

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

HEALTH POLICY
Senator Diaz, Chair
Senator Brodeur, Vice Chair

MEETING DATE: Wednesday, January 27, 2021

TIME: 9:00—11:30 a.m.

PLACE: Pat Thomas Committee Room, 412 Knott Building

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

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
PUBLIC TESTIMONY WILL BE RECEIVED FROM ROOM A3 AT THE DONALD L. TUCKER CIVIC CENTER, 505 W. PENSACOLA STREET, TALLAHASSEE, FL. 32301			
1	SB 170 Hooper (Identical H 17)	Podiatric Medicine; Authorizing the Board of Podiatric Medicine to require a specified number of continuing education hours related to the safe and effective prescribing of controlled substances; providing for governance of podiatric physicians who are supervising medical assistants, etc. HP 01/27/2021 Fav/CS ED AP RC	Fav/CS Yeas 7 Nays 0
2	SB 122 Baxley (Identical H 133)	Surrendered Newborn Infants; Authorizing the Department of Health to approve, and certain hospitals, emergency medical services stations, and fire stations to use, newborn infant safety devices to accept surrendered newborn infants under certain circumstances; requiring such hospitals, emergency medical services stations, or fire stations to physically check and test the devices at specified intervals; providing additional locations to which the prohibition on the initiation of criminal investigations based solely on the surrendering of a newborn infant applies, etc. HP 01/27/2021 Favorable AHS AP	Favorable Yeas 6 Nays 2
3	Consideration of proposed bill:		
	SPB 7000	OGSR/Nurse Licensure Compact; Amending a provision which provides an exemption from public record requirements for certain personal identifying information of nurses in the Nurse Licensure Compact and from public record and meeting requirements for certain meetings or portions of meetings and certain records held by the Interstate Commission of Nurse Licensure Compact Administrators; removing the scheduled repeal of the exemptions, etc.	Submitted and Reported Favorably as Committee Bill Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Health Policy

Wednesday, January 27, 2021, 9:00—11:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	Consideration of proposed bill:		
	SPB 7002	OGSR/Trade Secrets/Department of Health; Amending a provision which provides an exemption from public records requirements for certain trade secrets contained in records, reports, or information submitted to the Department of Health; removing the scheduled repeal of the exemption, etc.	Submitted and Reported Favorably as Committee Bill Yeas 7 Nays 0
5	Workshop on health care related laws and policies that have been set aside or altered during the current public health emergency		Presented
Other Related Meeting Documents			

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 170

INTRODUCER: Health Policy Committee and Senators Hooper and Gruters

SUBJECT: Podiatric Medicine

DATE: January 27, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto Van-Winkle	Brown	HP	Fav/CS
2.	_____	_____	ED	_____
3.	_____	_____	AP	_____
4.	_____	_____	RC	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 170 makes changes to three issues related to the practice of podiatric medicine. The bill:

- Creates s. 461.0155, F.S., to specify that podiatrists, when supervising medical assistants, are governed by s. 458.3485, F.S.;
- Requires that a minimum of two continuing education (CE) hours related to the safe and effective prescribing of controlled substances must be added to the CE hours that the Board of Podiatric Medicine (BPM) may require as a condition of podiatrist licensure renewal; and
- Adds podiatrists to the list of health care providers who are authorized to enter into direct health care agreements with patients for the provision of health care services, without such agreements being considered insurance.

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

II. Present Situation:

The Department of Health

The Legislature created the Department of Health (DOH) to protect and promote the health of all residents and visitors in the state.¹ The DOH is charged with the regulation of health practitioners for the preservation of the health, safety, and welfare of the public. The Division of Medical Quality Assurance (MQA) is responsible for the boards² and professions within the DOH.³

Podiatric Medicine

Podiatric medicine is the diagnosis or medical, surgical, palliative, and mechanical treatment of ailments of the human foot or leg.⁴ It also includes the amputation of toes or other parts of the foot but does not include the amputation of the entire foot or leg. A podiatric physician is authorized to prescribe drugs specifically related to his or her scope of practice.⁵

The BPM was established to ensure that every podiatric physician practicing in this state meets minimum requirements for safe practice. The BPM licenses, monitors, disciplines, educates, and, when appropriate, rehabilitates practitioners to assure their competence in the service of the people of Florida.

