1264	943.0435(8)	2nd		Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
1265	943.0435(9)(a)	3rd		Sexual offender; failure to comply with reporting

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				requirements.
1266	943.0435(13)	3rd		Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
1267	943.0435(14)	3rd		Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
1268	944.607(9)	3rd		Sexual offender; failure to comply with reporting requirements.
1269	944.607(10)(a)	3rd		Sexual offender; failure to submit to the taking of a digitized photograph.
1270	944.607(12)	3rd		Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
1271				

1272	23-00631-16 944.607(13)	3rd	2016918 Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
1273	985.4815(10)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
1274	985.4815(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
1275	985.4815(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
1276	Section 26. This act shall take effect July 1, 2016.		



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Ethics and Elections, *Chair*
Banking and Insurance, *Vice Chair*
Appropriations
Appropriations Subcommittee on Health
and Human Services
Commerce and Tourism
Regulated Industries
Rules

SENATOR GARRETT RICHTER

President Pro Tempore
23rd District

December 3, 2015

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

Dear Chairman Bean:

Senate Bill 918 relating to Licensure of Health Care Professionals, has been referred to your committee. I would appreciate your consideration to place this bill on your committee's agenda at the earliest opportunity.

Sincerely,

A handwritten signature in cursive script, appearing to read "Garrett Richter".

Garrett Richter

cc: Sandra Stovall, Staff Director

REPLY TO:

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

Senate's Website: www.flsenate.gov

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)

1/11/16 Meeting Date

SB 918 Bill Number (if applicable)

119844 Amendment Barcode (if applicable)

Topic SB 918 Licensure of Healthcare Professionals

Name Linda L. Smith

Job Title CEO

Address 900 N. Third St. Neptune Beach, FL 32266

Phone (904) 270-1620 x 118

Email lsmith@ipnf1.org

Speaking: For Against Information

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

Representing Intervention Project for Nurses

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

1-11-16

Meeting Date

SB 918

Bill Number (if applicable)

119844

Amendment Barcode (if applicable)

Topic Licensure of Health Care Professionals

Name Penelope P. Ziegler, M.D.

Job Title Medical Director, Professionals Resource Network (PRN)

Address P.O. Box 16510

Street

Phone _____

Fernandina Beach, FL

City

State

32035

Zip

Email drziegler@flprn.org

Speaking: For Against Information

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

Representing Professionals Resource Network (PRN)

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

SEN HEALTH POLICY
412 K
4:00-6:00

THE FLORIDA SENATE

APPEARANCE RECORD

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

1-11-2016

Meeting Date

SB 918

Bill Number (if applicable)

119844

Amendment Barcode (if applicable)

Topic LICENSURE OF HEALTH CARE PROFESSIONALS

Name STEPHEN R. WINN

Job Title EXECUTIVE DIRECTOR

Address 2544 BLAIRSTONE PINES DR

Phone 878-7364

Street

TALLAHASSEE

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32301

City

State

Zip

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Speaking: For Against Information

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

Representing FLORIDA OSTEOPATHIC MEDICAL ASSOCIATION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

1-11-16 Meeting Date

918 Bill Number (if applicable)

Topic Licensure of Healthcare Professionals

Amendment Barcode (if applicable)

Name Paul Runk

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

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

Representing Department of Health

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.

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THE FLORIDA SENATE
APPEARANCE RECORD

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

1-11-2016

Meeting Date

SB 918

Bill Number (if applicable)

Topic LICENSURE OF HEALTH CARE PROFESSIONALS

Amendment Barcode (if applicable)

Name STEPHEN R. WIND

Job Title EXECUTIVE DIRECTOR

Address 2544 BLAIRSTONE AVENUE DR

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State

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Email

Speaking: For Against Information

Waive Speaking: In Support Against

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

Representing FLORIDA OSTEOPATHIC MEDICAL ASSOCIATION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

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 676

INTRODUCER: Health Policy Committee and Senator Grimsley

SUBJECT: Health Care

DATE: January 12, 2016

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 676 authorizes physician assistants (PAs) and advanced registered nurse practitioners (ARNPs) to prescribe controlled substances under current supervisory standards for PAs and protocols for ARNPs beginning January 1, 2017; and creates additional statutory parameters for their controlled substance prescribing. An ARNP's and PA's prescribing privileges for controlled substances listed on Schedule II are limited to a 7-day supply, do not include the prescribing of psychotropic medications for children under 18 years of age unless prescribed by an ARNP who is a psychiatric nurse, and may be limited by the controlled substance formularies themselves imposing additional limitations on PA or ARNP prescribing privileges for specific medications. An ARNP or PA may not prescribe controlled substances in a pain management clinic. The bill requires PAs and ARNPs to complete 3 hours of continuing education biennially on the safe and effective prescribing of controlled substances.

Beginning January 1, 2017, health insurers, health maintenance organizations, and pharmacy benefits managers, which do not use an online prior authorization form, must use a standardized prior authorize form that has been adopted by rules of the Financial Services Commission. If a health insurer or health maintenance organization verified the eligibility of an insured at the time of treatment, it may not retroactively deny a claim because of the insured's ineligibility.

The bill requires a hospital to notify each obstetrical physician with privileges at the facility at least 90 days before it closes its obstetrical department or ceases to provide obstetrical services. The bill also repeals a provision designating certain hospitals as “provider hospitals,” which have special requirements for cesarean section operations that are paid for with state or federal funds.

Most of the bill becomes effective upon becoming a law. However, the authority for a PA or an ARNP to prescribe controlled substances in accordance with the bill becomes effective January 1, 2017.

II. Present Situation:

Unlike all other states, Florida does not allow ARNPs to prescribe controlled substances and is one of two states that does not allow PAs to prescribe controlled substances.¹ The states have varying permissions with respect to the Schedules² from which an ARNP or PA may prescribe as well as the additional functions, such as dispensing, administering, or handling samples, that an ARNP or PA may perform.

According to a recent study commissioned by the Safety Net Hospital Alliance of Florida,³ Florida’s total current supply of primary care physicians falls short of the number needed to provide a national average level of care by approximately 6 percent. Under a traditional definition of primary care specialties (i.e., general and family practice, general internal medicine, general pediatrics and geriatric medicine) supply falls short of demand by approximately 3 percent. [Based on simulation models, the report concludes that] over the next several years, this shortfall will grow slightly as more people obtain insurance coverage as mandated by the federal Affordable Care Act. However, if current trends continue, this shortfall should disappear within a decade. While supply may be adequate at the state level to provide a national average level of care, there is substantial geographic variation in adequacy of care.

Regulation of Physician Assistants in Florida

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

¹ DEA Diversion Control, U.S. Department of Justice, *Mid-Level Practitioners Authorization by State*, (last updated Nov. 10, 2015), available at http://www.deaiversion.usdoj.gov/drugreg/practioners/mlp_by_state.pdf, (last visited Dec. 3, 2015).

Kentucky does not allow PAs to prescribe controlled substances.

² Controlled substances are assigned to Schedules I - V based on their accepted medical use and potential for abuse.

³ IHS Global Inc., *Florida Statewide and Regional Physician Workforce Analysis: Estimating Current and Forecasting Future Supply and Demand*, (January 28, 2015), https://ahca.myflorida.com/medicaid/Finance/finance/LIP-DSH/GME/docs/FINAL_Florida_Statewide_and_Regional_Physician_Workforce_Analysis.pdf, (last visited Dec. 3, 2015).

through the Council on Physician Assistants.⁴ During the 2014-2015 state fiscal year, there were 6,744 in-state, actively licensed PAs in Florida.⁵

PAs are trained and required by statute to work under the supervision and control of allopathic or osteopathic physicians.⁶ 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 direct⁷ and indirect⁸ supervision. A supervising physician's decision to permit a PA to perform a task or procedure under direct or indirect supervision must be based on reasonable medical judgment regarding the probability of morbidity and mortality to the patient. The supervising physician must be certain that the PA is knowledgeable and skilled in performing the tasks and procedures assigned.⁹ Each physician, or group of physicians supervising a licensed PA, must be qualified in the medical areas in which the PA is to work and is individually or collectively responsible and liable for the performance and the acts and omissions of the PA.¹⁰

Current law allows a supervisory physician to delegate authority to prescribe or dispense any medication used in the physician's practice, except controlled substances, general anesthetics, and radiographic contrast materials.¹¹ However, the law allows a supervisory physician to delegate authority to a PA to order any medication, which would include controlled substances, general anesthetics, and radiographic contrast materials, for a patient of the physician during the patient's stay in a facility licensed under ch. 395, F.S.¹²

Regulation of Advanced Registered Nurse Practitioners in Florida

Chapter 464, F.S., governs the licensure and regulation of nurses in Florida. Nurses are licensed by the Department of Health (DOH) and are regulated by the Board of Nursing (BON).¹³ During the 2014-2015 state fiscal year, there were 18,276 in-state, actively licensed ARNPs in Florida.¹⁴

⁴ The council consists of three physicians who are members of the Board of Medicine; one physician who is a member of the Board of Osteopathic Medicine; and a physician assistant appointed by the State Surgeon General. (s. 458.348(9), F.S. and s. 459.022(9), F.S.)

⁵ Florida Department of Health, Division of Medical Quality Assurance, *Annual Report and Long Range Plan Fiscal Year 2014-2015*, p. 11, available at: <http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/documents/annual-report-1415.pdf>, (Last visited Dec. 7, 2015).

⁶ Sections 458.347(4), and 459.022(4), F.S.

⁷ "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.).

⁸ "Indirect supervision" requires the physician to be within reasonable physical proximity. (Rules 64B8-30.001(5) and 64B15-6.001(5), F.A.C.).

⁹ Rules 64B8-30.012(2) and 64B15-6.010(2), F.A.C.

¹⁰ Sections 458.347(3) and (15) and 459.022(3) and (15), F.S.

¹¹ Sections 458.347(4)(e) and (f)1., and 459.022(4)(e), F.S.

¹² *See* s. 395.002(16), F.S. The facilities licensed under chapter 395 are hospitals, ambulatory surgical centers, and mobile surgical facilities.

¹³ The BON is comprised of 13 members appointed by the Governor and confirmed by the Senate who serve 4-year terms. Seven of the 13 members must be nurses who reside in Florida and have been engaged in the practice of professional nursing for at least 4 years. Of those seven members, one must be an advanced registered nurse practitioner, one a nurse educator at an approved nursing program, and one a nurse executive. Three members of the BON must be licensed practical nurses who reside in the state and have engaged in the practice of practical nursing for at least 4 years. The remaining three members must be Florida residents who have never been licensed as nurses and are in no way connected to the practice of nursing, any health care facility, agency, or insurer. Additionally, one member must be 60 years of age or older. *See* s. 464.004(2), F.S.

¹⁴ *Supra* note 5. Certified Nurse Specialists account for 26 of the in-state actively licensed ARNPs.

An ARNP is a licensed nurse who is certified in advanced or specialized nursing.¹⁵ Florida recognizes three types of ARNPs: nurse practitioners (NP), certified registered nurse anesthetists (CRNA), and certified nurse midwives (CNM).¹⁶ To be certified as an ARNP, a nurse must hold a current license as a registered nurse¹⁷ and submit proof to the BON that the ARNP applicant meets one of the following requirements:¹⁸

- Satisfactory completion of a formal postbasic educational program of specialized or advanced nursing practice;
- Certification by an appropriate specialty board;¹⁹ or
- Completion of a master's degree program in the appropriate clinical specialty with preparation in specialty-specific skills.

Advanced or specialized nursing acts may only be performed under the protocol of a supervising physician or dentist. Within the established framework of the protocol, an ARNP may:²⁰

- Monitor and alter drug therapies;
- Initiate appropriate therapies for certain conditions; and
- Order diagnostic tests and physical and occupational therapy.

The statute further describes additional acts that may be performed within an ARNP's specialty certification (CRNA, CNM, and NP).²¹

An ARNP must meet financial responsibility requirements, as determined by rule of the BON, and the practitioner profiling requirements.²² The BON requires professional liability coverage of at least \$100,000 per claim with a minimum annual aggregate of at least \$300,000 or an unexpired irrevocable letter of credit in the same amounts payable to the ARNP.²³

Florida does not allow ARNPs to prescribe controlled substances.²⁴ However, s. 464.012(4)(a), F.S., provides express authority for a CRNA to order certain controlled substances "to the extent authorized by the established protocol approved by the medical staff of the facility in which the anesthetic service is performed."

¹⁵ "Advanced specialized nursing practice" is defined as the performance of advanced-level nursing acts approved by the Board of Nursing which, by virtue of postbasic specialized education, training and experience, are appropriately performed by an advanced registered nurse practitioner. (*See* s. 464.003(2), F.S.)

¹⁶ Section 464.003(3), F.S. Florida certifies clinical nurse specialists as a category distinct from advanced registered nurse practitioners. (*See* ss. 464.003(7) and 464.0115, F.S.).

¹⁷ Practice of professional nursing. (*See* s. 464.003(20), F.S.)

¹⁸ Section 464.012(1), F.S.

¹⁹ Specialty boards expressly recognized by the Board of Nursing include: Council on Certification of Nurse Anesthetists, or Council on Recertification of Nurse Anesthetists; American College of Nurse Midwives; American Nurses Association (American Nurses Credentialing Center); National Certification Corporation for OB/GYN, Neonatal Nursing Specialties; National Board of Pediatric Nurse Practitioners and Associates; National Board for Certification of Hospice and Palliative Nurses; American Academy of Nurse Practitioners; Oncology Nursing Certification Corporation; American Association of Critical-Care Nurses Adult Acute Care Nurse Practitioner Certification. (Rule 64B9-4.002(2), F.A.C.)

²⁰ Section 464.012(3), F.S.

²¹ Section 464.012(4), F.S.

²² Sections 456.0391 and 456.041, F.S.

²³ Rule 64B9-4.002(5), F.A.C.

²⁴ Sections 893.02(21) and 893.05(1), F.S.

Educational Preparation

Physician Assistants²⁵

PA education is modeled on physician education. PA programs are accredited by the Accreditation Review Commission on Education for the Physician Assistant. All PA programs must meet the same set of national standards for accreditation. PA program applicants must complete at least 2 years of college courses in basic science and behavioral science as a prerequisite to PA training. The average length of PA education programs is about 26 months. Students begin their course of study with a year of basic medical science classes (anatomy, pathophysiology, pharmacology, physical diagnosis, etc.) Then the PA students enter the clinical phase of training, which includes classroom instruction and clinical rotations in medical and surgical specialties. PA students, on average, complete 48.5 weeks of supervised clinical practice by the time they graduate.

All PA educational programs include pharmacology courses, and nationally, the average amount of required formal classroom instruction in pharmacology is 75 hours. This does not include instruction in pharmacology that students receive during clinical medicine coursework and clinical clerkships. Based on national data, the mean amount of total instruction in clinical medicine is 358.9 hours. And the average length of required clinical clerkships is 48.5 weeks. A significant percentage of time is focused on patient management, including pharmacotherapeutics. Coursework in pharmacology addresses, but is not limited to, pharmacokinetics, drug interactions, adverse effects, contraindications, indications, and dosage.

Advanced Registered Nurse Practitioners²⁶

Applicants for Florida licensure who graduated on or after October 1, 1998, must have completed requirements for a master's degree or post-master's degree.²⁷ Applicants who graduated before that date, may be or may have been eligible through a certificate program.²⁸

The curriculum of a program leading to an advanced degree must include, among other things:

- Theory and directed clinical experience in physical and biopsychosocial assessment.
- Interviewing and communication skills relevant to obtaining and maintaining a health history;
- Pharmacotherapeutics, including selecting, prescribing, initiating, and modifying medications in the management of health and illness;
- Selecting, initiating and modifying diets and therapies in the management of health and illness;
- Performance of specialized diagnostic tests that are essential to the area of advanced practice;
- Differential diagnosis pertinent to the specialty area;
- Interpretation of laboratory findings;

²⁵ See American Academy of Physician Assistants, *PAs as Prescribers of Controlled Medications – Issue Brief*, (June 2014), available at: <https://www.aapa.org/WorkArea/DownloadAsset.aspx?id=2549> (last viewed Dec. 3, 2015).

²⁶ Rule 64B9-4.003, F.A.C.

²⁷ Florida Board of Nursing, *ARNP Licensure Requirements* <http://floridasnursing.gov/licensing/advanced-registered-nurse-practitioner/>, (last visited Dec. 3, 2015).

²⁸ *Id.*, and s. 464.012(1), F.S.

- Management of selected diseases and illnesses;
- Professional socialization and role realignment;
- Legal implications of the advanced nursing practice and nurse practitioner role;
- Health delivery systems, including assessment of community resources and referrals to appropriate professionals or agencies; and
- Providing emergency treatments.

The program must provide a minimum of 500 hours (12.5 weeks) of preceptorship/supervised clinical experience²⁹ in the performance of the specialized diagnostic procedures that are essential to practice in that specialty area.

Drug Enforcement Agency Registration

The Drug Enforcement Agency (DEA) registration grants practitioners federal authority to handle controlled substances. However, the DEA registered practitioner may only engage in those activities that are authorized under state law for the jurisdiction in which the practice is located.³⁰

According to requirements of the DEA, a prescription for a controlled substance may only be issued by a physician, dentist, podiatrist, veterinarian, mid-level practitioner,³¹ or other registered practitioner who is:

- Authorized to prescribe controlled substances by the jurisdiction in which the practitioner is licensed to practice;
- Registered with DEA or exempted from registration (that is, Public Health Service, Federal Bureau of Prisons, or military practitioners); or
- An agent or employee of a hospital or other institution acting in the normal course of business or employment under the registration of the hospital or other institution which is registered in lieu of the individual practitioner being registered provided that additional requirements are met.³² These requirements include:
 - The dispensing, administering, or prescribing is in the usual course of professional practice;
 - The practitioner is authorized to do so by the state in which he or she practices;
 - The hospital or other institution has verified that the practitioner is permitted to administer, dispense, or prescribe controlled substances within the state;
 - The practitioner acts only within the scope of employment in the hospital or other institution;
 - The hospital or other institution authorizes the practitioner to administer, dispense, or prescribe under its registration and assigns a specific internal code number for each practitioner; and

²⁹ Preceptorship/supervised clinical experience must be under the supervision of a qualified preceptor, who is defined as a practicing certified ARNP, a licensed medical doctor, osteopathic physician, or a dentist. See Rule 64B9-4.001(13), F.A.C.