Licensure Requirements

Florida law requires a podiatric physician to meet the following requirements for licensure:⁶

- Be at least 18 years of age;
- Hold a degree from a school or college of podiatric medicine or chiropody recognized and approved by the Council on Podiatry Education of the American Podiatric Medical Association;
- Have successfully completed one of the following clinical experience requirements:
 - One year of residency in a program approved by the BPM;⁷ or
 - Ten years of continuous, active licensed practice of podiatric medicine in another state immediately preceding application and completion of at least the same continuing education requirements during those 10 years as are required of podiatric physicians licensed in this state;
- Successfully complete a background screening; and

¹ Section 20.43, F.S.

² Under s. 456.001(1), F.S., the term “board” is defined as any board, commission, or other statutorily created entity, to the extent such entity is authorized to exercise regulatory or rulemaking functions within the DOH or, in some cases, within the MQA.

³ Section 20.43, F.S.

⁴ Section 461.003(5), F.S.

⁵ *Id.*

⁶ Section 461.006, F.S.

⁷ *Id.* If it has been more than four years since the completion of the residency, an applicant must have two years of active, licensed practice of podiatric medicine in another jurisdiction in the four years immediately preceding application or successfully complete a board-approved postgraduate program or board-approved course within the year preceding application.

- Obtain passing scores on the national examinations administered by the National Board of Podiatric Medical Examiners.⁸

A license to practice podiatric medicine must be renewed biennially.

Continuing Education (CE)

A podiatric physician must complete 40 hours of CE as a part of the biennial licensure renewal, which must include:⁹

- One hour on risk management;
- One hour on the laws and rules related to podiatric medicine;
- Two hours on the prevention of medical errors;
- Two hours on HIV/AIDS (due for the first renewal only); and
- One hour on human trafficking (beginning January 1, 2021).¹⁰

Controlled Substance Prescribers

Effective July 1, 2018, every person registered with the U.S. Drug Enforcement Administration and authorized to prescribe controlled substances, must complete a two-hour continuing education course on prescribing controlled substances.¹¹ The course must include:

- Information on the current standards for prescribing controlled substances, particularly opiates;
- Alternatives to these standards;
- Non-pharmacological therapies;
- Prescribing emergency opioid antagonists; and
- The risks of opioid addiction following all stages of treatment in the management of acute pain.

The course can only be offered by a statewide professional association of physicians in this state that is accredited to provide educational activities designated for the American Medical Association Physician's Recognition Award Category 1 Credit or the American Osteopathic Category 1-A medical continuing education on the safe and effective prescribing of controlled substances each biennial license renewal.¹² Approved providers for the course are available through the BPM's website¹³ and CE Broker.¹⁴

This requirement does not apply to a licensee who is required by his or her applicable practice act to complete a minimum of two hours of continuing education on the safe and effective

⁸ Rule 64B18-11.002, F.A.C., (2019).

⁹ Section 461.007(3), F.S., and Rule 64B18-17, F.A.C., (2019).

¹⁰ Section 456.0341, F.S.

¹¹ Section 456.0301, F.S.

¹² *Id.*

¹³ Department of Health, *Take Control of Controlled Substances*, available at <http://www.flhealthsource.gov/FloridaTakeControl/> (last visited Jan. 18, 2021). To access the podiatric list of providers, select Podiatric Medicine.

¹⁴ See CE Broker, *Podiatric Physician*, available at <https://courses.cebroke.com/search/fl/podiatric-physician?subjectArea=3313> (last visited Jan. 19, 2021).

prescribing of controlled substances. The requirement applies to podiatric physicians because their practice act (ch. 461, F.S.) does not specifically do so.

Medical Assistants

Section 458.3485, F.S., defines a “medical assistant” as a professional, multi-skilled person dedicated to assisting in all aspects of medical practice under the direct supervision and responsibility of a physician. A medical assistant:

- Assists with patient care management;
- Executes administrative and clinical procedures; and
- Often performs managerial and supervisory functions.

Competence in the field also requires that a medical assistant adhere to ethical and legal standards of professional practice, recognize and respond to emergencies, and demonstrate professional characteristics.

A medical assistant performs his or her duties under the direct supervision and responsibility of a licensed physician. A medical assistant may undertake the following duties:

- Performing clinical procedures, including:
 - Performing aseptic procedures;
 - Taking vital signs;
 - Preparing patients for the physician’s care and treatment;
 - Performing venipunctures and non-intravenous injections; and
 - Observing and reporting patients’ signs or symptoms;
- Administering basic first aid;
- Assisting with patient examinations or treatments;
- Operating office medical equipment;
- Collecting routine laboratory specimens as directed by the physician;
- Administer medication as directed by the physician;
- Performing basic laboratory procedures;
- Performing office procedures, including all general administrative duties required by the physician;
- Performing dialysis procedures, including home dialysis.