³⁰ U.S. Department of Justice, Drug Enforcement Administration, *Practitioner's Manual*, (August 2006), p. 7, available at http://www.deadiversion.usdoj.gov/pubs/manuals/pract/pract_manual012508.pdf (last visited Dec. 3, 2015).

³¹ Examples of mid-level practitioners include, but are not limited to: nurse practitioners, nurse midwives, nurse anesthetists, clinical nurse specialists, and physician assistants.

³² *Supra* note 30, at p.18.

- The hospital or other institution maintains a current list of internal codes and the corresponding practitioner.³³

Peer Review of Publically Funded C-Sections

Section 383.336, F.S., relates to public health and maternal and infant health care where all or part of the costs are paid for by state or federal funds administered by the state. It defines a “provider hospital” as one in which there are 30 or more births per year paid for in part, or in full, by state or federal funds. It directs the State Surgeon General, in consultation with the Board of Medicine and the Florida Obstetric and Gynecologic Society, to establish practice parameters for physicians in provider hospitals who perform caesarean sections; and requires each provider hospital to establish a peer review board to conduct monthly reviews of every publically funded caesarean section performed since the previous review.

Beginning in 2014, hospitals that are accredited by the Joint Commission and which performed more than 1,100 births per year were required to report on certain cesarean sections performed in the hospital as a part of their perinatal core measure set. Effective with January 1, 2016 discharges, the threshold for mandatory reporting is reduced to hospitals with 300 or more births per year. Each hospital receives a quarterly risk-adjusted performance report with their hospital’s C-section rate compared to a desired target range.³⁴

Retroactive Denial of Claims by Health Insurers

Section 627.6131, F.S., and s. 641.3155, F.S., prohibit a health insurer and HMO from retroactively denying a claim because of insured ineligibility more than 1 year after the date the claim is paid. There is, however, no redress for erroneous authorization and an insured’s reliance on that authorization.

III. Effect of Proposed Changes:

ARNP and PA Authorized to Prescribe Controlled Substances

CS/SB 676 authorizes PAs licensed under the Medical Practice Act or the Osteopathic Medical Practice Act, and ARNPs certified under part I of the Nurse Practice Act, to prescribe controlled substances under current supervisory standards for PAs and protocols for ARNPs beginning January 1, 2017; and it creates additional statutory parameters on their controlled substance prescribing. Specifically, an ARNP’s and PA’s prescribing privileges for controlled substances listed on Schedule II are limited to a 7-day supply, do not include prescribing psychotropic medications for children under 18 years of age except by an ARNP who is also a psychiatric nurse as defined by s. 394.455, F.S.,³⁵ and may be limited by the controlled substance

³³ *Supra* note 30, at p.12.

³⁴ See Expanded threshold for reporting Perinatal Care measure set, a Joint Commission Article published on June 24, 2015, available at: <http://www.jointcommission.org/issues/article.aspx?Article=A9Im9xfNbBo97ZcgWQAj/SEKRiZJsPtdFLyHUR1bZU=> (last visited Jan. 6, 2016). See also U.S. Hospitals Held Accountable for C-Section Rates by Rebecca Dekker, PhD, RN, APRN of www.evidencebasedbirth.com, available at: <http://improvingbirth.org/2013/01/u-s-hospitals-held-accountable-for-c-section-rates/> (last visited Jan. 6, 2016).

³⁵ Section 394.55(23), F.S., defines a “psychiatric nurse” as an advanced registered nurse practitioner certified under s. 464.012, F.S., who has a master’s or doctoral degree in psychiatric nursing, holds a national advanced practice certification

formularies themselves which impose additional limitations on PA or ARNP prescribing privileges for specific medications. (Sections 12 – 15)

For PAs, the bill creates the ability to prescribe controlled substances by removing controlled substances from the formulary of medicinal drugs that a PA may not prescribe in the Medical Practice Act. The Osteopathic Medical Practice Act refers to the formulary in the Medical Practice Act, so no changes are made to that act. (Section 12)

For ARNPs, the authorization to prescribe controlled substances is accomplished by revising the authority pertaining to drug therapies. The bill authorizes an ARNP to prescribe, dispense, administer, or order any drug, which would include controlled substances. However, a master's or doctoral degree in a clinical nursing specialty area with training in specialized practitioner skills is required to prescribe or dispense controlled substances. (Section 15)

Additionally, CS/SB 676, adds an ARNP and PA to the definition of practitioner in ch. 893, F.S. This definition requires the practitioner to hold a valid federal controlled substance registry number. (Section 21).

The bill requires the appointment of a committee³⁶ to recommend an evidence-based formulary of controlled substances (controlled substances formulary) that an ARNP may not prescribe, or may prescribe under limited circumstances, as needed to protect the public interest. The committee may recommend a controlled substances formulary applicable to all ARNPs that may be limited by specialty certification, approved uses of controlled substances, or other similar restrictions deemed necessary to protect the public interest. At a minimum, the formulary must restrict the prescribing of psychiatric mental health controlled substances for children under 18 years of age to psychiatric nurses as defined in the Baker Act.³⁷ The formulary must also limit the prescribing of controlled substances in Schedule II to a 7-day supply, similar to the limitation imposed for PAs, except this limitation does not apply to a psychiatric medication prescribed by a psychiatric nurse under the Baker Act. (Section 14)

The committee formed to recommend the controlled substances formulary is a replacement to a joint committee that was established in law for other purposes but which has been dormant for many years. Language establishing the joint committee and references to it are removed from law in Sections 13, 23, and 24 of the bill.

The formulary committee consists of three Florida-certified ARNPs who are recommended by the BON, three physicians licensed under ch. 458 or ch. 459 who have had work experience with

as a psychiatric mental health advanced practice nurse, and has 2 years of post-master's clinical experience under the supervision of a physician.

³⁶ The committee membership is: three ARNPs, including a certified registered nurse anesthetist, a certified nurse midwife, and a nurse practitioner; at least one physician recommended by the Board of Medicine and one physician recommended by the Board of Osteopathic Medicine, who have experience working with APRNs; and a pharmacist licensed under ch. 465, F.S., who is not also licensed as a physician under ch. 458, F.S., an osteopathic physician under ch. 459, F.S., or an ARNP under ch. 464, F.S. The committee members are selected by the State Surgeon General.

³⁷ The Baker Act is also known as the Florida Mental Health Act and the definition of a psychiatric nurse is found in s. 394.455, F.S.

ARNPs and who are recommended by the Board of Medicine, and a Florida-licensed pharmacist who holds a Doctor of Pharmacy degree and is recommended by the Board of Pharmacy.

The BON is to establish the controlled substances formulary for ARNPs by January 1, 2017. The bill requires the board to adopt recommendations for the formulary that are made by the committee and which are supported by evidence-based clinical findings presented by the Board of Medicine, the Board of Osteopathic Medicine, or the Board of Dentistry. The BON is required to adopt the formulary committee's initial recommendation by October 31, 2016.

The controlled substances formulary adopted by board rule does not apply to the following acts performed within the ARNP's specialty under the established protocol approved by the medical staff of the facilities in which the service is performed, which are currently authorized under s. 464.012(4)(a)3., 4., and 9., F.S.:

- Orders for pre-anesthetic medications;
- Ordering and administering regional, spinal, and general anesthesia, inhalation agents and techniques, intravenous agents and techniques, hypnosis, and other protocol procedures commonly used to render the patient insensible to pain during surgical, obstetrical, therapeutic, or diagnostic clinical procedures; or
- Managing a patient while in the postanesthesia recovery area.

CS/SB 676 requires a PA and ARNP to have three hours of continuing education on the safe and effective prescription of controlled substances and specifies several statutorily pre-approved providers of those continuing education hours. (Sections 11 and 16)

A PA or ARNP who prescribes controlled substances that are listed in Schedule II, Schedule III, or Schedule IV, for the treatment of chronic nonmalignant pain is required to designate himself or herself as controlled substance prescribing practitioners on his or her respective practitioner profile maintained by the DOH. Currently, PAs do not have practitioner profiles so the DOH will need to develop a profile for PAs to comply with this requirement. (Section 8)

The bill imposes the same disciplinary standards on PAs and ARNPs as those applicable to physicians for failing to meet minimal standards of acceptable and prevailing practice in prescribing and dispensing of controlled substances.

ARNP disciplinary sanctions are added to the bill in s. 456.072, F.S., (Section 7) to mirror a physician's sanctions for prescribing or dispensing a controlled substance other than in the course of professional practice or failing to meet practice standards. Additional acts for which discipline may be taken against an ARNP relating to practicing with controlled substances that are added to the Nurse Practice Act (Section 17) include:

- Pre-signing blank prescription forms;
- Prescribing for office use any medicinal drug appearing on Schedule II in chapter 893.
- Prescribing, ordering, dispensing, administering, supplying, selling, amphetamines, sympathomimetic amines, or a compound designated in s. 893.03(2), F.S., as a Schedule II controlled substance, to anyone except for:

- Treating narcolepsy,³⁸ hyperkinesia,³⁹ behavioral syndrome in children characterized by the developmentally inappropriate symptoms of moderate to severe distractibility, short attention span, hyperactivity, emotional lability,⁴⁰ and impulsivity; or drug-induced brain dysfunction;
- The diagnostic and treatment of depressions; and
- Clinical investigations which have been approved by the department before such investigation is begun.
- Prescribing, ordering, dispensing, administering, supplying, selling, or giving growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for the purpose of muscle building or to enhance athletic performance;⁴¹
- Promoting or advertising on any prescription form a community pharmacy unless the form also states: “This prescription may be filled at any pharmacy of your choice”;
- Prescribing, dispensing, or administering a medicinal drug appearing on any schedule set forth in chapter 893 to himself or herself, except a drug prescribed, dispensed, or administered to the ARNP by another practitioner authorized to prescribe, dispense, or administer medicinal drugs;
- Prescribing, ordering, dispensing, administering, supplying, selling, or giving amygdalin (laetrile) to any person;⁴²
- Dispensing a substance controlled in Schedule II or Schedule III, in violation of s. 465.0276, F.S.; and
- Promoting or advertising through any communication medium the use, sale, or dispensing of a substance designated in s. 893.03, F.S., as a controlled substance.

Disciplinary standards that are applicable to physicians are already applicable to PAs pursuant to ss. 458.347(7)(g) and 459.022(7)(g), F.S., so no additional amendments are needed for disciplinary and enforcement action for violations of the applicable practice act relating to controlled substances.

The statutes regulating pain-management clinics under the Medical Practice Act and the Osteopathic Medical Practice Act are amended to limit the prescribing of controlled substances in a pain-management clinic to physicians licensed under ch. 458, F.S., or ch. 459, F.S.

³⁸ *Narcolepsy* is a medical condition in which someone suddenly falls into a deep sleep while talking, working, *etc.* Miriam-Webster Dictionary, Encyclopedia Britannica Company, available at: <http://www.merriam-webster.com/dictionary/narcolepsy>, (Last visited Dec. 7, 2015).

³⁹ *Hyperkinesia* is defined as an abnormally increased and sometimes uncontrollable activity or muscular movements; 2. a condition especially of childhood characterized by hyperactivity. Miriam-Webster Dictionary, Encyclopedia Britannica Company, available at: <http://www.merriam-webster.com/dictionary/hyperkinesia>, (Last visited Dec. 7, 2015).

⁴⁰ *Emotional lability* is a condition of excessive emotional reactions and frequent mood changes. Mosby’s Medical Dictionary, 9th edition. 2009, Elsevier, available at: <http://medical-dictionary.thefreedictionary.com/emotional+lability>, (Last visited Dec. 7, 2015).

⁴¹ Bill section 17 amends s. 464.018, F.S., to add subpart (1)(p)4., which prohibits the prescribing of certain hormones for the purpose of “muscle building”; but excludes the treatment of an injured muscle from the definition of “muscle building” as used in this section; and pharmacists receiving prescriptions for the listed hormones may dispense them with the presumption that the prescription is for legitimate medical use.

⁴² Laetrile is an allegedly antineoplastic drug consisting chiefly of amygdalin derived from apricot pits. It has not been proven to have any beneficial use. Farlex Partner Medical Dictionary Farlex 2012, available at: <http://medical-dictionary.thefreedictionary.com/laetrile>, (Last visited Dec. 7, 2015).

Accordingly, PAs and ARNPs are prohibited from prescribing controlled substances in pain-management clinics. (Sections 9 and 10)

Under current law, a medical specialist who is board certified or board eligible in pain medicine by certain boards is exempted from the statutory standards of practice in s. 456.44, F.S., relating to prescribing controlled substances for the treatment of chronic nonmalignant pain. Two additional boards are added to that list; the boards are the American Board of Interventional Pain Physicians and the American Association of Physician Specialists. (Section 8).

Sections 1 – 4, and 22 of the bill amend various statutes to authorize or recognize that a PA or an ARNP may be a prescriber of controlled substances as follows:

- Section 110.12315, F.S., relating to the state employees' prescription drug program, authorizes ARNPs and PAs to prescribe brand name drugs which are medically necessary or are included on the formulary of drugs which may not be interchanged. (Section 1)
- Section 310.071, F.S., relating to deputy pilot certification; s. 310.073, F.S., relating to state pilot licensing; and s. 310.081, F.S., relating to licensed state pilots and certified deputy pilots, allows the presence of a controlled substance in a pilot's drug test results, which was prescribed by an ARNP or PA whose care the pilot is under, as a part of the annual physical examination required for initial certification, initial licensure, and certification and licensure retention. (Sections 2, 3, and 4)
- Section 948.03, F.S., relating to terms and conditions of criminal probation, includes an ARNP and PA as an authorized prescriber of drugs or narcotics that a person on probation may lawfully possess. (Section 22)

Hospital Regulation

The bill requires a hospital to notify each obstetrical physician with privileges at the facility at least 90 days before it closes its obstetrical department or ceases to provide obstetrical services. (Section 6)

The bill also repeals a provision designating certain hospitals as "provider hospitals," which have special requirements for cesarean section operations that are paid for with state or federal funds, including a peer review board that reviews the procedures performed and establishes practice parameters for such operations. (Section 5)

Prior Authorization Forms

CS/SB 676 creates s. 627.42392, F.S., to require insurers offering health insurance, managed care plans, health maintenance organizations, or their pharmacy benefits managers, that do not use electronic prior authorization forms for their contract providers, to only use prior authorization forms approved by the Financial Services Commission to obtain prior authorization for medical procedures, courses of treatment, and prescription drugs beginning January 1, 2017. The Commission is to adopt by rule guidelines for these forms to ensure general uniformity of the forms; and the forms may not exceed two pages, excluding instructions. (Section 18)

Retroactive Denial of Claims

CS/SB 676 amends ss. 627.6131 and 641.3155, F.S., to preclude a health insurer or an HMO from retroactively denying a claim because of an insured's ineligibility after the health insurer or HMO has previously verified eligibility at the time of treatment and provided an authorization number. (Sections 19 and 20)

Technical Revisions and Effective Date

Sections 25 –33 reenact multiple statutes for the purpose of incorporating the amendments made by the bill to ss. 456.072, 456.44, 458.347, 464.003, 464.012, 464.013, 464.018, 893.02, and 948.03, F.S., in references thereto.

Additional conforming and grammatical changes are made in the bill.

Most of the bill becomes effective upon becoming law. However, the authority for a PA or an ARNP to prescribe controlled substances in accordance with the bill becomes effective 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:

PAs and ARNPs who are authorized by the supervising physician or under a protocol to prescribe controlled substances may be able to care for more patients due to reduced coordination with the supervising physician each time a controlled substance is recommended for a patient. Patients may see reduced health care costs and efficiencies in health care delivery as a result of having their health care needs more fully addressed by the PA or ARNP without specific involvement of a physician prescribing a needed controlled substance for treatment. Any such impacts are indeterminate.

Eliminating the ability of a health insurer or HMO to subsequently deny a claim once authorized will avoid unanticipated additional financial obligations to a patient and potential unexpected loss of revenues to healthcare providers.

Limiting paper prior authorization forms to a single format may expedite completion of the forms and promote efficiencies in a medical practice.

C. Government Sector Impact:

The DOH may incur costs for rulemaking, modifications to develop a profile for PAs, and workload impacts related to additional complaints and investigations.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill does not require physician assistants under the Osteopathic Medical Practice Act (ch. 459, F.S.) to obtain 3 hours of continuing education on the safe and effective prescribing of controlled substances on a comparable basis to that required of physician assistants under the Medical Practice Act (ch. 458, F.S.). Similar general continuing education language is found in s. 459.022(4)(e)3, F.S.

The bill limits the prescribing of psychiatric mental health controlled substances for children under 18 years of age. This term is not defined.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 110.12315, 310.071, 310.073, 310.081, 395.1051, 456.072, 456.44, 458.3265, 459.0137, 458.347, 464.003, 464.012, 464.013, 464.018, 627.6131, 641.3155, 893.02, 948.03, 458.348, 459.025, 458.331, 459.015, 459.022, 465.0158, 466.02751, 458.303, 458.3475, 459.023, 456.041, 464.012, 464.0205, 320.0848, 464.008, 464.009, 775.051, 893.02, 944.17, 948.001, 948.03, 948.101

This bill creates section 627.42392 of the Florida Statutes.

This bill repeals section 383.336 of the Florida Statutes.

IX. Additional Information:

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

CS by Health Policy on January 11, 2016:

The CS amends SB 676 to add the American Association of Nurse Anesthetists to the list of statutorily pre-approved providers for continuing education for ARNPs.

B. Amendments:

None.

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



391454

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/12/2016	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete line 851

and insert:

Credentialing Center, the American Association of Nurse
Anesthetists, or the American Association of Nurse

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

And the title is amended as follows:

Delete line 2



391454

11 and insert:

12 An act relating to access to health care services;

13 amending s. 110.12315,



LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/12/2016	.	
	.	
	.	
	.	

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

1 **Senate Substitute for Amendment (391454) (with title**
2 **amendment)**

3
4 Delete lines 517 - 518
5 and insert:

6 is offered by a college of medicine or statewide professional
7 association of physicians in this state accredited to provide
8 education activities

9
10 Delete lines 847 - 851



550786

11 and insert:
12 offered by a college of medicine or statewide professional
13 association of physicians in this state accredited to provide
14 education activities designated for the American Medical
15 Association Physician's Recognition Award Category 1 credit, a
16 national association of certified registered nurse anesthetists,
17 or by a statewide professional association of Advanced
18 Registered Nurse

19
20

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

22 And the title is amended as follows:

23 Delete line 2

24 and insert:

25 An act relating to access to health care services;
26 amending s. 110.12315,

By Senator Grimsley

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1 A bill to be entitled
 2 An act relating to health care; amending s. 110.12315,
 3 F.S.; expanding the categories of persons who may
 4 prescribe brand name drugs under the prescription drug
 5 program when medically necessary; amending ss.
 6 310.071, 310.073, and 310.081, F.S.; exempting
 7 controlled substances prescribed by an advanced
 8 registered nurse practitioner or a physician assistant
 9 from the disqualifications for certification or
 10 licensure, and for continued certification or
 11 licensure, as a deputy pilot or state pilot; repealing
 12 s. 383.336, F.S., relating to provider hospitals,
 13 practice parameters, and peer review boards; amending
 14 s. 395.1051, F.S.; requiring a hospital to provide
 15 specified advance notice to certain obstetrical
 16 physicians before it closes its obstetrical department
 17 or ceases to provide obstetrical services; amending s.
 18 456.072, F.S.; applying existing penalties for
 19 violations relating to the prescribing or dispensing
 20 of controlled substances by an advanced registered
 21 nurse practitioner; amending s. 456.44, F.S.; defining
 22 the term "registrant"; deleting an obsolete date;
 23 requiring advanced registered nurse practitioners and
 24 physician assistants who prescribe controlled
 25 substances for the treatment of certain pain to make a
 26 certain designation, comply with registration
 27 requirements, and follow specified standards of
 28 practice; providing applicability; amending ss.
 29 458.3265 and 459.0137, F.S.; limiting the authority to

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30 prescribe a controlled substance in a pain-management
 31 clinic only to a physician licensed under ch. 458 or
 32 ch. 459, F.S.; amending s. 458.347, F.S.; revising the
 33 required continuing education requirements for a
 34 physician assistant; requiring that a specified
 35 formulary limit the prescription of certain controlled
 36 substances by physician assistants as of a specified
 37 date; amending s. 464.003, F.S.; revising the term
 38 "advanced or specialized nursing practice"; deleting
 39 the joint committee established in the definition;
 40 amending s. 464.012, F.S.; requiring the Board of
 41 Nursing to establish a committee to recommend a
 42 formulary of controlled substances that may not be
 43 prescribed, or may be prescribed only on a limited
 44 basis, by an advanced registered nurse practitioner;
 45 specifying the membership of the committee; providing
 46 parameters for the formulary; requiring that the
 47 formulary be adopted by board rule; specifying the
 48 process for amending the formulary and imposing a
 49 burden of proof; limiting the formulary's application
 50 in certain instances; requiring the board to adopt the
 51 committee's initial recommendations by a specified
 52 date; authorizing an advanced registered nurse
 53 practitioner to prescribe, dispense, administer, or
 54 order drugs, including certain controlled substances
 55 under certain circumstances, as of a specified date;
 56 amending s. 464.013, F.S.; revising continuing
 57 education requirements for renewal of a license or
 58 certificate; amending s. 464.018, F.S.; specifying

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59 acts that constitute grounds for denial of a license
 60 or for disciplinary action against an advanced
 61 registered nurse practitioner; creating s. 627.42392,
 62 F.S.; defining the term "health insurer"; requiring
 63 that certain health insurers that do not already use a
 64 certain form use only a prior authorization form
 65 approved by the Financial Services Commission;
 66 requiring the commission to adopt by rule guidelines
 67 for such forms; amending s. 627.6131, F.S.;

68 prohibiting a health insurer from retroactively
 69 denying a claim under specified circumstances;
 70 amending s. 641.3155, F.S.; prohibiting a health
 71 maintenance organization from retroactively denying a
 72 claim under specified circumstances; amending s.
 73 893.02, F.S.; revising the term "practitioner" to
 74 include advanced registered nurse practitioners and
 75 physician assistants under the Florida Comprehensive
 76 Drug Abuse Prevention and Control Act if a certain
 77 requirement is met; amending s. 948.03, F.S.;

78 providing that possession of drugs or narcotics
 79 prescribed by an advanced registered nurse
 80 practitioner or a physician assistant does not violate
 81 a prohibition relating to the possession of drugs or
 82 narcotics during probation; amending ss. 458.348 and
 83 459.025, F.S.; conforming provisions to changes made
 84 by the act; reenacting ss. 458.331(10), 458.347(7)(g),
 85 459.015(10), 459.022(7)(f), and 465.0158(5)(b), F.S.,
 86 to incorporate the amendment made to s. 456.072, F.S.,
 87 in references thereto; reenacting ss. 456.072(1)(mm)

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88 and 466.02751, F.S., to incorporate the amendment made
 89 to s. 456.44, F.S., in references thereto; reenacting
 90 ss. 458.303, 458.3475(7)(b), 459.022(4)(e) and (9)(c),
 91 and 459.023(7)(b), F.S., to incorporate the amendment
 92 made to s. 458.347, F.S., in references thereto;
 93 reenacting s. 464.012(3)(c), F.S., to incorporate the
 94 amendment made to s. 464.003, F.S., in a reference
 95 thereto; reenacting ss. 456.041(1)(a), 458.348(1) and
 96 (2), and 459.025(1), F.S., to incorporate the
 97 amendment made to s. 464.012, F.S., in references
 98 thereto; reenacting s. 464.0205(7), F.S., to
 99 incorporate the amendment made to s. 464.013, F.S., in
 100 a reference thereto; reenacting ss. 320.0848(11),
 101 464.008(2), 464.009(5), and 464.0205(1)(b), (3), and
 102 (4)(b), F.S., to incorporate the amendment made to s.
 103 464.018, F.S., in references thereto; reenacting s.
 104 775.051, F.S., to incorporate the amendment made to s.
 105 893.02, F.S., in a reference thereto; reenacting ss.
 106 944.17(3)(a), 948.001(8), and 948.101(1)(e), F.S., to
 107 incorporate the amendment made to s. 948.03, F.S., in
 108 references thereto; providing effective dates.

109
 110 Be It Enacted by the Legislature of the State of Florida:

111
 112 Section 1. Subsection (7) of section 110.12315, Florida
 113 Statutes, is amended to read:

114 110.12315 Prescription drug program.—The state employees'
 115 prescription drug program is established. This program shall be
 116 administered by the Department of Management Services, according

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117 to the terms and conditions of the plan as established by the
 118 relevant provisions of the annual General Appropriations Act and
 119 implementing legislation, subject to the following conditions:

120 (7) The department shall establish the reimbursement
 121 schedule for prescription pharmaceuticals dispensed under the
 122 program. Reimbursement rates for a prescription pharmaceutical
 123 must be based on the cost of the generic equivalent drug if a
 124 generic equivalent exists, unless the physician, advanced
 125 registered nurse practitioner, or physician assistant
 126 prescribing the pharmaceutical clearly states on the
 127 prescription that the brand name drug is medically necessary or
 128 that the drug product is included on the formulary of drug
 129 products that may not be interchanged as provided in chapter
 130 465, in which case reimbursement must be based on the cost of
 131 the brand name drug as specified in the reimbursement schedule
 132 adopted by the department.

133 Section 2. Paragraph (c) of subsection (1) of section
 134 310.071, Florida Statutes, is amended, and subsection (3) of
 135 that section is republished, to read:

136 310.071 Deputy pilot certification.—

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

140 (c) Be in good physical and mental health, as evidenced by
 141 documentary proof of having satisfactorily passed a complete
 142 physical examination administered by a licensed physician within
 143 the preceding 6 months. The board shall adopt rules to establish
 144 requirements for passing the physical examination, which rules
 145 shall establish minimum standards for the physical or mental

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146 capabilities necessary to carry out the professional duties of a
 147 certificated deputy pilot. Such standards shall include zero
 148 tolerance for any controlled substance regulated under chapter
 149 893 unless that individual is under the care of a physician, an
 150 advanced registered nurse practitioner, or a physician assistant
 151 and that controlled substance was prescribed by that physician, an
 152 advanced registered nurse practitioner, or physician assistant.
 153 To maintain eligibility as a certificated deputy pilot, each
 154 certificated deputy pilot must annually provide documentary
 155 proof of having satisfactorily passed a complete physical
 156 examination administered by a licensed physician. The physician
 157 must know the minimum standards and certify that the
 158 certificateholder satisfactorily meets the standards. The
 159 standards for certificateholders shall include a drug test.

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

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

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175 310.073 State pilot licensing.—In addition to meeting other
176 requirements specified in this chapter, each applicant for
177 license as a state pilot must:

178 (3) Be in good physical and mental health, as evidenced by
179 documentary proof of having satisfactorily passed a complete
180 physical examination administered by a licensed physician within
181 the preceding 6 months. The board shall adopt rules to establish
182 requirements for passing the physical examination, which rules
183 shall establish minimum standards for the physical or mental
184 capabilities necessary to carry out the professional duties of a
185 licensed state pilot. Such standards shall include zero
186 tolerance for any controlled substance regulated under chapter
187 893 unless that individual is under the care of a physician, an
188 advanced registered nurse practitioner, or a physician assistant
189 and that controlled substance was prescribed by that physician,
190 advanced registered nurse practitioner, or physician assistant.
191 To maintain eligibility as a licensed state pilot, each licensed
192 state pilot must annually provide documentary proof of having
193 satisfactorily passed a complete physical examination
194 administered by a licensed physician. The physician must know
195 the minimum standards and certify that the licensee
196 satisfactorily meets the standards. The standards for licensees
197 shall include a drug test.

198 Section 4. Paragraph (b) of subsection (3) of section
199 310.081, Florida Statutes, is amended to read:

200 310.081 Department to examine and license state pilots and
201 certificate deputy pilots; vacancies.—

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

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204 (b) Are in good physical and mental health as evidenced by
205 documentary proof of having satisfactorily passed a physical
206 examination administered by a licensed physician or physician
207 assistant within each calendar year. The board shall adopt rules
208 to establish requirements for passing the physical examination,
209 which rules shall establish minimum standards for the physical
210 or mental capabilities necessary to carry out the professional
211 duties of a licensed state pilot or a certificated deputy pilot.
212 Such standards shall include zero tolerance for any controlled
213 substance regulated under chapter 893 unless that individual is
214 under the care of a physician, an advanced registered nurse
215 practitioner, or a physician assistant and that controlled
216 substance was prescribed by that physician, advanced registered
217 nurse practitioner, or physician assistant. To maintain
218 eligibility as a certificated deputy pilot or licensed state
219 pilot, each certificated deputy pilot or licensed state pilot
220 must annually provide documentary proof of having satisfactorily
221 passed a complete physical examination administered by a
222 licensed physician. The physician must know the minimum
223 standards and certify that the certificateholder or licensee
224 satisfactorily meets the standards. The standards for
225 certificateholders and for licensees shall include a drug test.

226
227 Upon resignation or in the case of disability permanently
228 affecting a pilot's ability to serve, the state license or
229 certificate issued under this chapter shall be revoked by the
230 department.

231 Section 5. Section 383.336, Florida Statutes, is repealed.

232 Section 6. Section 395.1051, Florida Statutes, is amended

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233 to read:

234 395.1051 Duty to notify patients and physicians.-

235 (1) An appropriately trained person designated by each
 236 licensed facility shall inform each patient, or an individual
 237 identified pursuant to s. 765.401(1), in person about adverse
 238 incidents that result in serious harm to the patient.
 239 Notification of outcomes of care ~~which that~~ result in harm to
 240 the patient under this section ~~does shall~~ not constitute an
 241 acknowledgment or admission of liability and may not, ~~nor can it~~
 242 be introduced as evidence.

243 (2) A hospital shall notify each obstetrical physician who
 244 has privileges at the hospital at least 90 days before the
 245 hospital closes its obstetrical department or ceases to provide
 246 obstetrical services.

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

249 456.072 Grounds for discipline; penalties; enforcement.-

250 (7) Notwithstanding subsection (2), upon a finding that a
 251 physician has prescribed or dispensed a controlled substance, or
 252 caused a controlled substance to be prescribed or dispensed, in
 253 a manner that violates the standard of practice set forth in s.
 254 458.331(1)(q) or (t), s. 459.015(1)(t) or (x), s. 461.013(1)(o)
 255 or (s), or s. 466.028(1)(p) or (x), or that an advanced
 256 registered nurse practitioner has prescribed or dispensed a
 257 controlled substance, or caused a controlled substance to be
 258 prescribed or dispensed, in a manner that violates the standard
 259 of practice set forth in s. 464.018(1)(n) or (p)6., the
 260 physician or advanced registered nurse practitioner shall be
 261 suspended for a period of not less than 6 months and pay a fine

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262 of not less than \$10,000 per count. Repeated violations shall
 263 result in increased penalties.

264 Section 8. Section 456.44, Florida Statutes, is amended to
 265 read:

266 456.44 Controlled substance prescribing.-

267 (1) DEFINITIONS.-~~As used in this section, the term:~~

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

276 (b) "Adverse incident" means any incident set forth in s.
 277 458.351(4)(a)-(e) or s. 459.026(4)(a)-(e).

278 (c) "Board-certified pain management physician" means a
 279 physician who possesses board certification in pain medicine by
 280 the American Board of Pain Medicine, board certification by the
 281 American Board of Interventional Pain Physicians, or board
 282 certification or subcertification in pain management or pain
 283 medicine by a specialty board recognized by the American
 284 Association of Physician Specialists or the American Board of
 285 Medical Specialties or an osteopathic physician who holds a
 286 certificate in Pain Management by the American Osteopathic
 287 Association.

288 (d) "Board eligible" means successful completion of an
 289 anesthesia, physical medicine and rehabilitation, rheumatology,
 290 or neurology residency program approved by the Accreditation

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291 Council for Graduate Medical Education or the American
 292 Osteopathic Association for a period of 6 years from successful
 293 completion of such residency program.

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

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

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

303 (2) REGISTRATION.—~~Effective January 1, 2012,~~ A physician
 304 licensed under chapter 458, chapter 459, chapter 461, or chapter
 305 466, a physician assistant licensed under chapter 458 or chapter
 306 459, or an advanced registered nurse practitioner certified
 307 under part I of chapter 464 who prescribes any controlled
 308 substance, listed in Schedule II, Schedule III, or Schedule IV
 309 as defined in s. 893.03, for the treatment of chronic
 310 nonmalignant pain, must:

311 (a) Designate himself or herself as a controlled substance
 312 prescribing practitioner on his or her ~~the physician's~~
 313 practitioner profile.

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

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

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

339 (b) Each registrant must develop a written individualized
 340 treatment plan for each patient. The treatment plan shall state
 341 objectives that will be used to determine treatment success,
 342 such as pain relief and improved physical and psychosocial
 343 function, and shall indicate if any further diagnostic
 344 evaluations or other treatments are planned. After treatment
 345 begins, the registrant ~~physician~~ shall adjust drug therapy to
 346 the individual medical needs of each patient. Other treatment
 347 modalities, including a rehabilitation program, shall be
 348 considered depending on the etiology of the pain and the extent

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349 to which the pain is associated with physical and psychosocial
350 impairment. The interdisciplinary nature of the treatment plan
351 shall be documented.

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

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

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

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

370 (d) The patient shall be seen by the registrant physician
371 at regular intervals, not to exceed 3 months, to assess the
372 efficacy of treatment, ensure that controlled substance therapy
373 remains indicated, evaluate the patient's progress toward
374 treatment objectives, consider adverse drug effects, and review
375 the etiology of the pain. Continuation or modification of
376 therapy shall depend on the registrant's physician's evaluation
377 of the patient's progress. If treatment goals are not being

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378 achieved, despite medication adjustments, the registrant
379 ~~physician~~ shall reevaluate the appropriateness of continued
380 treatment. The registrant physician shall monitor patient
381 compliance in medication usage, related treatment plans,
382 controlled substance agreements, and indications of substance
383 abuse or diversion at a minimum of 3-month intervals.

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

394 (f) A registrant physician ~~registered under this section~~
395 must maintain accurate, current, and complete records that are
396 accessible and readily available for review and comply with the
397 requirements of this section, the applicable practice act, and
398 applicable board rules. The medical records must include, but
399 are not limited to:

400 1. The complete medical history and a physical examination,
401 including history of drug abuse or dependence.

402 2. Diagnostic, therapeutic, and laboratory results.

403 3. Evaluations and consultations.

404 4. Treatment objectives.

405 5. Discussion of risks and benefits.

406 6. Treatments.

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407 7. Medications, including date, type, dosage, and quantity
 408 prescribed.

409 8. Instructions and agreements.

410 9. Periodic reviews.

411 10. Results of any drug testing.

412 11. A photocopy of the patient's government-issued photo
 413 identification.

414 12. If a written prescription for a controlled substance is
 415 given to the patient, a duplicate of the prescription.

416 13. The registrant's ~~physician's~~ full name presented in a
 417 legible manner.

418 (g) A registrant shall immediately refer patients with
 419 signs or symptoms of substance abuse ~~shall be immediately~~
 420 ~~referred~~ to a board-certified pain management physician, an
 421 addiction medicine specialist, or a mental health addiction
 422 facility as it pertains to drug abuse or addiction unless the
 423 registrant is a physician who is board-certified or board-
 424 eligible in pain management. Throughout the period of time
 425 before receiving the consultant's report, a prescribing
 426 registrant ~~physician~~ shall clearly and completely document
 427 medical justification for continued treatment with controlled
 428 substances and those steps taken to ensure medically appropriate
 429 use of controlled substances by the patient. Upon receipt of the
 430 consultant's written report, the prescribing registrant
 431 ~~physician~~ shall incorporate the consultant's recommendations for
 432 continuing, modifying, or discontinuing controlled substance
 433 therapy. The resulting changes in treatment shall be
 434 specifically documented in the patient's medical record.
 435 Evidence or behavioral indications of diversion shall be

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436 followed by discontinuation of controlled substance therapy, and
 437 the patient shall be discharged, and all results of testing and
 438 actions taken by the registrant ~~physician~~ shall be documented in
 439 the patient's medical record.

440

441 This subsection does not apply to a board-eligible or board-
 442 certified anesthesiologist, physiatrist, rheumatologist, or
 443 neurologist, or to a board-certified physician who has surgical
 444 privileges at a hospital or ambulatory surgery center and
 445 primarily provides surgical services. This subsection does not
 446 apply to a board-eligible or board-certified medical specialist
 447 who has also completed a fellowship in pain medicine approved by
 448 the Accreditation Council for Graduate Medical Education or the
 449 American Osteopathic Association, or who is board eligible or
 450 board certified in pain medicine by the American Board of Pain
 451 Medicine, the American Board of Interventional Pain Physicians,
 452 the American Association of Physician Specialists, or a board
 453 approved by the American Board of Medical Specialties or the
 454 American Osteopathic Association and performs interventional
 455 pain procedures of the type routinely billed using surgical
 456 codes. This subsection does not apply to a registrant ~~physician~~
 457 who prescribes medically necessary controlled substances for a
 458 patient during an inpatient stay in a hospital licensed under
 459 chapter 395.