A medical assistant is not required to be licensed, certified, or registered to practice in Florida but may obtain the designation of a certified medical assistant if he or she receives a certification from a program accredited by the National Commission for Certifying Agencies, a national or state medical association, or an entity approved by the Board of Medicine.

Current law neither authorizes nor prohibits podiatric physicians regarding the supervision of, or the delegation of tasks or procedures to, medical assistants.

Direct Health Care Agreements

Section 624.27, F.S., authorizes the use of a direct health care agreement, which is a contract between a health care provider and a patient, a patient's legal representative, or a patient's employer. A direct health care agreement must:

- Be in writing;
- Be signed by the health care provider, or his or her agent, and the patient, the patient's legal representative, or the patient's employer;
- Allow either party to terminate the agreement by giving the other party 30 days' advance written notice;
- Allow immediate termination of the agreement for a violation of physician-patient relationship or a breach of the terms of the agreement;
- Describe the scope of health care services that are covered by the monthly fee;
- Specify the monthly fee and any fees for health care services not covered under the agreement;
- Specify the duration of the agreement and any automatic renewal provisions;
- Offer a refund to the patient of monthly fees paid in advance if the health care provider stops offering health care services for any reason;
- State that the agreement is not health insurance and that the health care provider will not bill the patient's health insurance policy or plan for services covered under the agreement;
- State that the agreement does not qualify as minimum essential coverage to satisfy the individual responsibility provision of the federal Patient Protection and Affordable Care Act; and
- State that the agreement is not workers' compensation insurance and may not replace the employer's workers' compensation obligations.

A direct health care agreement is not considered health insurance and is exempt from the Florida Insurance Code, which precludes any authority of the Office of Insurance Regulation to regulate such agreements.¹⁵

Currently, s. 624.27, F.S., pertains to a direct health care agreement contract with an allopathic physician, an osteopathic physician, a chiropractic physician, a nurse, a dentist, or a health care group practice, for health care services that are within the competency and training of the health care provider. Direct health care agreement contracts with a podiatric physician for the provision of health care services are not contemplated under the statute.

III. Effect of Proposed Changes:

Medical Assistants

The bill creates s. 461.0155, F.S., within the podiatrist practice act to provide that a podiatric physician's supervision of a medical assistant is governed by s. 458.3485, F.S.

¹⁵ Section 624.27(2), F.S.

Direct Health Care Agreements

The bill amends s. 624.27, F.S., to authorize individuals to directly contract with podiatric physicians through direct health care agreements for the provision of health care services without such contracts being considered insurance. The bill retains the contract requirements under current law for other health care providers offering direct health care agreements and applies them to such contracts with podiatric physicians.

Continuing Education

The bill amends s. 461.007, F.S., to provide that the CE hours that the BPM may require of podiatrists for licensure renewal must include a minimum of two hours of CE related to the safe and effective prescribing of controlled substances. With this change, podiatrists will no longer be required to complete CE under s. 456.0301, F.S.

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

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 461.007 and 624.27.

This bill creates section 461.0155, Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Health Policy on January 27, 2021:

The committee substitute deletes the underlying bill's amendment to s. 458.4585, F.S.

That portion of the underlying bill would create a definition for the term "physician" to include podiatric physicians.

B. Amendments:

None.



482288

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/27/2021	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 17 - 32.

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

And the title is amended as follows:

Delete lines 2 - 3

and insert:

An act relating to podiatric medicine;

By Senator Hooper

16-00457-21

2021170__

1 A bill to be entitled
 2 An act relating to podiatric medicine; amending s.
 3 458.3485, F.S.; defining the term "physician";
 4 amending s. 461.007, F.S.; authorizing the Board of
 5 Podiatric Medicine to require a specified number of
 6 continuing education hours related to the safe and
 7 effective prescribing of controlled substances;
 8 creating s. 461.0155, F.S.; providing for governance
 9 of podiatric physicians who are supervising medical
 10 assistants; amending s. 624.27, F.S.; revising the
 11 definition of the term "health care provider" to
 12 include podiatric physicians; providing an effective
 13 date.
 14
 15 Be It Enacted by the Legislature of the State of Florida:
 16
 17 Section 1. Subsection (1) of section 458.3485, Florida
 18 Statutes, is amended to read:
 19 458.3485 Medical assistant.—
 20 (1) DEFINITION.—As used in this section:
 21 (a) "Medical assistant" means a professional multiskilled
 22 person dedicated to assisting in all aspects of medical practice
 23 under the direct supervision and responsibility of a physician.
 24 This practitioner assists with patient care management, executes
 25 administrative and clinical procedures, and often performs
 26 managerial and supervisory functions. Competence in the field
 27 also requires that a medical assistant adhere to ethical and
 28 legal standards of professional practice, recognize and respond
 29 to emergencies, and demonstrate professional characteristics.