460 Section 9. Paragraph (b) of subsection (2) of section
 461 458.3265, Florida Statutes, is amended to read:

462 458.3265 Pain-management clinics.—

463 (2) PHYSICIAN RESPONSIBILITIES.—These responsibilities
 464 apply to any physician who provides professional services in a

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465 pain-management clinic that is required to be registered in
466 subsection (1).

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

473 Section 10. Paragraph (b) of subsection (2) of section
474 459.0137, Florida Statutes, is amended to read:

475 459.0137 Pain-management clinics.—

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

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

486 Section 11. Paragraph (e) of subsection (4) of section
487 458.347, Florida Statutes, is amended, and paragraph (c) of
488 subsection (9) of that section is republished, to read:

489 458.347 Physician assistants.—

490 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

491 (e) A supervisory physician may delegate to a fully
492 licensed physician assistant the authority to prescribe or
493 dispense any medication used in the supervisory physician's

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494 practice unless such medication is listed on the formulary
495 created pursuant to paragraph (f). A fully licensed physician
496 assistant may only prescribe or dispense such medication under
497 the following circumstances:

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

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

510 3. The physician assistant must file with the department a
511 signed affidavit that he or she has completed a minimum of 10
512 continuing medical education hours in the specialty practice in
513 which the physician assistant has prescriptive privileges with
514 each licensure renewal application. Three of the 10 hours must
515 consist of a continuing education course on the safe and
516 effective prescribing of controlled substance medications which
517 is offered by a statewide professional association of physicians
518 in this state accredited to provide educational activities
519 designated for the American Medical Association Physician's
520 Recognition Award Category 1 credit or designated by the
521 American Academy of Physician Assistants as a Category 1 credit.

522 4. The department may issue a prescriber number to the

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523 physician assistant granting authority for the prescribing of
 524 medicinal drugs authorized within this paragraph upon completion
 525 of the foregoing requirements. The physician assistant shall not
 526 be required to independently register pursuant to s. 465.0276.

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

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

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

542 (c) The council shall:

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

545 2. Develop all rules regulating the use of physician
 546 assistants by physicians under this chapter and chapter 459,
 547 except for rules relating to the formulary developed under
 548 paragraph (4) (f). The council shall also develop rules to ensure
 549 that the continuity of supervision is maintained in each
 550 practice setting. The boards shall consider adopting a proposed
 551 rule developed by the council at the regularly scheduled meeting

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552 immediately following the submission of the proposed rule by the
 553 council. A proposed rule submitted by the council may not be
 554 adopted by either board unless both boards have accepted and
 555 approved the identical language contained in the proposed rule.
 556 The language of all proposed rules submitted by the council must
 557 be approved by both boards pursuant to each respective board's
 558 guidelines and standards regarding the adoption of proposed
 559 rules. If either board rejects the council's proposed rule, that
 560 board must specify its objection to the council with
 561 particularity and include any recommendations it may have for
 562 the modification of the proposed rule.

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

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

568 Section 12. Effective January 1, 2017, paragraph (f) of
 569 subsection (4) of section 458.347, Florida Statutes, is amended
 570 to read:

571 458.347 Physician assistants.—

572 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

573 (f)1. The council shall establish a formulary of medicinal
 574 drugs that a fully licensed physician assistant having
 575 prescribing authority under this section or s. 459.022 may not
 576 prescribe. The formulary must include ~~controlled substances as~~
 577 ~~defined in chapter 893,~~ general anesthetics, and radiographic
 578 contrast materials, and must limit the prescription of Schedule
 579 II controlled substances as listed in s. 893.03 to a 7-day
 580 supply. The formulary must also restrict the prescribing of

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581 psychiatric mental health controlled substances for children
 582 younger than 18 years of age.

583 2. In establishing the formulary, the council shall consult
 584 with a pharmacist licensed under chapter 465, but not licensed
 585 under this chapter or chapter 459, who shall be selected by the
 586 State Surgeon General.

587 3. Only the council shall add to, delete from, or modify
 588 the formulary. Any person who requests an addition, a deletion,
 589 or a modification of a medicinal drug listed on such formulary
 590 has the burden of proof to show cause why such addition,
 591 deletion, or modification should be made.

592 4. The boards shall adopt the formulary required by this
 593 paragraph, and each addition, deletion, or modification to the
 594 formulary, by rule. Notwithstanding any provision of chapter 120
 595 to the contrary, the formulary rule shall be effective 60 days
 596 after the date it is filed with the Secretary of State. Upon
 597 adoption of the formulary, the department shall mail a copy of
 598 such formulary to each fully licensed physician assistant having
 599 prescribing authority under this section or s. 459.022, and to
 600 each pharmacy licensed by the state. The boards shall establish,
 601 by rule, a fee not to exceed \$200 to fund the provisions of this
 602 paragraph and paragraph (e).

603 Section 13. Subsection (2) of section 464.003, Florida
 604 Statutes, is amended to read:

605 464.003 Definitions.—As used in this part, the term:

606 (2) "Advanced or specialized nursing practice" means, in
 607 addition to the practice of professional nursing, the
 608 performance of advanced-level nursing acts approved by the board
 609 which, by virtue of postbasic specialized education, training,

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610 and experience, are appropriately performed by an advanced
 611 registered nurse practitioner. Within the context of advanced or
 612 specialized nursing practice, the advanced registered nurse
 613 practitioner may perform acts of nursing diagnosis and nursing
 614 treatment of alterations of the health status. The advanced
 615 registered nurse practitioner may also perform acts of medical
 616 diagnosis and treatment, prescription, and operation as
 617 authorized within the framework of an established supervisory
 618 protocol ~~which are identified and approved by a joint committee~~
 619 ~~composed of three members appointed by the Board of Nursing, two~~
 620 ~~of whom must be advanced registered nurse practitioners; three~~
 621 ~~members appointed by the Board of Medicine, two of whom must~~
 622 ~~have had work experience with advanced registered nurse~~
 623 ~~practitioners; and the State Surgeon General or the State~~
 624 ~~Surgeon General's designee. Each committee member appointed by a~~
 625 ~~board shall be appointed to a term of 4 years unless a shorter~~
 626 ~~term is required to establish or maintain staggered terms. The~~
 627 ~~Board of Nursing shall adopt rules authorizing the performance~~
 628 ~~of any such acts approved by the joint committee. Unless~~
 629 ~~otherwise specified by the joint committee, such acts must be~~
 630 ~~performed under the general supervision of a practitioner~~
 631 ~~licensed under chapter 458, chapter 459, or chapter 466 within~~
 632 ~~the framework of standing protocols which identify the medical~~
 633 ~~acts to be performed and the conditions for their performance.~~
 634 The department may, by rule, require that a copy of the protocol
 635 be filed with the department along with the notice required by
 636 s. 458.348.

637 Section 14. Section 464.012, Florida Statutes, is amended
 638 to read:

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639 464.012 Certification of advanced registered nurse
640 practitioners; fees; controlled substance prescribing.-

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

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

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

658 (c) Graduation from a program leading to a master's degree
659 in a nursing clinical specialty area with preparation in
660 specialized practitioner skills. For applicants graduating on or
661 after October 1, 1998, graduation from a master's degree program
662 shall be required for initial certification as a nurse
663 practitioner under paragraph (4) (c). For applicants graduating
664 on or after October 1, 2001, graduation from a master's degree
665 program shall be required for initial certification as a
666 registered nurse anesthetist under paragraph (4) (a).

667 (2) The board shall provide by rule the appropriate

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668 requirements for advanced registered nurse practitioners in the
669 categories of certified registered nurse anesthetist, certified
670 nurse midwife, and nurse practitioner.

671 (3) An advanced registered nurse practitioner shall perform
672 those functions authorized in this section within the framework
673 of an established protocol that is filed with the board upon
674 biennial license renewal and within 30 days after entering into
675 a supervisory relationship with a physician or changes to the
676 protocol. The board shall review the protocol to ensure
677 compliance with applicable regulatory standards for protocols.
678 The board shall refer to the department licensees submitting
679 protocols that are not compliant with the regulatory standards
680 for protocols. A practitioner currently licensed under chapter
681 458, chapter 459, or chapter 466 shall maintain supervision for
682 directing the specific course of medical treatment. Within the
683 established framework, an advanced registered nurse practitioner
684 may:

685 (a) Monitor and alter drug therapies.

686 (b) Initiate appropriate therapies for certain conditions.

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

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

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

694 (a) The certified registered nurse anesthetist may, to the
695 extent authorized by established protocol approved by the
696 medical staff of the facility in which the anesthetic service is

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697 performed, perform any or all of the following:

- 698 1. Determine the health status of the patient as it relates
699 to the risk factors and to the anesthetic management of the
700 patient through the performance of the general functions.
- 701 2. Based on history, physical assessment, and supplemental
702 laboratory results, determine, with the consent of the
703 responsible physician, the appropriate type of anesthesia within
704 the framework of the protocol.
- 705 3. Order under the protocol preanesthetic medication.
- 706 4. Perform under the protocol procedures commonly used to
707 render the patient insensible to pain during the performance of
708 surgical, obstetrical, therapeutic, or diagnostic clinical
709 procedures. These procedures include ordering and administering
710 regional, spinal, and general anesthesia; inhalation agents and
711 techniques; intravenous agents and techniques; and techniques of
712 hypnosis.
- 713 5. Order or perform monitoring procedures indicated as
714 pertinent to the anesthetic health care management of the
715 patient.
- 716 6. Support life functions during anesthesia health care,
717 including induction and intubation procedures, the use of
718 appropriate mechanical supportive devices, and the management of
719 fluid, electrolyte, and blood component balances.
- 720 7. Recognize and take appropriate corrective action for
721 abnormal patient responses to anesthesia, adjunctive medication,
722 or other forms of therapy.
- 723 8. Recognize and treat a cardiac arrhythmia while the
724 patient is under anesthetic care.
- 725 9. Participate in management of the patient while in the

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726 postanesthesia recovery area, including ordering the
727 administration of fluids and drugs.

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

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

- 736 1. Perform superficial minor surgical procedures.
- 737 2. Manage the patient during labor and delivery to include
738 amniotomy, episiotomy, and repair.
- 739 3. Order, initiate, and perform appropriate anesthetic
740 procedures.
- 741 4. Perform postpartum examination.
- 742 5. Order appropriate medications.
- 743 6. Provide family-planning services and well-woman care.
- 744 7. Manage the medical care of the normal obstetrical
745 patient and the initial care of a newborn patient.
- 746 (c) The nurse practitioner may perform any or all of the
747 following acts within the framework of established protocol:
- 748 1. Manage selected medical problems.
- 749 2. Order physical and occupational therapy.
- 750 3. Initiate, monitor, or alter therapies for certain
751 uncomplicated acute illnesses.
- 752 4. Monitor and manage patients with stable chronic
753 diseases.
- 754 5. Establish behavioral problems and diagnosis and make

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755 treatment recommendations.

756 (5) The board shall certify, and the department shall issue
757 a certificate to, any nurse meeting the qualifications in this
758 section. The board shall establish an application fee not to
759 exceed \$100 and a biennial renewal fee not to exceed \$50. The
760 board is authorized to adopt such other rules as are necessary
761 to implement the provisions of this section.

762 (6) (a) The board shall establish a committee to recommend a
763 formulary of controlled substances that an advanced registered
764 nurse practitioner may not prescribe or may prescribe only for
765 specific uses or in limited quantities. The committee must
766 consist of three advanced registered nurse practitioners
767 licensed under this section, recommended by the board; three
768 physicians licensed under chapter 458 or chapter 459 who have
769 work experience with advanced registered nurse practitioners,
770 recommended by the Board of Medicine; and a pharmacist licensed
771 under chapter 465 who is a doctor of pharmacy, recommended by
772 the Board of Pharmacy. The committee may recommend an evidence-
773 based formulary applicable to all advanced registered nurse
774 practitioners which is limited by specialty certification, is
775 limited to approved uses of controlled substances, or is subject
776 to other similar restrictions the committee finds are necessary
777 to protect the health, safety, and welfare of the public. The
778 formulary must restrict the prescribing of psychiatric mental
779 health controlled substances for children younger 18 years of
780 age to advanced registered nurse practitioners who also are
781 psychiatric nurses as defined in s. 394.455. The formulary must
782 also limit the prescribing of Schedule II controlled substances
783 as listed in s. 893.03 to a 7-day supply, except that such

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784 restriction does not apply to controlled substances that are
785 psychiatric medications prescribed by psychiatric nurses as
786 defined in s. 394.455.

787 (b) The board shall adopt by rule the recommended formulary
788 and any revision to the formulary which it finds is supported by
789 evidence-based clinical findings presented by the Board of
790 Medicine, the Board of Osteopathic Medicine, or the Board of
791 Dentistry.

792 (c) The formulary required under this subsection does not
793 apply to a controlled substance that is dispensed for
794 administration pursuant to an order, including an order for
795 medication authorized by subparagraph (4) (a)3., subparagraph
796 (4) (a)4., or subparagraph (4) (a)9.

797 (d) The board shall adopt the committee's initial
798 recommendation no later than October 31, 2016.

799 Section 15. Effective January 1, 2017, subsection (3) of
800 section 464.012, Florida Statutes, as amended by this act, is
801 amended to read:

802 464.012 Certification of advanced registered nurse
803 practitioners; fees; controlled substance prescribing.-

804 (3) An advanced registered nurse practitioner shall perform
805 those functions authorized in this section within the framework
806 of an established protocol that is filed with the board upon
807 biennial license renewal and within 30 days after entering into
808 a supervisory relationship with a physician or changes to the
809 protocol. The board shall review the protocol to ensure
810 compliance with applicable regulatory standards for protocols.
811 The board shall refer to the department licensees submitting
812 protocols that are not compliant with the regulatory standards

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813 for protocols. A practitioner currently licensed under chapter
814 458, chapter 459, or chapter 466 shall maintain supervision for
815 directing the specific course of medical treatment. Within the
816 established framework, an advanced registered nurse practitioner
817 may:

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

825 (b) Initiate appropriate therapies for certain conditions.

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

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

830 Section 16. Subsection (3) of section 464.013, Florida
831 Statutes, is amended to read:

832 464.013 Renewal of license or certificate.—

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

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

841 (b) Notwithstanding the exemption in paragraph (a), as part

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842 of the maximum 30 hours of continuing education hours required
843 under this subsection, advanced registered nurse practitioners
844 certified under s. 464.012 must complete at least 3 hours of
845 continuing education on the safe and effective prescription of
846 controlled substances. Such continuing education courses must be
847 offered by a statewide professional association of physicians in
848 this state accredited to provide educational activities
849 designated for the American Medical Association Physician's
850 Recognition Award Category 1 credit, the American Nurses
851 Credentialing Center, or the American Association of Nurse
852 Practitioners and may be offered in a distance learning format.

853 Section 17. Paragraph (p) is added to subsection (1) of
854 section 464.018, Florida Statutes, and subsection (2) of that
855 section is republished, to read:

856 464.018 Disciplinary actions.—

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

859 (p) For an advanced registered nurse practitioner:

860 1. Presigning blank prescription forms.

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

863 3. Prescribing, ordering, dispensing, administering,
864 supplying, selling, or giving a drug that is an amphetamine, a
865 sympathomimetic amine drug, or a compound designated in s.
866 893.03(2) as a Schedule II controlled substance, to or for any
867 person except for:

868 a. The treatment of narcolepsy; hyperkinesis; behavioral
869 syndrome in children characterized by the developmentally
870 inappropriate symptoms of moderate to severe distractibility,

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871 short attention span, hyperactivity, emotional lability, and
 872 impulsivity; or drug-induced brain dysfunction.

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

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

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

889 5. Promoting or advertising on any prescription form a
 890 community pharmacy unless the form also states: "This
 891 prescription may be filled at any pharmacy of your choice."

892 6. Prescribing, dispensing, administering, mixing, or
 893 otherwise preparing a legend drug, including a controlled
 894 substance, other than in the course of his or her professional
 895 practice. For the purposes of this subparagraph, it is legally
 896 presumed that prescribing, dispensing, administering, mixing, or
 897 otherwise preparing legend drugs, including all controlled
 898 substances, inappropriately or in excessive or inappropriate
 899 quantities is not in the best interest of the patient and is not

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900 in the course of the advanced registered nurse practitioner's
 901 professional practice, without regard to his or her intent.

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

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

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

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

917 (2) The board may enter an order denying licensure or
 918 imposing any of the penalties in s. 456.072(2) against any
 919 applicant for licensure or licensee who is found guilty of
 920 violating any provision of subsection (1) of this section or who
 921 is found guilty of violating any provision of s. 456.072(1).

922 Section 18. Section 627.42392, Florida Statutes, is created
 923 to read:

924 627.42392 Prior authorization.—

925 (1) As used in this section, the term "health insurer"
 926 means an authorized insurer offering health insurance as defined
 927 in s. 624.603, a managed care plan as defined in s. 409.901(13),
 928 or a health maintenance organization as defined in s.

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929 641.19(12).

930 (2) Notwithstanding any other provision of law, in order to
 931 establish uniformity in the submission of prior authorization
 932 forms on or after January 1, 2017, a health insurer, or a
 933 pharmacy benefits manager on behalf of the health insurer, which
 934 does not use an electronic prior authorization form for its
 935 contracted providers shall use only the prior authorization form
 936 that has been approved by the Financial Services Commission to
 937 obtain a prior authorization for a medical procedure, course of
 938 treatment, or prescription drug benefit. Such form may not
 939 exceed two pages in length, excluding any instructions or
 940 guiding documentation.

941 (3) The Financial Services Commission shall adopt by rule
 942 guidelines for all prior authorization forms which ensure the
 943 general uniformity of such forms.

944 Section 19. Subsection (11) of section 627.6131, Florida
 945 Statutes, is amended to read:

946 627.6131 Payment of claims.—

947 (11) A health insurer may not retroactively deny a claim
 948 because of insured ineligibility:

949 (a) At any time, if the health insurer verified the
 950 eligibility of an insured at the time of treatment and provided
 951 an authorization number.

952 (b) More than 1 year after the date of payment of the
 953 claim.