Page 1 of 2

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

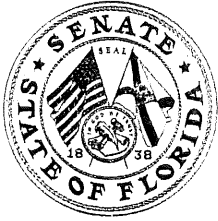
16-00457-21

2021170__

30 (b) "Physician" means a person who is licensed as a
 31 physician under this chapter or as a podiatric physician under
 32 chapter 461.
 33 Section 2. Subsection (3) of section 461.007, Florida
 34 Statutes, is amended to read:
 35 461.007 Renewal of license.—
 36 (3) The board may by rule prescribe continuing education,
 37 not to exceed 40 hours biennially, as a condition for renewal of
 38 a license, with a minimum of 2 hours of continuing education
 39 related to the safe and effective prescribing of controlled
 40 substances. The criteria for such programs or courses shall be
 41 approved by the board.
 42 Section 3. Section 461.0155, Florida Statutes, is created
 43 to read:
 44 461.0155 Medical assistants.—A podiatric physician who is
 45 supervising a medical assistant shall be governed by s.
 46 458.3485.
 47 Section 4. Paragraph (b) of subsection (1) of section
 48 624.27, Florida Statutes, is amended to read:
 49 624.27 Direct health care agreements; exemption from code.—
 50 (1) As used in this section, the term:
 51 (b) "Health care provider" means a health care provider
 52 licensed under chapter 458, chapter 459, chapter 460, chapter
 53 461, chapter 464, or chapter 466, or a health care group
 54 practice, who provides health care services to patients.
 55 Section 5. This act shall take effect July 1, 2021.

Page 2 of 2

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Commerce and Tourism, *Chair*
Appropriations Subcommittee on
Transportation, Tourism, and Economic
Development, *Vice Chair*
Appropriations
Community Affairs
Finance and Tax
Regulated Industries

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

SENATOR ED HOOPER
16th District

January 12, 2021

Honorable Manny Diaz, Jr.
306 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Diaz,

I am writing to request that SB 170, Podiatric Medicine, be placed on the agenda to be heard in the Health Policy Committee.

I appreciate your consideration in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Ed Hooper", written over a large, loopy circular flourish.

Ed Hooper

Cc: Allen Brown, Staff Director
Celia Georgiades, Administrative Assistant

 **ENTERED**
1-12-21

REPLY TO:

☐ 3450 East Lake Road, Suite 305, Palm Harbor, Florida 34685 (727) 771-2102
☐ 302 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

170
Bill Number (if applicable)

Topic Support SB 170

Amendment Barcode (if applicable)

Name Chris Hansen

Job Title Ballard Partners

Address 201 S. Monroe

Phone 251-2672

Street

Tall
City

FL
State

32301
Zip

Email chansen@ballardpartners.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FL Podiatric Medical Assoc. (FPMA)

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

Tallahassee, Florida 32399-1100

COMMITTEES:

Health Policy Chair
Appropriations Subcommittee on
Education Vice Chair
Appropriations
Appropriations Subcommittee on Health
and Human Services
Education
Commerce and Tourism
Rules

SENATOR MANNY DIAZ, JR.
36th District

January 27, 2021

Ms. Lynn Wells, Committee Administrative Assistant
Florida Senate Committee on Health Policy

Dear Ms. Wells,

As you know, I had to miss a portion of today's meeting of the Health Policy Committee to present a bill in another committee. As a result, I was absent for the votes on SPB 7000, SPB 7002, and SB 170.

Please include this letter in the Committee's records to indicate that if I had been present for those votes, I would have voted in the affirmative for all three bills.

Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "M. Diaz", is written over a horizontal line.

Senator Manny Diaz, Jr.
Florida Senate, District 36

REPLY TO:

- ☐ 10001 Northwest 87th Avenue, Hialeah Gardens, Florida 33016 (305) 364-3073
- ☐ 306 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5036

Senate's Website: www.flsenate.gov

Wilton Simpson
President of the Senate

Aaron Bean
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 122

INTRODUCER: Senator Baxley and others

SUBJECT: Surrendered Newborn Infants

DATE: January 26, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Smith	Brown	HP	Favorable
2.			AHS	
3.			AP	

I. Summary:

SB 122 modifies statutory provisions relating to surrendered newborn infants. The bill increases the age of an infant to qualify for relinquishment, from approximately seven days old to approximately 30 days old. The bill authorizes the placement of surrendered infants in a newborn safety device at a hospital, emergency medical services (EMS) station, or fire station, if such facility is staffed 24 hours per day. The bill provides specifications for the use of such devices.

The bill takes effect on July 1, 2021.

II. Present Situation:

Infant Safe Haven Laws

Every state legislature has enacted laws to address infant abandonment and endangerment in response to a reported increase in the abandonment of infants in unsafe locations, such as public restrooms or trash receptacles. Beginning with Texas in 1999, states have enacted these safe haven laws as an incentive for mothers in crisis to safely relinquish their babies at designated locations where the babies are protected and provided with care until a permanent home is found.¹

While there is great variability in the laws across states, safe haven laws generally allow the parent, or an agent of the parent, to remain anonymous and to be shielded from criminal liability and prosecution for child endangerment, abandonment, or neglect in exchange for surrendering the baby to a safe haven.²

¹ See Infant Safe Haven Laws (Current Through December 2016) *available at* <https://www.childwelfare.gov/pubPDFs/safehaven.pdf> (last visited Jan. 19, 2021).

² *Id.*

According to the nonprofit organization known as the National Safe Haven Alliance (NSHA), 4,126 safe haven relinquishments have occurred since 1999 nationwide.³ Fifty-one relinquishments occurred in 2020.⁴ These statistics are unofficial estimates, as there is no federally mandated safe haven reporting requirement. Therefore, the NSHA relies on county and state reporting. Illegal abandonments have also occurred during that time span, with some newborns found alive and others deceased.

Surrender of Newborn Infants in Florida

The Florida Legislature enacted Florida's initial abandoned newborn infant law in 2000.⁵ The law created s. 383.50, F.S., and authorized the abandonment of a newborn infant, up to three days old or younger, at a hospital or a fire station and addressed: presumption of relinquishment of parental rights, implied consent to treatment, anonymity, and physical custody of the infant.⁶ The law also directed the Department of Health, in conjunction with the Department of Children and Families, to produce a media campaign to promote safe placement alternatives for newborn infants.

In 2001, s. 383.50, F.S., was amended to authorize EMS stations, in addition to hospitals and fire stations, as optional locations for the lawful relinquishment of a newborn infant.⁷

In 2008, multiple provisions of statute were modified to refer to "surrendered newborn infant" rather than "abandoned newborn infant." The three-day age limit for surrender of a newborn infant was increased to a seven-day age limit. Additionally, a provision was added to indicate that when an infant is born in a hospital and the mother expresses intent to leave the infant and not return, the hospital or registrar is directed, upon her request, to complete the infant's birth certificate without naming the mother.

According to the NSHA, there have been approximately 324 surrendered newborns in Florida since 2000. Of those, approximately 244 newborns were surrendered at hospitals and approximately 74 were surrendered at Fire Rescue or Emergency Medical Service Stations.⁸ Approximately 14 newborns were surrendered in Florida in 2020.⁹

Safe Haven for Newborns has approximated newborn surrenders in Florida from January 1, 2000, through January 20, 2021 as follows:¹⁰

³ See Our Cause, National Safe Haven Alliance available at <https://www.nationalsafehavenalliance.org/our-cause> (last visited Jan. 19, 2021).

⁴ *Id.*

⁵ Chapter 2000-188, Laws of Fla.

⁶ s. 383.50, F.S.

⁷ Chapter 2001-53, s. 15, Laws of Fla.

⁸ Safe Haven for Newborns, *Safe Haven for Newborns Statistics* (updated Jan. 25, 2021) (on file with the Senate Committee on Health Policy).

⁹ *Id.*

¹⁰ *Id.*

County	Surrendered Safely	Abandoned in Unsafe Places	Total
Alachua	17	0	17
Bay	4	1	5
Brevard	5	2	7
Broward	38	8	46
Charlotte	4	0	4
Clay	4	0	4
Collier	3	1	4
Columbia	5	0	5
Duval	22	3	25
Escambia	7	0	7
Flagler	3	0	3
Hernando	8	0	8
Highlands	3	2	5
Hillsborough	10	2	12
Indian River	2	1	3
Lake	4	0	4
Lee	16	1	17
Leon	6	1	7
Manatee	7	1	8
Marion	4	2	6
Martin	1	0	1
Miami-Dade	51	8	59
Monroe	5	2	7
Nassau	2	0	2
Okaloosa	2	1	3
Orange	18	8	26
Osceola	2	0	2
Palm Beach	21	6	27
Pasco	2	1	3
Pinellas	7	3	10
Polk	6	3	9
Putnam	1	1	2
St. Johns	2	0	2
St. Lucie	3	0	3
Santa Rosa	6	1	7
Seminole	11	1	12
Sumter	0	1	1
Taylor	1	0	1
Volusia	10	1	11
Wakulla	1	0	1
TOTAL	324	62	386