954 Section 20. Subsection (10) of section 641.3155, Florida
 955 Statutes, is amended to read:

956 641.3155 Prompt payment of claims.—

957 (10) A health maintenance organization may not

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958 retroactively deny a claim because of subscriber ineligibility:

959 (a) At any time, if the health maintenance organization
 960 verified the eligibility of an insured at the time of treatment
 961 and provided an authorization number.

962 (b) More than 1 year after the date of payment of the
 963 claim.

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

966 893.02 Definitions.—The following words and phrases as used
 967 in this chapter shall have the following meanings, unless the
 968 context otherwise requires:

969 (21) "Practitioner" means a physician licensed under
 970 ~~pursuant to~~ chapter 458, a dentist licensed under pursuant to
 971 chapter 466, a veterinarian licensed under pursuant to chapter
 972 474, an osteopathic physician licensed under pursuant to chapter
 973 459, an advanced registered nurse practitioner certified under
 974 chapter 464, a naturopath licensed under pursuant to chapter
 975 462, a certified optometrist licensed under pursuant to chapter
 976 463, ~~or a~~ podiatric physician licensed under pursuant to chapter
 977 461, or a physician assistant licensed under chapter 458 or
 978 chapter 459, provided such practitioner holds a valid federal
 979 controlled substance registry number.

980 Section 22. Paragraph (n) of subsection (1) of section
 981 948.03, Florida Statutes, is amended to read:

982 948.03 Terms and conditions of probation.—

983 (1) The court shall determine the terms and conditions of
 984 probation. Conditions specified in this section do not require
 985 oral pronouncement at the time of sentencing and may be
 986 considered standard conditions of probation. These conditions

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987 may include among them the following, that the probationer or
988 offender in community control shall:

989 (n) Be prohibited from using intoxicants to excess or
990 possessing any drugs or narcotics unless prescribed by a
991 physician, an advanced registered nurse practitioner, or a
992 physician assistant. The probationer or community controllee may
993 ~~shall~~ not knowingly visit places where intoxicants, drugs, or
994 other dangerous substances are unlawfully sold, dispensed, or
995 used.

996 Section 23. Paragraph (a) of subsection (1) and subsection
997 (2) of section 458.348, Florida Statutes, are amended to read:

998 458.348 Formal supervisory relationships, standing orders,
999 and established protocols; notice; standards.—

1000 (1) NOTICE.—

1001 (a) When a physician enters into a formal supervisory
1002 relationship or standing orders with an emergency medical
1003 technician or paramedic licensed pursuant to s. 401.27, which
1004 relationship or orders contemplate the performance of medical
1005 acts, or when a physician enters into an established protocol
1006 with an advanced registered nurse practitioner, which protocol
1007 contemplates the performance of medical ~~acts identified and~~
1008 ~~approved by the joint committee pursuant to s. 464.003(2) or~~
1009 acts set forth in s. 464.012(3) and (4), the physician shall
1010 submit notice to the board. The notice shall contain a statement
1011 in substantially the following form:

1012
1013 I, ...(name and professional license number of
1014 physician)..., of ...(address of physician)... have hereby
1015 entered into a formal supervisory relationship, standing orders,

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

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1016 or an established protocol with ...(number of persons)...
1017 emergency medical technician(s), ...(number of persons)...
1018 paramedic(s), or ...(number of persons)... advanced registered
1019 nurse practitioner(s).
1020

1021 (2) ESTABLISHMENT OF STANDARDS BY JOINT COMMITTEE.—The
1022 joint committee ~~created under s. 464.003(2)~~ shall determine
1023 minimum standards for the content of established protocols
1024 pursuant to which an advanced registered nurse practitioner may
1025 perform medical acts ~~identified and approved by the joint~~
1026 ~~committee pursuant to s. 464.003(2)~~ or acts set forth in s.
1027 464.012(3) and (4) and shall determine minimum standards for
1028 supervision of such acts by the physician, unless the joint
1029 committee determines that any act set forth in s. 464.012(3) or
1030 (4) is not a medical act. Such standards shall be based on risk
1031 to the patient and acceptable standards of medical care and
1032 shall take into account the special problems of medically
1033 underserved areas. The standards developed by the joint
1034 committee shall be adopted as rules by the Board of Nursing and
1035 the Board of Medicine for purposes of carrying out their
1036 responsibilities pursuant to part I of chapter 464 and this
1037 chapter, respectively, but neither board shall have disciplinary
1038 powers over the licensees of the other board.

1039 Section 24. Paragraph (a) of subsection (1) of section
1040 459.025, Florida Statutes, is amended to read:

1041 459.025 Formal supervisory relationships, standing orders,
1042 and established protocols; notice; standards.—

1043 (1) NOTICE.—

1044 (a) When an osteopathic physician enters into a formal

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

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1045 supervisory relationship or standing orders with an emergency
 1046 medical technician or paramedic licensed pursuant to s. 401.27,
 1047 which relationship or orders contemplate the performance of
 1048 medical acts, or when an osteopathic physician enters into an
 1049 established protocol with an advanced registered nurse
 1050 practitioner, which protocol contemplates the performance of
 1051 medical acts ~~identified and approved by the joint committee~~
 1052 ~~pursuant to s. 464.003(2)~~ or acts set forth in s. 464.012(3) and
 1053 (4), the osteopathic physician shall submit notice to the board.
 1054 The notice must contain a statement in substantially the
 1055 following form:

1057 I, ... (name and professional license number of osteopathic
 1058 physician) ..., of ... (address of osteopathic physician) ... have
 1059 hereby entered into a formal supervisory relationship, standing
 1060 orders, or an established protocol with ... (number of
 1061 persons) ... emergency medical technician(s), ... (number of
 1062 persons) ... paramedic(s), or ... (number of persons) ... advanced
 1063 registered nurse practitioner(s).

1064 Section 25. Subsection (10) of s. 458.331, paragraph (g) of
 1065 subsection (7) of s. 458.347, subsection (10) of s. 459.015,
 1066 paragraph (f) of subsection (7) of s. 459.022, and paragraph (b)
 1067 of subsection (5) of s. 465.0158, Florida Statutes, are
 1068 reenacted for the purpose of incorporating the amendment made by
 1069 this act to s. 456.072, Florida Statutes, in references thereto.

1070 Section 26. Paragraph (mm) of subsection (1) of s. 456.072
 1071 and s. 466.02751, Florida Statutes, are reenacted for the
 1072 purpose of incorporating the amendment made by this act to s.
 1073 456.44, Florida Statutes, in references thereto.

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1074 Section 27. Section 458.303, paragraph (b) of subsection
 1075 (7) of s. 458.3475, paragraph (e) of subsection (4) and
 1076 paragraph (c) of subsection (9) of s. 459.022, and paragraph (b)
 1077 of subsection (7) of s. 459.023, Florida Statutes, are reenacted
 1078 for the purpose of incorporating the amendment made by this act
 1079 to s. 458.347, Florida Statutes, in references thereto.

1080 Section 28. Paragraph (c) of subsection (3) of s. 464.012,
 1081 Florida Statutes, is reenacted for the purpose of incorporating
 1082 the amendment made by this act to s. 464.003, Florida Statutes,
 1083 in a reference thereto.

1084 Section 29. Paragraph (a) of subsection (1) of s. 456.041,
 1085 subsections (1) and (2) of s. 458.348, and subsection (1) of s.
 1086 459.025, Florida Statutes, are reenacted for the purpose of
 1087 incorporating the amendment made by this act to s. 464.012,
 1088 Florida Statutes, in references thereto.

1089 Section 30. Subsection (7) of s. 464.0205, Florida
 1090 Statutes, is reenacted for the purpose of incorporating the
 1091 amendment made by this act to s. 464.013, Florida Statutes, in a
 1092 reference thereto.

1093 Section 31. Subsection (11) of s. 320.0848, subsection (2)
 1094 of s. 464.008, subsection (5) of s. 464.009, and paragraph (b)
 1095 of subsection (1), subsection (3), and paragraph (b) of
 1096 subsection (4) of s. 464.0205, Florida Statutes, are reenacted
 1097 for the purpose of incorporating the amendment made by this act
 1098 to s. 464.018, Florida Statutes, in references thereto.

1099 Section 32. Section 775.051, Florida Statutes, is reenacted
 1100 for the purpose of incorporating the amendment made by this act
 1101 to s. 893.02, Florida Statutes, in a reference thereto.

1102 Section 33. Paragraph (a) of subsection (3) of s. 944.17,

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1103 subsection (8) of s. 948.001, and paragraph (e) of subsection
1104 (1) of s. 948.101, Florida Statutes, are reenacted for the
1105 purpose of incorporating the amendment made by this act to s.
1106 948.03, Florida Statutes, in references thereto.

1107 Section 34. Except as otherwise expressly provided in this
1108 act, this act shall take effect upon becoming a law.



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 #676** relating to Health Care, and **Senate Bill 692**, relating to the Practice of Pharmacy be placed on the:

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

As you know, Senate Bill 676 is very important to me, and I would appreciate your hearing the bill at our meeting in December.

Thank you for considering my request.

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

Senator Denise Grimsley
Florida Senate, District 21

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/11/15
Meeting Date

676
Bill Number (if applicable)

Topic Health Care

Amendment Barcode (if applicable)

Name Melody Arnold

Job Title Govt Affairs Mgr

Address 307 West Park Ave

Phone 850-224-3907

Street
City TLH State FL Zip 32301

Email marnold@fhca.org

Speaking: For Against Information

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

Representing Florida Health Care Assoc.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/11/16

Meeting Date

676

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name Jim Lirin

Job Title

Address 315 S. Cahoon St. Street

Phone 222 5702

City State Zip

Email

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

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

Representing Fla. Assoc. of Nurse Anesthetists

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.

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THE FLORIDA SENATE

APPEARANCE RECORD

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

1/11/16
Meeting Date

676
Bill Number (if applicable)

Topic Health care

Amendment Barcode (if applicable)

Name Mary Thomas

Job Title Ass. Gen. 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.

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THE FLORIDA SENATE
APPEARANCE RECORD

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

1/11/14
Meeting Date

676
Bill Number (if applicable)

Topic Health Care

Amendment Barcode (if applicable)

Name Jack McRay

Job Title Advocacy manager

Address 200 W College Av, Suite 204

Phone 850-228-7298

Street

Tallahassee

FL

32301

City

State

Zip

Email jmcray@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.

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SEN HEALTH POLICY
412-K
4:00-6:00

THE FLORIDA SENATE APPEARANCE RECORD

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

1-11-2016

Meeting Date

SB 676

Bill Number (if applicable)

Topic HEALTH CARE

Amendment Barcode (if applicable)

Name STEPHEN R. WIND

Job Title EXECUTIVE DIRECTOR

Address 2544 BLAIRSTONE PINES DR

Phone 878-7364

Street

TALLAHASSEE

City

FL

State

32301

Zip

Email _____

Speaking: For Against Information

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

Representing FLORIDA OSTEOPATHIC MEDICAL ASSOCIATION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

1-11-16
Meeting Date

676
Bill Number (if applicable)

Topic ARNP & PA Prescribing

Amendment Barcode (if applicable)

Name ALLISON CARVAJAL

Job Title Lobbyist

Address 120 S. MONROE
Street

Phone _____

TLH. FL 32303
City State Zip

Email _____

Speaking: For Against Information

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

Representing Florida Nurse Practitioner Network

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

1/11/16
Meeting Date

676
Bill Number (if applicable)

Topic HEALTH CARE

Amendment Barcode (if applicable)

Name Barbara Lumpkin

Job Title CONSULTANT

Address 468 Green Spring Cir

Phone 407 227 7705

Winter Springs FL 32708
City State Zip

Email barbara.lumpkin@bellsonline.com

Speaking: For Against Information

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

Representing BAPTIST HEALTH SOUTH FLORIDA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

1-11-16
Meeting Date

676
Bill Number (if applicable)

Topic ARNP & PA Prescribing

Amendment Barcode (if applicable)

Name Martha DeCastro

Job Title VP for Nursing

Address 306 E. College Ave
Street

Phone 850-222-9800

TLH FL 32301
City State Zip

Email martha@pha-0rg

Speaking: For Against Information

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

Representing Florida Hospital 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.

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THE FLORIDA SENATE

APPEARANCE RECORD

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

1/11/16
Meeting Date

SB 676
Bill Number (if applicable)

Topic Relating to Health Care

Amendment Barcode (if applicable)

Name MICHAEL NUCCIO

Job Title Physician Assistants

Address 119 E Park Ave

Phone 850 693 0764

Tallahassee FL 32301
City State Zip

Email mike.nuccio@flhca.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.

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THE FLORIDA SENATE
APPEARANCE RECORD

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

1/11/16

Meeting Date

SB 676

Bill Number (if applicable)

Topic Relating to Health Care

Amendment Barcode (if applicable)

Name Rebecca Andrews

Job Title Physician Assistant

Address 119 E Park Ave

Phone 774-563-8068

Street

Tallahassee

City

FL

State

32301

Zip

Email veand@southern-med.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.

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THE FLORIDA SENATE

APPEARANCE RECORD

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

11/11/2016

Meeting Date

676

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Alisa Lapolt

Job Title FNA Lvl

Address _____

Phone 443-1319

Street

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing Florida Nurse Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

11/11/2015
Meeting Date

676
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Stan Whittaker

Job Title Chair FLANP

Address _____

Phone 850-545-8301

Street

Bristol

Ala

32221

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing Florida Association of Nurse Practitioners

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

1/11/16
Meeting Date

SB 676
Bill Number (if applicable)

Topic Health Care

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior Vice President

Address 516 N Adams St
Street

Phone 224-7173

Tallahassee FL 32301
City State Zip

Email bbevis@airco

Speaking: For Against Information

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

Representing Associated Industries of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

1-11-16

Meeting Date

676

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Paul Sanford

Job Title _____

Address 106 S. Monroe St

Phone 222-7200

Street

City

Tallahassee, FL

State

Zip

Email _____

Speaking: For Against Information

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

Representing Florida Am. Council + Florida Blue

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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THE FLORIDA SENATE
APPEARANCE RECORD



1-11-16

Meeting Date

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

SB676

Bill Number (if applicable)

Topic Health Care

Amendment Barcode (if applicable)

Name Joy Ryan

Job Title _____

Address 325 W. College
Street

Phone 425-4000

City _____ State _____ Zip 32301

Email joy@meenanlawfirm.com

Speaking: For Against Information

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

Representing AHIP, Prime Therapeutics

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 974

INTRODUCER: Senator Sobel

SUBJECT: Hair Restoration or Transplant

DATE: January 7, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Stovall	HP	Favorable
2.	_____	_____	AHS	_____
3.	_____	_____	FP	_____

I. Summary:

SB 974 prohibits anyone other than a physician or physician assistant (PA) licensed under the medical practice act or the osteopathic practice act, or an advanced registered nurse practitioner (ARNP), from performing a hair restoration or transplant, or making incisions for the purpose of performing the hair restoration or transplant. Hair restoration or transplant is defined as a surgical procedure that extracts or removes hair follicles from one location on a person's body to another location on that person's body. The bill has the effect of restricting a physician from delegating certain aspects of a hair transplant or hair restoration surgery to only a PA or an ARNP.

II. Present Situation:

Hair Restoration Procedures

There are several techniques a physician can employ to restore hair to bald or balding portions of the human scalp. The most recently developed procedure is the follicular unit transplant. This procedure involves the removal of a strip of tissue from the donor area of a patient's scalp which is then divided into a number of individual follicular units. The physician then grafts the individual follicular units into tiny holes made in the bald area of the scalp called recipient sites.¹

Another type of hair restoration procedure is the bald scalp reduction procedure. As implied by the name, a bald scalp reduction procedure entails the removal of a bald area of the patient's scalp, and hair-producing areas of the scalp are stretched to cover the area removed. A similar procedure, the scalp flap surgery, involves the cutting and grafting of an entire flap of hair-producing scalp onto a bald area of the scalp. Both bald scalp reduction and scalp flap surgeries

¹ Bernstein Medical Center for Hair Restoration, *Follicular Unit Transplant*, available at <http://www.bernsteinmedical.com/fut-hair-transplant/> (last visited on Jan. 7, 2016).

can have rapid results, but the follicular unit transplant surgery is generally preferred due to the more natural look produced by the follicular unit transplant surgery and the risk of scarring or failure inherent with bald scalp reduction and scalp flap surgeries.²

Tissue or scalp expansion procedures can also be used to restore bald areas of the scalp. Tissue expansion uses a balloon, called an expander, to stretch the skin in order to create extra skin which can be removed and grafted onto the bald area. Tissue expansion can be used for scalp repair since the stretched skin on the scalp retains normal hair growth.³

Regulation of Physician Assistants in Florida

Chapter 458, F.S., provides for the regulation of the practice of medicine by the Board of Medicine. Chapter 459, F.S., similarly provides for the regulation of the practice of osteopathic medicine by the Board of Osteopathic Medicine. Physician assistants are regulated by both boards. Licensure of PAs is overseen jointly by the boards through the Council on Physician Assistants.⁴

Physician assistants are trained and required by statute to work under the supervision and control of medical physicians or osteopathic physicians.⁵ The Board of Medicine and the Board of Osteopathic Medicine 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 direct⁶ and indirect⁷ supervision. A supervising physician's decision to permit a PA to perform a task or procedure under direct or indirect supervision must be based on reasonable medical judgment regarding the probability of morbidity and mortality to the patient. The supervising physician must be certain that the PA is knowledgeable and skilled in performing the tasks and procedures assigned.⁸ 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.⁹

² Foundation for Hair Restoration, *Bald Scalp Reduction and Scalp Flap Surgery*, available at <http://www.foundhair.com/pages/baldScalp.shtml> (last visited on Jan. 7, 2016).

³ University of Pittsburgh Medical Center, Children's Hospital of Pittsburgh, *Tissue Expansion*, available at: <http://www.chp.edu/our-services/plastic-surgery/patient-procedures/tissue-expansion> (last visited on Jan. 7, 2016).

⁴ The council consists of three physicians who are members of the Board of Medicine; one physician who is a member of the Board of Osteopathic Medicine; and a physician assistant appointed by the State Surgeon General. (See s. 458.347(9) and s. 459.022(9), F.S.).

⁵ Section 458.347(4) and s. 459.022(4), F.S.

⁶ "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.)

⁷ "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.)

⁸ Rules 64B8-30.012(2) and 64B15-6.010(2), F.A.C.

⁹ Section 458.347(3) and s. 459.022(3), F.S.