Safe Haven Baby Boxes

Safe Haven Baby Boxes, Inc. is a nonprofit incorporated in Indiana.¹¹ The nonprofit has patented a device for receiving a surrendered baby,¹² trademarked as a “Safe Haven Baby Box.”¹³ The federal Food and Drug Administration has determined that a Safe Haven Baby Box is not a medical “device” pursuant to s. 201 of the federal Food, Drug, and Cosmetic Act, and therefore is not required to comply with the requirements of the act.¹⁴

Ten babies have been surrendered inside Safe Haven Baby Boxes since the first was installed in 2016.¹⁵ There are 56 active baby boxes – 50 in Indiana, 4 in Ohio, 1 in Arkansas, and 1 in Florida.¹⁶ Florida’s Safe Haven Baby Box is located at the Martin Luther King, Jr., First Responder Campus in Ocala and was dedicated by their City Council on December 15, 2020.¹⁷

III. Effect of Proposed Changes:

Section 1 amends s. 383.50, F.S., relating to treatment of a surrendered newborn infant. The bill revises the definition of “newborn infant” to increase the allowable age of a relinquished newborn infant from approximately seven days old to approximately 30 days old. The bill defines the term “newborn safety device,” as “a fixture installed in an exterior wall of a building which has an exterior point of access that locks and automatically triggers an alarm inside the building upon placement of a newborn infant inside and which has an interior point of access that allows individuals inside the building to safely retrieve the newborn infant.”

Currently, s. 383.50, F.S., provides for the relinquishment of a newborn from a parent to a firefighter, emergency medical technician, or paramedic at a fire station or emergency medical services station, or brings a newborn infant to an emergency room of a hospital. The bill authorizes a hospital, an EMS station, or a fire station, that is staffed 24 hours per day, to utilize a newborn safety device for accepting surrendered newborn infants if the device is:

- Physically part of the hospital, EMS station, or fire station;
- Located such that the interior point of access is in an area that is conspicuous and visible to facility employees; and
- Equipped with a dual alarm system connected to the physical location of the device.

¹¹ See United States Patent (dated Apr. 28, 2020) available at <https://img1.wsimg.com/blobby/go/0e1dea24-4aa4-477a-b7dd-0e668b1de6d1/downloads/Patent%20.pdf?ver=1610398180477> (last visited Jan. 19, 2021).

¹² *Id.*

¹³ See Trademark Certificate (registered Oct. 15, 2019) available at <https://img1.wsimg.com/blobby/go/0e1dea24-4aa4-477a-b7dd-0e668b1de6d1/downloads/Trademark%20Certificate.pdf?ver=1610398180478> (last visited Jan. 19, 2021).

¹⁴ See Letter from U.S. Food and Drug Administration to Safe Haven Baby Boxes, Inc. (dated Feb. 15, 2019) available at <https://img1.wsimg.com/blobby/go/0e1dea24-4aa4-477a-b7dd-0e668b1de6d1/downloads/C180100.Letter.pdf?ver=1610398180478> (last visited Jan. 19, 2021).

¹⁵ See Safe Haven Baby Boxes available at <https://shbb.org/> (last visited Jan. 19, 2021).

¹⁶ See Our Donors, Safe Haven Baby Boxes available at <https://shbb.org/donors-sponsors> (last visited Jan. 19, 2021).

¹⁷ See Ocala to Become First Florida City to Install Safe Haven Baby Boxes, Health News Florida by Caitlyn McLaughlin and Jessica James (published Dec. 10, 2020) available at <https://health.wusf.usf.edu/health-news-florida/2020-12-10/ocala-to-become-first-florida-city-to-install-safe-haven-baby-boxes> (last visited Jan. 19, 2021). See also Ocala Fire Rescue unveils Florida’s first Safe Haven Baby Box, Ocala News (published Dec. 15, 2020) available at <https://www.ocala-news.com/2020/12/15/ocala-fire-rescue-unveils-floridas-first-safe-haven-baby-box/> (last visited Jan. 19, 2021).

Under the bill, facilities that use a newborn safety device are also required to:

- Check the device at least twice a day; and
- Test the device at least once a week to ensure that the alarm system is in working order.

The bill authorizes EMS stations and fire stations to accept newborn infants via a newborn safety device in addition to acceptance by a firefighter, an emergency medical technician or a paramedic, and to indicate that placement of a newborn infant in a newborn safety device is considered consent for treatment and transport of the infant.

The bill specifies that, except when there is actual or suspected child abuse or neglect, any person who leaves a newborn infant in a newborn safety device has the absolute right to remain anonymous, consistent with the current process for surrender of a newborn infant.

The bill clarifies that a criminal investigation shall not be initiated solely because a newborn infant is left at an EMS station or a fire station, unless there is actual or suspected child abuse or neglect, consistent with the current process for newborn infants surrendered at a hospital.

Section 2 amends s. 63.0423, F.S., to make conforming and technical changes and revise a cross-reference.

Section 3 provides an effective date of July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Private sector facilities that opt to use a newborn safety device as a means for the relinquishment of a newborn will need to fund the acquisition and installation of the new device.

C. Government Sector Impact:

Public sector facilities that opt to use a newborn safety device as a means for the relinquishment of a newborn will need to fund the acquisition and installation of the new device.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 383.50 and 63.0423.

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 Baxley

12-00035-21

2021122__

A bill to be entitled

An act relating to surrendered newborn infants; amending s. 383.50, F.S.; revising and defining terms; authorizing the Department of Health to approve, and certain hospitals, emergency medical services stations, and fire stations to use, newborn infant safety devices to accept surrendered newborn infants under certain circumstances; requiring such hospitals, emergency medical services stations, or fire stations to physically check and test the devices at specified intervals; conforming provisions to changes made by the act; providing additional locations to which the prohibition on the initiation of criminal investigations based solely on the surrendering of a newborn infant applies; amending s. 63.0423, F.S.; conforming a cross-reference; making conforming and technical changes; providing an effective date.

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

Section 1. Present subsections (2) through (10) of section 383.50, Florida Statutes, are redesignated as subsections (3) through (11), respectively, a new subsection (2) is added to that section, and subsection (1) and present subsections (3), (5), and (10) of that section are amended, to read:

383.50 Treatment of surrendered newborn infant.—

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

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

(b) "Newborn infant" means a child who a licensed physician

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reasonably believes is approximately 30 7 days old or younger at the time the child is left at a hospital, an emergency medical services station, or a fire station.

(c) "Newborn infant safety device" means a device approved by the department under subsection (2) which is installed in an exterior wall of a hospital, an emergency medical services station, or a fire station and which has an exterior point of access that allows an individual to place a newborn infant inside and an interior point of access that allows individuals inside the building to safely retrieve the newborn infant.

(2) (a) The department may approve by rule, and a hospital, an emergency medical services station, or a fire station that is staffed 24 hours per day may use, a newborn infant safety device to accept surrendered newborn infants under this section if the device is:

1. Physically part of the hospital, emergency medical services station, or fire station;

2. Temperature-controlled and ventilated for the safety of newborns;

3. Equipped with an alarm system connected to the physical location of the device which automatically triggers an alarm inside the building when a newborn infant is placed in the device;

4. Equipped with a surveillance system that allows employees of the hospital, emergency medical services station, or fire station to monitor the inside of the device 24 hours per day; and

5. Located such that the interior point of access is in an area that is conspicuous and visible to the employees of the

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hospital, emergency medical services station, or fire station.

(b) A hospital, an emergency medical services station, or a fire station that uses a newborn infant safety device to accept surrendered newborn infants shall use the device's surveillance system to monitor the inside of the newborn infant safety device 24 hours per day and shall physically check the device at least twice daily and test the device at least weekly to ensure that the alarm system is in working order.

(4)(3) Each emergency medical services station or fire station that is staffed 24 hours per day with full-time firefighters, emergency medical technicians, or paramedics shall accept any newborn infant left with a firefighter, an emergency medical technician, or a paramedic or in a newborn infant safety device that is physically part of the emergency medical services station or fire station. The firefighter, emergency medical technician, or paramedic shall consider these actions as implied consent to and shall:

(a) Provide emergency medical services to the newborn infant to the extent that he or she is trained to provide those services, and

(b) Arrange for the immediate transportation of the newborn infant to the nearest hospital having emergency services.

A licensee as defined in s. 401.23, a fire department, or an employee or agent of a licensee or fire department may treat and transport a newborn infant pursuant to this section. If a newborn infant is placed in the physical custody of an employee or agent of a licensee or fire department or is placed in a newborn infant safety device that is physically part of an

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emergency medical services station or a fire station, such placement ~~is shall be~~ considered implied consent for treatment and transport. A licensee, a fire department, or an employee or agent of a licensee or fire department is immune from criminal or civil liability for acting in good faith pursuant to this section. Nothing in this subsection limits liability for negligence.