Regulation of Advanced Registered Nurse Practitioners in Florida

Chapter 464, F.S., governs the licensure and regulation of nurses in Florida. Nurses are licensed by the Department of Health and are regulated by the Board of Nursing (BON).¹⁰

An ARNP is a licensed nurse who is certified in advanced or specialized nursing.¹¹ Florida recognizes three types of ARNPs: nurse practitioner (NP), certified registered nurse anesthetist (CRNA), and certified nurse midwife (CNM).¹² To be certified as an ARNP, a nurse must hold a current license as a registered nurse¹³ and submit proof to the BON that he or she meets one of the following requirements:¹⁴

- Satisfactory completion of a formal post-basic educational program of specialized or advanced nursing practice;
- Certification by an appropriate specialty board;¹⁵ or
- Graduation from a master's degree program in a nursing clinical specialty area with preparation in specialized practitioner skills.

Advanced or specialized nursing acts may only be performed under protocol of a supervising physician or dentist. Within the established framework of the protocol, an ARNP may:¹⁶

- Monitor and alter drug therapies;
- Initiate appropriate therapies for certain conditions; and
- Order diagnostic tests and physical and occupational therapy.

The statute further describes additional acts that may be performed within an ARNP's specialty certification (CRNA, CNM, and NP).¹⁷

An ARNP must meet financial responsibility requirements, as determined by rule of the BON and the practitioner profiling requirements.¹⁸ The BON requires professional liability coverage of

¹⁰ The BON is comprised of 13 members appointed by the Governor and confirmed by the Senate who serve 4-year terms. Seven of the 13 members must be nurses who reside in Florida and have been engaged in the practice of professional nursing for at least 4 years. Of those seven members, one must be an advanced registered nurse practitioner, one a nurse educator at an approved nursing program, and one a nurse executive. Three members of the BON must be licensed practical nurses who reside in the state and have engaged in the practice of practical nursing for at least 4 years. The remaining three members must be Florida residents who have never been licensed as nurses and are in no way connected to the practice of nursing, any health care facility, agency, or insurer. Additionally, one member must be 60 years of age or older. (*See* s. 464.004(2), F.S.)

¹¹ "Advanced or specialized nursing practice" is defined as the performance of advanced-level nursing acts approved by the BON which, by virtue of post basic specialized education, training and experience, are appropriately performed by an advanced registered nurse practitioner. (*See* s. 464.003(2), F.S.)

¹² Section 464.003(3), F.S. Florida certifies clinical nurse specialists as a category distinct from advanced registered nurse practitioners. (*See* s. 464.003(7) and s. 464.0115, F.S.).

¹³ Practice of professional nursing. (*See* s. 464.003(20), F.S.).

¹⁴ Section 464.012(1), F.S.

¹⁵ Specialty boards expressly recognized by the BON include: Council on Certification of Nurse Anesthetists, or Council on Recertification of Nurse Anesthetists; American College of Nurse Midwives; American Nurses Association (American Nurses Credentialing Center); National Certification Corporation for OB/GYN, Neonatal Nursing Specialties; National Board of Pediatric Nurse Practitioners and Associates; National Board for Certification of Hospice and Palliative Nurses; American Academy of Nurse Practitioners; Oncology Nursing Certification Corporation; American Association of Critical-Care Nurses Adult Acute Care Nurse Practitioner Certification. (*See* Rule 64B9-4.002(2), F.A.C.).

¹⁶ Section 464.012(3), F.S.

¹⁷ Section 464.012(4), F.S.

¹⁸ Sections 456.0391 and 456.041, F.S.

at least \$100,000 per claim with a minimum annual aggregate of at least \$300,000 or an unexpired irrevocable letter of credit in the same amounts payable to the ARNP.¹⁹

III. Effect of Proposed Changes:

SB 974 creates new sections of law relating to hair restoration or transplant in the medical practice act, ch. 458, F.S., and the osteopathic medical practice act, ch. 459, F.S. The bill defines hair restoration or transplant to mean a surgical procedures that extracts or removes hair follicles from one location on a person's body for the purpose of redistributing the hair follicles to another location on that body.

The bill prohibits anyone other than a physician or PA licensed under either practice act or an ARNP from performing a health restoration or transplant or making incisions for the purpose of performing a hair restoration or transplant. This has the effect of restricting a physician from delegating certain aspects of a hair transplant or hair restoration surgery to only a PA or an ARNP.

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:

None.

C. Government Sector Impact:

None.

¹⁹ Rule 64B9-4.002(5), F.A.C.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 458.352 and 459.027.

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 Sobel

33-00403B-16

2016974__

1 A bill to be entitled
 2 An act relating to hair restoration or transplant;
 3 creating ss. 458.352 and 459.027, F.S.; defining the
 4 term "hair restoration or transplant"; prohibiting a
 5 person who is not licensed or is not certified under
 6 ch. 458, F.S., ch. 459, F.S., or s. 464.012, F.S.,
 7 from performing a hair restoration or transplant or
 8 making incisions for the purpose of performing a hair
 9 restoration or transplant; providing an effective
 10 date.

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

13
 14 Section 1. Section 458.352, Florida Statutes, is created to
 15 read:

16 458.352 Hair restoration or transplant.-

17 (1) As used in this section, the term "hair restoration or
 18 transplant" means a surgical procedure that extracts or removes
 19 hair follicles from one location on an individual living human
 20 body for the purpose of redistributing the hair follicles to
 21 another location on that body.

22 (2) A person who is not licensed under this chapter or
 23 chapter 459 or certified under s. 464.012 may not perform a hair
 24 restoration or transplant or make incisions for the purpose of
 25 performing a hair restoration or transplant.

26 Section 2. Section 459.027, Florida Statutes, is created to
 27 read:

28 459.027 Hair restoration or transplant.-

29 (1) As used in this section, the term "hair restoration or

Page 1 of 2

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

33-00403B-16

2016974__

30 transplant" means a surgical procedure that extracts or removes
 31 hair follicles from one location on an individual living human
 32 body for the purpose of redistributing the hair follicles to
 33 another location on that body.

34 (2) A person who is not licensed under this chapter or
 35 chapter 458 or certified under s. 464.012 may not perform a hair
 36 restoration or transplant or make incisions for the purpose of
 37 performing a hair restoration or transplant.

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

Page 2 of 2

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Children, Families, and Elder Affairs, *Chair*
Health Policy, *Vice Chair*
Agriculture
Education Pre-K-12
Appropriations Subcommittee on Health
and Human Services

SENATOR ELEANOR SOBEL

33rd District

December 14, 2015

Senator Aaron Bean, Chair
Health Policy
302 Senate Office Building
404 South Monroe Street
Tallahassee, Florida 32399

Dear Chair Bean,

This letter is to request that **SB 974** relating to Hair Restoration or Transplant be placed on the agenda of the next scheduled meeting of the Health Policy Committee.

This bill will prohibit a person who is not licensed or is not certified under specified provisions from performing a hair restoration or transplant or making incisions for the purpose of performing a hair restoration or transplant. The bill also defines the term "hair restoration or transplant".

Thank you for your consideration of this request.

With Best Regards,



Eleanor Sobel
State Senator, 33rd District

REPLY TO:

- The "Old" Library, First Floor, 2600 Hollywood Blvd., Hollywood, Florida 33020 (954) 924-3693 FAX: (954) 924-3695
- 410 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5033

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

APPEARANCE RECORD

January 11, 2016

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

974

Meeting Date

Bill Number (if applicable)

Topic Relating to Hair Restoration or Transplant

Amendment Barcode (if applicable)

Name Darrick D. McGhee

Job Title Vice President of Gov't Relations - Johnson & Blanton

Address 537 East Park Avenue

Phone (850) 321-6489

Street

Tallahassee

Florida

32301

Email darrick@teamjb.com

City

State

Zip

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

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

Representing Florida Society of Dermatology & Dermatologic Surgery

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/11/16

Meeting Date

974

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Chris Nuland

Job Title _____

Address 1000 Riverside Ave

Street

Phone 904-233-3051

Jacksonville, FL 32204

City

State

Zip

Email nulandlaw@aol.com

Speaking: For Against Information

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

Representing 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)

SEN HEALTH POLICY
412-K
4:00-6:00

THE FLORIDA SENATE

APPEARANCE RECORD

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

1-11-2016

Meeting Date

SB 914

Bill Number (if applicable)

Topic HAIR RESTORATION OR TRANSPLANT

Amendment Barcode (if applicable)

Name STEPHEN R. WINN

Job Title EXECUTIVE DIRECTOR

Address 2544 BLAIRSTONE PINES DR

Phone 878-7364

Street

TALLAHASSEE

FL

32301

Email

City

State

Zip

Speaking: For Against Information

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

Representing FLORIDA OSTEOPATHIC MEDICAL ASSOCIATION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/11/16

Meeting Date

974

Bill Number (if applicable)

Topic _____

Name Dr. Ricardo Mejia

(Mejia)

Amendment Barcode (if applicable)

Job Title Physician / Dermatologist

Address 2101 US Hwy ONE

Street

Phone _____

Jupiter FL

City

State

33477

Zip

Email _____

Speaking: For Against Information

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

Representing International Society for Hair Restoration Surgery

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: SPB 7038

INTRODUCER: Health Policy Committee

SUBJECT: Controlled Substances

DATE: January 12, 2016

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Looke	Stovall		HP Submitted as Committee Bill

I. Summary:

SPB 7038 amends several sections of law relating to controlled substances in order to:

- Clarify that Schedule II, III, IV, and V controlled substances may be prescribe electronically as allowed by federal law;
- Strike language requiring wholesale distributors of controlled substances to determine whether or not orders of more than 5,000 unit doses of any one controlled substance in any one month are reasonable;¹
- Allow prescribers and dispensers of controlled substances as well as pharmacies to select designees who may access the Prescription Drug Monitoring Program (PDMP) database on behalf of the prescriber, dispenser, or pharmacy; and
- Allow impaired practitioner consultants to access the PDMP information of impaired practitioner program participants who have agreed in writing to allow the consultants such access.

II. Present Situation:

Electronic Prescribing

Electronic prescribing (e-prescribing) makes use of health information technology that enables the electronic transmission of prescriptions and access to medication history by prescribing physicians at the point of care. It improves prescription accuracy, increases patient safety, and reduces costs primarily because of the critical health care information it makes available to the physician or other prescribing practitioner. A major benefit of the electronic transfer of the prescription is the elimination of errors caused by miscommunication of the handwritten paper prescription. E-prescribing can reduce opportunities for fraud and abuse that currently occur due

¹ Wholesale distributors will still be required to take reasonable measures to identify suspicious transactions and to establish internal policies and procedures for identifying suspicious orders and preventing suspicious transactions.

to a lack of secure prescription delivery to the pharmacy. E-prescribing also creates a more traceable trail for auditing purposes.²

Section 456.42, F.S., requires that an electronic prescription must contain the name of the prescribing practitioner, the name and strength of the drug prescribed, the quantity of the drug prescribed, and directions for use of the drug. The prescription must also be dated and signed on the day issued either manually or in electronic format.³ Section 456.43, F.S., specifies that electronic prescribing may not interfere with a patient's freedom to choose a pharmacy and that electronic prescribing software may not influence or attempt to influence a prescribing practitioner's decision at the point of care.

Additionally, s. 408.0611, F.S., establishes the Electronic Prescribing Clearinghouse (clearinghouse) in order to promote the implementation of electronic prescribing with the goal of preventing prescription drug abuse, improving patient safety, and reducing unnecessary prescriptions. The clearinghouse is housed within the Agency for Health Care Administration (AHCA) and the AHCA is required to work in collaboration with relevant stakeholders and publish:

- Information on its website regarding the process of electronic prescribing, the availability of electronic prescribing products, and the advantages of electronic prescribing;
- Links to state, federal and private sector websites that provide guidance on selecting an appropriate electronic prescribing product;
- Links to state, federal, and private sector incentive programs for the implementation of electronic prescribing;⁴ and
- An annual report by January 31 of each year.

Electronic Prescribing of Controlled Substances

Until 2010, the U.S. Drug Enforcement Administration (DEA) regulations required that controlled substances be written on a paper prescription pad. On March 29, 2010, the DEA issued an interim final rule permitting electronic prescribing of controlled substances⁵ and the rule became effective on June 1, 2010.⁶

In Florida, s. 456.42, F.S., states that written prescriptions for controlled substances may be electronically prescribed. Effective December 24, 2015, the Florida Board of Pharmacy rule specifies that all substances listed in schedules II through V may be prescribed electronically pursuant to the provisions of s. 456.42(2), F.S., and federal law.⁷ Although the statutory provision is interpreted in rule and in the AHCA's annual report⁸ to mean that all controlled

² Agency for Health Care Administration, *Florida Electronic Prescribing Annual Report for 2014*, p. 8 (January 2015), available at <http://www.fhin.net/eprescribing/docs/reports/Florida2014ePrescribeReport.pdf> (last visited on Jan. 6, 2016).

³ Electronic signatures are governed by s. 668.003(4), F.S.

⁴ Agency for Health Care Administration, Florida Electronic Prescribing Clearinghouse, available at <http://www.fhin.net/eprescribing/index.shtml> (last visited on Jan. 6, 2016).

⁵ Id. note 2, at 21.

⁶ U.S. Department of Justice, Office of Diversion Control, *Electronic Prescriptions for Controlled Substances (EPCS)*, http://www.deadiversion.usdoj.gov/e-comm/e_rx/ (last visited on Jan. 6, 2016).

⁷ Rule 64B16-27.831, F.A.C.

⁸ Id. note 2, at 21.

substances Schedules II through V may be electronically prescribed, the statute does not specifically state which schedules are allowed to be prescribed electronically.

Controlled Substances

Chapter 893, F.S., sets forth the Florida Comprehensive Drug Abuse Prevention and Control Act. This chapter classifies controlled substances into five schedules in order to regulate the manufacture, distribution, preparation, and dispensing of the substances.

- A Schedule I substance has a high potential for abuse and no currently accepted medical use in treatment in the United States and its use under medical supervision does not meet accepted safety standards. Examples: heroin and methaqualone.
- A Schedule II substance has a high potential for abuse, a currently accepted but severely restricted medical use in treatment in the United States, and abuse may lead to severe psychological or physical dependence. Examples: cocaine and morphine.
- A Schedule III substance has a potential for abuse less than the substances contained in Schedules I and II, a currently accepted medical use in treatment in the United States, and abuse may lead to moderate or low physical dependence or high psychological dependence or, in the case of anabolic steroids, may lead to physical damage. Examples: lysergic acid; ketamine; and some anabolic steroids.
- A Schedule IV substance has a low potential for abuse relative to the substances in Schedule III, a currently accepted medical use in treatment in the United States, and abuse may lead to limited physical or psychological dependence relative to the substances in Schedule III. Examples: alprazolam; diazepam; and phenobarbital.
- A Schedule V substance has a low potential for abuse relative to the substances in Schedule IV, a currently accepted medical use in treatment in the United States, and abuse may lead to limited physical or psychological dependence relative to the substances in Schedule IV. Examples: low dosage levels of codeine; certain stimulants; and certain narcotic compounds.

The Prescription Drug Abuse Crisis and Florida's Response

Starting in the early 2000s, Florida began experiencing a marked increase in deaths resulting from prescription drug abuse. In 2010 the Florida Office of Drug Control identified prescription drug abuse as the most threatening substance abuse issue in Florida.⁹ Between 2003 and 2009 the number of deaths caused by at least one prescription drug increased by 102 percent (from 1,234 to 2,488). These numbers translated into seven Floridians dying from prescription drug overdoses per day.

Between 2009 and 2011, the Legislature enacted a series of reforms to combat prescription drug abuse. These reforms included strict regulation of pain management clinics; creating the Prescription Drug Monitoring Database (PDMP); and stricter regulation on selling, distributing, and dispensing controlled substances.¹⁰ Some of these reforms include the following:

⁹ Executive Office of the Governor, *Florida Office of Drug Control 2010 Annual Report* (on file with the Senate Committee on Health Policy).

¹⁰ See chs. 2009-197, 2010-211, and 2011-141, Laws of Fla.

Due Diligence for Wholesale Distributors of Controlled Substances

In state and out-of-state prescription drug wholesale distributors as well as retail pharmacy drug wholesalers (wholesale distributors) are regulated under the Florida Drug and Cosmetic Act.¹¹ A wholesale distributor is defined in s. 499.003(54), F.S., as “any person engaged in wholesale distribution¹² of prescription drugs in or into this state, including, but not limited to, manufacturers; repackagers; own-label distributors; jobbers; private-label distributors; brokers; warehouses, including manufacturers’ and distributors’ warehouses, chain drug warehouses, and wholesale drug warehouses; independent wholesale drug traders; exporters; retail pharmacies; and the agents thereof that conduct wholesale distributions.” Wholesale distributors are required to be permitted by the Department of Business and Profession Regulation (DBPR).

In addition to numerous other requirements, in 2011 as part of the effort to combat prescription drug abuse, the Legislature passed due diligence requirements which wholesale distributors must meet when selling Schedule II or Schedule III controlled substances to physicians and pharmacies.¹³ In order to meet the due diligence requirements, wholesale distributors:

- Must establish and maintain policies and procedures to credential physicians and pharmacies which must at a minimum include:
 - A determination of the clinical nature of the receiving entity;
 - A review of the receiving entity’s history of Schedule II and Schedule III controlled substance purchasing from the wholesale distributor; and
 - A determination that the receiving entity’s controlled substance purchasing history is consistent with and reasonable for the entity’s clinical business.
- Must take reasonable measures to identify its customers, understand the normal and expected transactions conducted by those customers, and identify transactions that are suspicious in nature.
- Must assess orders for greater than 5,000 unit doses of any one controlled substance in any one month to determine whether the purchase is reasonable.
- Must report to the DBPR any regulated transaction involving an extraordinary quantity of a listed chemical, an uncommon method of payment or delivery, or any other circumstance that may indicate the listed chemical will be used in violation of the law. The wholesale distributor must also maintain records that document the report to the DBPR.
- May not distribute controlled substances to an entity if a criminal history record check shows that any person associated with that entity has been convicted or pled nolo contendere to a crime related to controlled substances, the practice of pharmacy, or the dispensing of medicinal drugs.

The Prescription Drug Monitoring Program

Chapter 2009-197, Laws of Fla., established the PDMP in s. 893.055, F.S. The PDMP uses a comprehensive electronic system/database to monitor the prescribing and dispensing of certain

¹¹ Chapter 499, F.S.

¹² Wholesale distribution is also defined in s. 499.003(53), F.S., to mean the distribution of prescription drugs to persons other than a consumer or patient. The definition has numerous exceptions including, among others, exceptions for charitable organizations, hospitals, and certain government entities.

¹³ See s. 499.0121(15), F.S., and ch. 2011-141, s. 18, Laws of Fla.

controlled substances.¹⁴ Dispensers of certain controlled substances must report specified information to the PDMP database, including the name of the prescriber, the date the prescription was filled and dispensed, and the name, address, and date of birth of the person to whom the controlled substance is dispensed.¹⁵

The PDMP became operational on September 1, 2011, when it began receiving prescription data from pharmacies and dispensing practitioners.¹⁶ Dispensers have reported over 163 million controlled substance prescriptions to the PDMP since its inception.¹⁷ Health care practitioners began accessing the PDMP on October 17, 2011.¹⁸ Law enforcement agencies began requesting data from the PDMP in support of active criminal investigations on November 14, 2011.¹⁹

Accessing the PDMP database

Section 893.0551, F.S., makes certain identifying information²⁰ of a patient or patient's agent, a health care practitioner, a dispenser, an employee of the practitioner who is acting on behalf of and at the direction of the practitioner, a pharmacist, or a pharmacy that is contained in records held by the department under s. 893.055, F.S., confidential and exempt from the public records laws in s. 119.07(1), F.S., and in article I, section 24(a) of the State Constitution.²¹

Direct access to the PDMP database is presently limited to medical doctors, osteopathic physicians, dentists, podiatric physicians, advanced registered nurse practitioners, physician assistants, and pharmacists.²² Currently, prescribers are not required to consult the PDMP database before prescribing a controlled substance for a patient however physicians and pharmacists queried the database more than 3.7 million times in 2012, over 9.3 million times in 2014, and over 18.6 million times in 2015.²³

Indirect access to the PDMP database is provided to:

- The Department of Health (DOH) or certain health care regulatory boards;
- The Attorney General for Medicaid fraud cases;

¹⁴ Section 893.055(2)(a), F.S.

¹⁵ Section 893.055(3)(a)-(c), F.S.

¹⁶ Florida Dep't of Health, *2012-2013 Prescription Drug Monitoring Program Annual Report* (December 1, 2013), available at <http://www.floridahealth.gov/reports-and-data/e-forcse/news-reports/documents/2012-2013pdmp-annual-report.pdf> (last visited on Jan. 7, 2016).

¹⁷ Florida Dep't of Health, *2014-2015 Prescription Drug Monitoring Program Annual Report* (December 1, 2015), available at <http://www.floridahealth.gov/statistics-and-data/e-forcse/news-reports/documents/2015-pdmp-annual-report.pdf> (last visited on Jan. 7, 2016).

¹⁸ *Supra* note 16

¹⁹ *Supra* note 16

²⁰ Such information includes name, address, telephone number, insurance plan number, government-issued identification number, provider number, and Drug Enforcement Administration number, or any other unique identifying information or number.

²¹ Section 893.0551(2)(a)-(h), F.S.

²² Section 893.055(7)(b), F.S.

²³ *Supra* at notes 16 and 17.

- Law enforcement agencies during active investigations²⁴ involving potential criminal activity, fraud, or theft regarding prescribed controlled substances if the law enforcement agency has entered into a user agreement with the DOH; and
- Patients, or the legal guardians or designated health care surrogates of incapacitated patients.²⁵

Indirect access means the person must request the information from the PDMP manager. After an extensive process to validate and authenticate the request and the requestor, the PDMP manager or support staff provides the specific information requested.²⁶

Effectiveness of Florida’s Response to the Prescription Drug Abuse Crisis

The increased regulation of pain management clinics and other controlled substance prescribing changes correspond with significant reductions in the number of drug overdose deaths in Florida. A Centers for Disease Control and Prevention report published on July 4, 2014, documents a 61 percent increase in drug overdose deaths in Florida from 2003 to 2010.²⁷ Additionally, Florida had become the primary destination for distributors and abusers of diverted prescription drugs through the proliferation of illegitimate pain management clinics known as pill mills.²⁸

After the reforms adopted between 2009 and 2011 were in place, instead of continuing the upward trend of the seven years between 2010 – when many of the current controlled substance prescribing regulations became effective – and 2012, drug overdose deaths in Florida fell by 16.7 percent. Also, during that period, deaths from prescription drugs declined by 23.2 percent and deaths from oxycodone declined by 52.1 percent.²⁹ Prescription drug deaths also continued to fall in 2013, when compared to 2012, with 8.3 percent fewer people dying with at least one prescription drug in their system that was identified as the cause of death.³⁰ Between 2010 and 2014, the number of deaths from oxycodone fell from eight deaths per 100,000 to 2.4 deaths per

²⁴ Section 893.055(1)(h), F.S., defines an “active investigation” as an investigation that is being conducted with a reasonable, good faith belief that it could lead to the filing of administrative, civil, or criminal proceedings, or that is ongoing and continuing and for which there is a reasonable, good faith anticipation of securing an arrest or prosecution in the foreseeable future.

²⁵ Section 893.055(7)(c)1.-4., F.S.

²⁶ See s. 893.055(7)(c), F.S., and Rule 64k-1.003, F.A.C.

²⁷ The Centers for Disease Control and Prevention, *Decline in Drug Overdose Deaths after State Policy Changes — Florida, 2010–2012* (July 4, 2014), available at

http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6326a3.htm?s_cid=mm6326a3_w#Fig1 (Last visited Jan. 7, 2016).

²⁸ Pill mills are pain management clinics that serve as a front for drug traffickers and can be identified through characteristics which include: taking only cash, not taking appointments, employing armed guards, keep little to no medical records, performing only grossly inadequate physical examinations, and prescribing large doses of narcotics that exceed the boundaries of acceptable medical care. See Florida Office of the Attorney General, *Pill Mill Initiative* (2012-2015), available at <http://myfloridalegal.com/pages.nsf/Main/AA7AAF5CAA22638D8525791B006A30C8>, (Last visited Jan. 7, 2016),

²⁹ *Supra* note 27.

³⁰ Florida Dep’t of Law Enforcement, *Medical Examiners Commission 2013 Annual Report*, p. i, (October 2014), available at <http://www.fdle.state.fl.us/Content/getdoc/05c6ff97-00cc-49b2-9ca5-5dacd4539b1a/2013-Annual-Drug-Report.aspx> (Last visited Jan. 7, 2016).

100,000, a decrease of nearly 75 percent.³¹ Additionally, the number of doctors in Florida who prescribed high volumes of narcotics fell from 98 in 2010 to 13 in 2012 and to zero in 2013.³²

One negative unintended consequence of both Florida's reforms and the national crack-down on prescription drug abuse has been a shortage of controlled substances for patients who have legitimate needs. Due to the difficulty in receiving drugs or the fear of government action and criminal penalties, many pharmacies have not been able to or have refused to fill prescriptions for controlled substances for people with legitimate medical issues such as chronic pain. This shortage has been documented both in Florida and nationwide.^{33, 34}

Treatment Programs for Impaired Practitioners

The DOH administers the impaired practitioner treatment program to ensure that licensed health care practitioners, applicants for licensure, and students enrolled in prelicensure education programs who are impaired and may pose a threat to the public if allowed to obtain or retain a license are evaluated and referred for treatment. Impaired practitioner consultants (IPC) are retained by the DOH to monitor the treatment of an impaired practitioner and coordinate services.³⁵ An IPC must be a licensed physician, a licensed nurse, or an entity with a licensed physician or nurse as its medical director.³⁶ The IPC assist the DOH in determining if the practitioner is actually impaired, connecting the practitioner to appropriate resources for treatment of the impairment, and monitoring the practitioner's progress.³⁷

Impairment can result from the use or misuse of drugs or alcohol, or both, or due to a mental or physical condition that could affect the person's ability to practice with skill and safety.³⁸ A practitioner's participation in a treatment program is voluntary, but requires him or her have voluntarily withdrawn from practice or limited the scope of his or her practice until the practitioner has successfully completed the treatment program. By entering and successfully completing the impaired practitioner treatment program, a practitioner may avoid formal disciplinary action if the impairment is the only violation of the licensing statute under which the practitioner is regulated.³⁹

An IPC does not provide medical treatment or render decisions relating to licensure of a particular practitioner. However, an IPC is required to make recommendations to the probable

³¹ *Supra* note 17

³² Sabrina Tavernise, *Prescription Overdose Deaths in Florida Plunge After Tougher Measures, Report Says*, THE NEW YORK TIMES, July 1, 2014, available at http://www.nytimes.com/2014/07/02/health/prescription-drug-deaths-in-florida-plunge-after-tougher-laws.html?_r=0, (last visited Jan. 7, 2016). Also see *supra* note 26.

³³ Marni Jameson, *Drug shortages ups suffering for legitimate pain patients*, THE ORLANDO SENTINEL, July 10, 2012, available at http://articles.orlandosentinel.com/2012-07-10/health/os-drug-shortage-20120710_1_pain-patients-prescription-drug-abuse-oxycodone-pills (last visited on Jan. 7, 2016); and Samuel Adams, *Florida Pain Victims Trapped by Prescription Crackdown: Health*, Bloomberg Business August 16, 2013, available at <http://www.bloomberg.com/news/articles/2013-08-16/florida-pain-victims-trapped-by-prescription-crackdown-health> (last visited on Jan. 7, 2016).

³⁴ U.S. Government Accountability Office, *Drug Shortages: Better Management of the Quota Process for Controlled Substances Needed; Coordination between DEA and FDA Should Be Improved*, GAO-15-202 (February 2015)

³⁵ Section 456.076(2)(a), F.S.

³⁶ *Id.*

³⁷ Section 456.076(2)(c)1., F.S.

³⁸ Section 456.076(4)(a), F.S.

³⁹ *Id.*

cause panel, or the DOH when there is no board, regarding a practitioner's ability to practice safely.⁴⁰

There are two IPC entities currently retained by the DOH: the Intervention Project for Nurses (IPN) and the Professionals Resource Network (PRN) for other health care professions. As of December 23, 2014, there were approximately 2,449 participants enrolled in the programs: 1,461 in the IPN and 988 in the PRN.⁴¹

III. Effect of Proposed Changes:

Section 1 amends s. 456.42, F.S., to clarify that controlled substances in schedules II through V may be prescribed electronically pursuant to applicable federal law.

Section 2 amends s. 499.0121, F.S., to strike the requirement that wholesale distributors assess orders of more than 5,000 unit doses of any one controlled substance in any one month to determine whether or not such orders are reasonable. Removing this specific provision may eliminate a perceived cap on the distribution of controlled substances. This change may facilitate the availability of sufficient stock for pharmacies to fill valid prescriptions. Other due diligence requirements remain in effect.

Sections 3 and 4 amend ss. 893.055⁴² and 893.0551,⁴³ F.S., to:

- Allow prescribers and dispensers of controlled substances, as well as pharmacies, to select designees who may access the PDMP on behalf of the prescriber, dispenser, or pharmacy; and
- To allow impaired practitioner consultants to have indirect access to PDMP information regarding an impaired practitioner program participant who has agreed to be evaluated or monitored through the program and who has separately agreed in writing to allow the consultant to access his or her information in the PDMP.

Section 5 states that the act shall take effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

This bill does not create or expand a public records exemption and therefore does not require two-thirds vote for passage.

⁴⁰ Section 456.076(2)(c)1., F.S.

⁴¹ E-mail from Paul Runk, Deputy Legislative Planning Director, Dep't of Health (Dec. 23, 2014) (on file with the Senate Committee on Health Policy).

⁴² Section 893.055, F.S., is the substantive law enacting the PDMP.

⁴³ Section 893.0551, F.S., is the public records exemption for information held within the PDMP.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

SPB 7038 may have a negative fiscal impact on the DOH as the DOH may be required to modify the PDMP in order to allow access to prescriber, dispenser, and pharmacy designees as well as impaired practitioner consultants.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 456.42, 499.0121, 893.055, and 893.0551.

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.

FOR CONSIDERATION By the Committee on Health Policy

588-01843A-16

20167038pb

1 A bill to be entitled
 2 An act relating to controlled substances; amending s.
 3 456.42, F.S.; authorizing certain controlled
 4 substances to be electronically prescribed; amending
 5 s. 499.0121, F.S.; deleting a specified requirement in
 6 the performance of due diligence of purchasers by
 7 prescription drug wholesalers; amending s. 893.055,
 8 F.S.; authorizing the designee of a pharmacy,
 9 prescriber, or dispenser to access a patient's record
 10 in the prescription drug monitoring program's database
 11 for a specified purpose; authorizing an impaired
 12 practitioner consultant to access an impaired
 13 practitioner program participant's or referral's
 14 record in the prescription drug monitoring program's
 15 database; reenacting and amending s. 893.0551, F.S.;
 16 authorizing the designee of a health care
 17 practitioner, pharmacist, pharmacy, prescriber, or
 18 dispenser and an impaired practitioner consultant to
 19 receive certain information from the prescription drug
 20 monitoring program; providing an effective date.
 21
 22 Be It Enacted by the Legislature of the State of Florida:
 23
 24 Section 1. Subsection (2) of section 456.42, Florida
 25 Statutes, is amended to read:
 26 456.42 Written prescriptions for medicinal drugs.—
 27 (2) A written prescription for a controlled substance
 28 listed in chapter 893 must have the quantity of the drug
 29 prescribed in both textual and numerical formats, must be dated
 30 in numerical, month/day/year format, or with the abbreviated
 31 month written out, or the month written out in whole, and must
 32 be either written on a standardized counterfeit-proof

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33 prescription pad produced by a vendor approved by the department
 34 or electronically prescribed as that term is used in s.
 35 408.0611. All controlled substances listed in Schedule II,
 36 Schedule III, Schedule IV, and Schedule V may be electronically
 37 prescribed pursuant to applicable federal law. As a condition of
 38 being an approved vendor, a prescription pad vendor must submit
 39 a monthly report to the department that, at a minimum, documents
 40 the number of prescription pads sold and identifies the
 41 purchasers. The department may, by rule, require the reporting
 42 of additional information.

43 Section 2. Paragraph (b) of subsection (15) of section
 44 499.0121, Florida Statutes, is amended to read:

45 499.0121 Storage and handling of prescription drugs;
 46 recordkeeping.—The department shall adopt rules to implement
 47 this section as necessary to protect the public health, safety,
 48 and welfare. Such rules shall include, but not be limited to,
 49 requirements for the storage and handling of prescription drugs
 50 and for the establishment and maintenance of prescription drug
 51 distribution records.

52 (15) DUE DILIGENCE OF PURCHASERS.—

53 (b) A wholesale distributor must take reasonable measures
 54 to identify its customers, understand the normal and expected
 55 transactions conducted by those customers, and identify those
 56 transactions that are suspicious in nature. A wholesale
 57 distributor must establish internal policies and procedures for
 58 identifying suspicious orders and preventing suspicious
 59 transactions. ~~A wholesale distributor must assess orders for~~
 60 ~~greater than 5,000 unit doses of any one controlled substance in~~
 61 ~~any one month to determine whether the purchase is reasonable.~~

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62 In making such assessments, a wholesale distributor may consider
 63 the purchasing entity's clinical business needs, location, and
 64 population served, in addition to other factors established in
 65 the distributor's policies and procedures. A wholesale
 66 distributor must report to the department any regulated
 67 transaction involving an extraordinary quantity of a listed
 68 chemical, an uncommon method of payment or delivery, or any
 69 other circumstance that the regulated person believes may
 70 indicate that the listed chemical will be used in violation of
 71 the law. The wholesale distributor shall maintain records that
 72 document the report submitted to the department in compliance
 73 with this paragraph.

74 Section 3. Paragraphs (b) and (c) of subsection (7) and
 75 subsection (12) of section 893.055, Florida Statutes, are
 76 amended to read:

77 893.055 Prescription drug monitoring program.—

78 (7)

79 (b) A pharmacy, prescriber, or dispenser, or the designee
 80 of a pharmacy, prescriber, or dispenser, shall have access to
 81 information in the prescription drug monitoring program's
 82 database which relates to a patient of that pharmacy,
 83 prescriber, or dispenser in a manner established by the
 84 department as needed for the purpose of reviewing the patient's
 85 controlled substance prescription history. Other access to the
 86 program's database shall be limited to the program's manager and
 87 to the designated program and support staff, who may act only at
 88 the direction of the program manager or, in the absence of the
 89 program manager, as authorized. Access by the program manager or
 90 such designated staff is for prescription drug program

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91 management only or for management of the program's database and
 92 its system in support of the requirements of this section and in
 93 furtherance of the prescription drug monitoring program.
 94 Confidential and exempt information in the database shall be
 95 released only as provided in paragraph (c) and s. 893.0551. The
 96 program manager, designated program and support staff who act at
 97 the direction of or in the absence of the program manager, and
 98 any individual who has similar access regarding the management
 99 of the database from the prescription drug monitoring program
 100 shall submit fingerprints to the department for background
 101 screening. The department shall follow the procedure established
 102 by the Department of Law Enforcement to request a statewide
 103 criminal history record check and to request that the Department
 104 of Law Enforcement forward the fingerprints to the Federal
 105 Bureau of Investigation for a national criminal history record
 106 check.

107 (c) The following entities are ~~shall~~ not be allowed direct
 108 access to information in the prescription drug monitoring
 109 program database but may request from the program manager and,
 110 when authorized by the program manager, the program manager's
 111 program and support staff, information that is confidential and
 112 exempt under s. 893.0551. ~~Before~~ Prior to release, ~~a~~ the request
 113 by the following entities shall be verified as authentic and
 114 authorized with the requesting organization by the program
 115 manager, the program manager's program and support staff, or as
 116 determined in rules by the department as being authentic and as
 117 having been authorized by the requesting entity:

118 1. The department or its relevant health care regulatory
 119 boards responsible for the licensure, regulation, or discipline

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120 of practitioners, pharmacists, or other persons who are
 121 authorized to prescribe, administer, or dispense controlled
 122 substances and who are involved in a specific controlled
 123 substance investigation involving a designated person for one or
 124 more prescribed controlled substances.

125 2. The Attorney General for Medicaid fraud cases involving
 126 prescribed controlled substances.

127 3. A law enforcement agency during active investigations of
 128 ~~regarding~~ potential criminal activity, fraud, or theft regarding
 129 prescribed controlled substances.

130 4. A patient or the legal guardian or designated health
 131 care surrogate of an incapacitated patient as described in s.
 132 893.0551 who, for the purpose of verifying the accuracy of the
 133 database information, submits a written and notarized request
 134 that includes the patient's full name, address, and date of
 135 birth, and includes the same information if the legal guardian
 136 or health care surrogate submits the request. The request shall
 137 be validated by the department to verify the identity of the
 138 patient and the legal guardian or health care surrogate, if the
 139 patient's legal guardian or health care surrogate is the
 140 requestor. Such verification is also required for any request to
 141 change a patient's prescription history or other information
 142 related to his or her information in the electronic database.

143 5. An impaired practitioner consultant who is retained by
 144 the department under s. 456.076 for the purpose of reviewing the
 145 database information of an impaired practitioner program
 146 participant or a referral who has agreed to be evaluated or
 147 monitored through the program and who has separately agreed in
 148 writing to the consultant's access to and review of such

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149 information.

150

151 Information in the database for the electronic prescription drug
 152 monitoring system is not discoverable or admissible in any civil
 153 or administrative action, except in an investigation and
 154 disciplinary proceeding by the department or the appropriate
 155 regulatory board.

156 (12) A prescriber or dispenser, or his or her designee, may
 157 have access to the information under this section which relates
 158 to a patient of that prescriber or dispenser as needed for the
 159 purpose of reviewing the patient's controlled drug prescription
 160 history. A prescriber or dispenser acting in good faith is
 161 immune from any civil, criminal, or administrative liability
 162 that might otherwise be incurred or imposed for receiving or
 163 using information from the prescription drug monitoring program.
 164 This subsection does not create a private cause of action, and a
 165 person may not recover damages against a prescriber or dispenser
 166 authorized to access information under this subsection for
 167 accessing or failing to access such information.

168 Section 4. Section 893.0551, Florida Statutes, is reenacted
 169 and amended to read:

170 893.0551 Public records exemption for the prescription drug
 171 monitoring program.—

172 (1) For purposes of this section, the terms used in this
 173 section have the same meanings as provided in s. 893.055.

174 (2) The following information of a patient or patient's
 175 agent, a health care practitioner, a dispenser, an employee of
 176 the practitioner who is acting on behalf of and at the direction
 177 of the practitioner, a pharmacist, or a pharmacy that is

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178 contained in records held by the department under s. 893.055 is
179 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
180 of the State Constitution:

- 181 (a) Name.
- 182 (b) Address.
- 183 (c) Telephone number.
- 184 (d) Insurance plan number.
- 185 (e) Government-issued identification number.
- 186 (f) Provider number.
- 187 (g) Drug Enforcement Administration number.
- 188 (h) Any other unique identifying information or number.

189 (3) The department shall disclose such confidential and
190 exempt information to the following persons or entities upon
191 request and after using a verification process to ensure the
192 legitimacy of the request as provided in s. 893.055:

193 (a) The Attorney General, or his or her designee, when
194 working on Medicaid fraud cases involving prescription drugs or
195 when the Attorney General has initiated a review of specific
196 identifiers of Medicaid fraud regarding prescription drugs. The
197 Attorney General's Medicaid fraud investigators may not have
198 direct access to the department's database. The Attorney
199 General, or his or her designee, may disclose to a criminal
200 justice agency, as defined in s. 119.011, only the confidential
201 and exempt information received from the department that is
202 relevant to an identified active investigation that prompted the
203 request for the information.

204 (b) The department's relevant health care regulatory boards
205 responsible for the licensure, regulation, or discipline of a
206 practitioner, pharmacist, or other person who is authorized to

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207 prescribe, administer, or dispense controlled substances and who
208 is involved in a specific controlled substances investigation
209 for prescription drugs involving a designated person. The health
210 care regulatory boards may request information from the
211 department but may not have direct access to its database. The
212 health care regulatory boards may provide to a law enforcement
213 agency pursuant to ss. 456.066 and 456.073 only information that
214 is relevant to the specific controlled substances investigation
215 that prompted the request for the information.

216 (c) A law enforcement agency that has initiated an active
217 investigation involving a specific violation of law regarding
218 prescription drug abuse or diversion of prescribed controlled
219 substances and that has entered into a user agreement with the
220 department. A law enforcement agency may request information
221 from the department but may not have direct access to its
222 database. The law enforcement agency may disclose to a criminal
223 justice agency, as defined in s. 119.011, only confidential and
224 exempt information received from the department that is relevant
225 to an identified active investigation that prompted the request
226 for such information.

227 (d) A health care practitioner, or his or her designee, who
228 certifies that the information is necessary to provide medical
229 treatment to a current patient in accordance with ss. 893.05 and
230 893.055.

231 (e) A pharmacist, or his or her designee, who certifies
232 that the requested information will be used to dispense
233 controlled substances to a current patient in accordance with
234 ss. 893.04 and 893.055.

235 (f) A patient or the legal guardian or designated health

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236 care surrogate for an incapacitated patient, if applicable,
237 making a request as provided in s. 893.055(7)(c)4.

238 (g) The patient's pharmacy, prescriber, or dispenser, or
239 the designee of the pharmacy, prescriber, or dispenser, who
240 certifies that the information is necessary to provide medical
241 treatment to his or her current patient in accordance with s.
242 893.055.

243 (h) An impaired practitioner consultant who has been
244 authorized in writing by a participant in or referral to the
245 impaired practitioner program to access and review information
246 as provided in s. 893.055(7)(c)5.

247 (4) If the department determines consistent with its rules
248 that a pattern of controlled substance abuse exists, the
249 department may disclose such confidential and exempt information
250 to the applicable law enforcement agency in accordance with s.
251 893.055. The law enforcement agency may disclose to a criminal
252 justice agency, as defined in s. 119.011, only confidential and
253 exempt information received from the department that is relevant
254 to an identified active investigation that is specific to a
255 violation of s. 893.13(7)(a)8., s. 893.13(8)(a), or s.
256 893.13(8)(b).

257 (5) Before disclosing confidential and exempt information
258 to a criminal justice agency or a law enforcement agency
259 pursuant to this section, the disclosing person or entity must
260 take steps to ensure the continued confidentiality of all
261 confidential and exempt information. At a minimum, these steps
262 must include redacting any nonrelevant information.

263 (6) An agency or person who obtains any confidential and
264 exempt information pursuant to this section must maintain the

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265 confidential and exempt status of that information and may not
266 disclose such information unless authorized by law. Information
267 shared with a state attorney pursuant to paragraph (3)(a) or
268 paragraph (3)(c) may be released only in response to a discovery
269 demand if such information is directly related to the criminal
270 case for which the information was requested. Unrelated
271 information may be released only upon an order of a court of
272 competent jurisdiction.

273 (7) A person who willfully and knowingly violates this
274 section commits a felony of the third degree, punishable as
275 provided in s. 775.082, s. 775.083, or s. 775.084.

276 Section 5. This act shall take effect upon becoming a law.

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THE FLORIDA SENATE

APPEARANCE RECORD

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

1/11/16
Meeting Date

SB 7038
Bill Number (if applicable)

Topic SB 7038 Health Policy - Controlled Substances

Amendment Barcode (if applicable)

Name Linda L. Smith

Job Title CEO

Address 900 N. Third St.

Phone (904) 270-1620 x118

Street/ Neptune Beach, FL 32266
City State Zip

Email lsmith@ipofl.org

Speaking: For Against Information

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

Representing Intervention Project for Nurses

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

1-11-16

Meeting Date

SPB 7038

Bill Number (if applicable)

Topic Controlled Substances

Amendment Barcode (if applicable)

Name Penelope P. Ziegler, M.D.

Job Title Medical Director, Professionals Resource Network (PRN)

Address P.O. Box 16510

Phone 904-277-8004

Street

Fernandina Beach

City

State

FL

32035

Zip

Email drziegler@prn.org

Speaking: For Against Information

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

Representing Professionals Resource Network (PRN)

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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1/11/16
Meeting Date

7038
Bill Number (if applicable)

Topic Controlled Substances

Amendment Barcode (if applicable)

Name Jack McRay

Job Title Advocacy manager

Address 200 W College Ave, Suite 300

Phone 850-228-7295

Tallahassee FL 32301
City State Zip

Email jmeray@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.

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SEN HEALTH POLICY
412-K
4:00-6:00

THE FLORIDA SENATE
APPEARANCE RECORD

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

1-11-2016

Meeting Date

SB 7038

Bill Number (if applicable)

Topic CONTROLLED SUBSTANCES

Amendment Barcode (if applicable)

Name STEPHEN R. WINN

Job Title EXECUTIVE DIRECTOR

Address 2544 BLAIRSTONE PARKS DR

Phone 878-7364

Street

TALLAHASSEE

City

FL

State

32301

Zip

Email _____

Speaking: For Against Information

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

Representing FLORIDA OSTEOPATHIC MEDICAL ASSOCIATION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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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)

11/11/14
Meeting Date

7038
Bill Number (if applicable)

Topic Controlled substances

Amendment Barcode (if applicable)

Name Mary Thomas

Job Title Ass. Gen. Counsel

Address 430 Piedmont Dr E

Phone 850 224 6496

Street

Tallahassee

City

FL

State

32308

Zip

Email MThomas@fimedical.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.

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THE FLORIDA SENATE
APPEARANCE RECORD

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

11/11/2016
Meeting Date

SB 7038
Bill Number (if applicable)

Topic CONTROLLED SUBSTANCE

Amendment Barcode (if applicable)

Name MICHAEL JACKSON

Job Title EVP & CEO

Address 610 N ADAMS ST

Phone 850 222-2400

Street

TALLAHASSEE

City

FL

State

32301

Zip

Email MJACKSON@PHARMVIEW.COM

Speaking: For Against Information

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

Representing FLORIDA PHARMACY 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.

CourtSmart Tag Report

Room: KN 412

Case No.:

Type:

Caption: Senate Health Policy Committee

Judge:

Started: 1/11/2016 4:04:23 PM

Ends: 1/11/2016 6:00:54 PM

Length: 01:56:32

4:04:21 PM Committee on stand-by for quorum
4:04:47 PM Meeting called to order
4:05:15 PM Roll call
4:05:21 PM Quorum present
4:05:35 PM Tab 5 - SB 974 "Hair Restoration or Transplant"
4:06:02 PM Vice Chair Sobel introducing SB 974
4:06:45 PM Public appearances on SB 974
4:07:44 PM Dr. Ricardo Mejia - Intl Society of Hair Restoration- Speaking in support
4:09:30 PM Stephen Winn-FL Osteopathic Medical Assoc- Waive in support
4:10:33 PM Chris Nuland- FL and American Societies of Plastic Surgeons- Waive in support
4:10:45 PM Derrick McGhee- FL Society of Dermatology and Dermatologic Surgery- Waive in support
4:10:57 PM Debate on SB 974
4:11:00 PM Vice Chair Sobel waive close on SB 974
4:11:23 PM Vote on SB 974
4:11:36 PM SB 974 Reported favorably
4:11:54 PM Considering confirmation of Liz Dudek-- Agency for Health Care Administration
4:12:16 PM Secretary Dudek sworn in for appointment hearing
4:12:40 PM Secretary Dudek recognized for comment
4:21:40 PM Sen Joyner- Recognized for series of questions for Secretary Dudek
4:22:58 PM Sen Joyner question
4:23:47 PM Secretary Dudek response
4:24:09 PM Sen Joyner Series of questions
4:25:49 PM Sen Joyner -Follow up
4:26:49 PM Secretary Dudek - Follow up
4:31:19 PM Sen Joyner series of questions (continued)
4:35:15 PM Sen Garcia recognized for question/series of questions
4:36:38 PM Sen Garcia question for Secretary Dudek
4:37:00 PM Secretary Dudek response
4:39:50 PM Sen Braynon question
4:40:51 PM Secretary Dudek response
4:41:11 PM Sen Braynon
4:42:12 PM Secretary Dudek response
4:42:35 PM Sen Grimsley comments
4:44:14 PM Sen Grimsley- Motion to Recommend Confirmation of Secretary Dudek
4:45:10 PM Sen Bean acknowledge "Team HCA"
4:45:35 PM Secretary Dudek waive close
4:46:39 PM Sen Joyner -- for debate
4:46:54 PM Sen Braynon -Recognized in debate
4:47:12 PM Sen Joyner -Recognized in debate
4:48:21 PM Sen Garcia -Recognized in debate
4:49:31 PM Full consideration to Secretary Dudek
4:50:22 PM Roll call for vote on confirmation
4:50:29 PM By Vote- Confirmation of Secretary Dudek recommended
4:51:02 PM Tab 2 - SB 994 (Negron) "Sunset Review of Medicaid Dental Services"
4:51:10 PM Sen Negron recongized to introduce SB 994
4:56:27 PM Sen Braynon recognized for questions
4:57:40 PM Sen Negron
4:58:05 PM Sen Joyner recognized for questions
4:59:14 PM Sen Negron
5:00:16 PM Sen Joyner follow up
5:01:20 PM Sen Negron response/ follow up
5:03:48 PM Sen Joyner question

5:04:48 PM Sen Negron response
5:05:15 PM Chair Bean question
5:06:50 PM Sen Negron
5:06:56 PM Public testimony on SB 994
5:07:50 PM Casey Stoutmire- FL Dental Assoc- Waive in support
5:07:52 PM Jack McRay - AARP- Waive in support
5:08:04 PM Audrey Brown- FL Assoc Health Plans- Speak against
5:10:13 PM Debate on SB 994
5:11:14 PM Sen Joyner
5:13:17 PM Sen Gaetz in debate
5:14:18 PM Vice Chair Sobel in debate
5:15:55 PM Sen Negron on SB 994
5:17:16 PM Roll call for vote
5:18:26 PM SB 994 reported favorably
5:18:36 PM Vice Chair Sobel recognized favorable vote for Secretary
5:18:46 PM Sen Gaetz recongized - Vote in favor of SB 974 and confirmation
5:19:09 PM Sen Flores to be recognized - Vote in favor of SB 974
5:19:13 PM Tab 3 -SB 918 "Licensure of Health Care Professionals"
5:19:46 PM Sen Richter recognized to present SB 918
5:21:18 PM Amendment 956544- Courtesy by Sen Grimsley
5:21:36 PM Amendment 956544- Presented by Sen Richter
5:21:57 PM Amendment 956544 - Adopted
5:22:01 PM Amendment 119844- Courtesy by Sen Grimsley
5:22:31 PM Amendment 119844 introduced by Sen Richter, public testimony
5:22:48 PM Stephen Winn- FL Osteopathic Medical Assoc- Waive in support
5:22:54 PM Penelope Ziegler- PRN- Waive in support
5:23:04 PM Linda Smith- Intervention Project for Nurses- Waive in support
5:23:18 PM Anmendment adopted
5:23:21 PM Testimony on Bill as amended
5:23:26 PM Stephen Winn - FL Osteopathic- Waive in support
5:23:36 PM Hand written amendment- Vice Chair Sobel - introduced for consideration
5:25:18 PM Sen Joyner question
5:26:00 PM Sen Galvano
5:26:19 PM Sen Richter on amendment
5:27:35 PM Vice Chair Sobel -- request to proceed
5:28:56 PM Sen Bean
5:29:49 PM Vice Chair Sobel
5:30:19 PM Sen Richter
5:30:47 PM Vice Chair Sobel moves to withdraw amendment
5:31:30 PM Paul Runk- DOH- Waive in support
5:31:37 PM Stephen Winn- FL Osteopathic - Waive in support
5:31:56 PM Sen Richter- Debate
5:32:09 PM Sen Flores moves for consideration CS SB 918
5:32:28 PM Roll call for vote
5:32:31 PM CS SB 918 Reported favorably
5:32:43 PM Tab 4- SB 676 "Health Care" presented by Sen Grimsley
5:33:40 PM Sen Joyner question
5:35:04 PM Amendment 391454- Sen Grimsley
5:35:28 PM Sen Bean clarification
5:35:42 PM Amendment 550786- Withdrawn
5:35:53 PM Amendment 391454 questions
5:36:04 PM Sen Joyner
5:36:21 PM 391454 adopted
5:36:39 PM Bill as ammended- public testimony
5:37:02 PM Stan Whittaker-- FL Assoc of Nurse practioners- Waive in support
5:37:14 PM Alisa Lapolt - FL Nurse Assoc- Waive in support
5:37:21 PM Rebecca Andrews- FL Academy of PA- waive in support
5:37:48 PM Michael Nuccio- FI Academy of PA- Waive in support
5:37:51 PM Martha DeCastro- FL Hospital Assoc- Waive in support
5:37:52 PM Barbara Lumpkin- Baptists Health South FL- Waive in support
5:38:00 PM Allison Carvajal- FL Nurse Practioner Network- Waive in support
5:38:09 PM Stephen Winn - FI Osteopathic Medical Assoc- Waive in support

5:38:19 PM Jack McRay - AARP -Waive in support
5:38:30 PM Mary Thomas- FL Medical assoc- Waive in support
5:38:38 PM Jim Limm- FL Assoc of Nurse Anesthetists- Waive in support
5:38:46 PM Melody - FL Healthcare- Waive in support
5:38:54 PM Brewster Beevis- AIF- Speak for information
5:41:27 PM Paul Sanford- FL Blue - Speaking against provisions
5:44:11 PM Joy Ryan- AHIP- against provisions, to echo opposition of Beevis and Sanford tesitmonies
5:44:52 PM Sen Joyner
5:44:55 PM Joy Ryan with information
5:46:13 PM End of public testimony on SB 676
5:46:36 PM Sen Joyner question-- defer to Sen Sobel
5:47:17 PM Vice Chair Sobel question
5:48:36 PM Sen Grimsley follow up
5:48:53 PM Sen Joyner
5:49:22 PM Sen Grimsley
5:49:40 PM Sen Joyner follow up
5:50:01 PM Sen Grimsley
5:50:20 PM Sen Joyner questions
5:51:22 PM Sen Grimsley
5:51:57 PM Vice Chair Sobel debate/question
5:53:03 PM Sen Grimsley follow up
5:53:08 PM Vice Chair Sobel debate
5:53:17 PM Sen Bean debate
5:54:04 PM Sen Grimsley Waive close
5:54:26 PM Sen Joyner in debate
5:55:31 PM Sen Flores move to consider CS SB 676
5:55:50 PM Roll call for vote
5:55:58 PM CS SB 676 Reported favorably
5:56:14 PM Tab 6 - SPB 7038 by HP "Controlled substances"
5:56:28 PM Vice Chair Sobel - Gavel
5:56:35 PM Sen Bean - presents SPB 7038 "Controlled substances"
5:58:15 PM Sen Joyner question
5:59:22 PM Sen Galvano
5:59:53 PM Roll call on bill
6:00:04 PM SPB 7038 Sen Bean recommend considered committee bill
6:00:24 PM 7038 Reported favorably
6:00:34 PM Sen Flores moves to rise
6:00:39 PM Meeting adjourned