(6)(5) Except when there is actual or suspected child abuse or neglect, any parent who leaves a newborn infant in a newborn infant safety device or with a firefighter, an emergency medical technician, or a paramedic at a fire station or an emergency medical services station, leaves a newborn infant in a newborn infant safety device at a hospital, or brings a newborn infant to an emergency room of a hospital and expresses an intent to leave the newborn infant and not return, has the absolute right to remain anonymous and to leave at any time and may not be pursued or followed unless the parent seeks to reclaim the newborn infant. When an infant is born in a hospital and the mother expresses intent to leave the infant and not return, upon the mother's request, the hospital or registrar shall complete the infant's birth certificate without naming the mother thereon.

(11)(10) A criminal investigation ~~may shall~~ not be initiated solely because a newborn infant is left at a hospital, an emergency medical services station, or a fire station under this section unless there is actual or suspected child abuse or neglect.

Section 2. Section 63.0423, Florida Statutes, is amended to read:

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117 63.0423 Procedures with respect to surrendered newborn
 118 infants.-

119 (1) Upon entry of final judgment terminating parental
 120 rights, a licensed child-placing agency that takes physical
 121 custody of a newborn ~~an~~ infant surrendered at a hospital, an
 122 emergency medical services station, or a fire station pursuant
 123 to s. 383.50 assumes responsibility for the medical and other
 124 costs associated with the emergency services and care of the
 125 surrendered newborn infant from the time the licensed child-
 126 placing agency takes physical custody of the surrendered newborn
 127 infant.

128 (2) The licensed child-placing agency shall immediately
 129 seek an order from the circuit court for emergency custody of
 130 the surrendered newborn infant. The emergency custody order
 131 shall remain in effect until the court orders preliminary
 132 approval of placement of the surrendered newborn infant in the
 133 prospective home, at which time the prospective adoptive parents
 134 become guardians pending termination of parental rights and
 135 finalization of adoption or until the court orders otherwise.
 136 The guardianship of the prospective adoptive parents shall
 137 remain subject to the right of the licensed child-placing agency
 138 to remove the surrendered newborn infant from the placement
 139 during the pendency of the proceedings if such removal is deemed
 140 by the licensed child-placing agency to be in the best interests
 141 of the child. The licensed child-placing agency may immediately
 142 seek to place the surrendered newborn infant in a prospective
 143 adoptive home.

144 (3) The licensed child-placing agency that takes physical
 145 custody of the surrendered newborn infant shall, within 24 hours

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146 thereafter, request assistance from law enforcement officials to
 147 investigate and determine, through the Missing Children
 148 Information Clearinghouse, the National Center for Missing and
 149 Exploited Children, and any other national and state resources,
 150 whether the surrendered newborn infant is a missing child.

151 (4) The parent who surrenders the newborn infant in
 152 accordance with s. 383.50 is presumed to have consented to
 153 termination of parental rights, and express consent is not
 154 required. Except when there is actual or suspected child abuse
 155 or neglect, the licensed child-placing agency shall not attempt
 156 to pursue, search for, or notify that parent as provided in s.
 157 63.088 and chapter 49. For purposes of s. 383.50 and this
 158 section, a surrendered newborn ~~an~~ infant who tests positive for
 159 illegal drugs, narcotic prescription drugs, alcohol, or other
 160 substances, but shows no other signs of child abuse or neglect,
 161 shall be placed in the custody of a licensed child-placing
 162 agency. Such a placement does not eliminate the reporting
 163 requirement under s. 383.50(8) ~~s. 383.50(7)~~. When the department
 164 is contacted regarding a newborn ~~an~~ infant properly surrendered
 165 under this section and s. 383.50, the department shall provide
 166 instruction to contact a licensed child-placing agency and may
 167 not take custody of the newborn infant unless reasonable efforts
 168 to contact a licensed child-placing agency to accept the newborn
 169 infant have not been successful.

170 (5) A petition for termination of parental rights under
 171 this section may not be filed until 30 days after the date the
 172 newborn infant was surrendered in accordance with s. 383.50. A
 173 petition for termination of parental rights may not be granted
 174 until a parent has failed to reclaim or claim the surrendered

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newborn infant within the time period specified in s. 383.50.

(6) A claim of parental rights of the surrendered newborn infant must be made to the entity having legal custody of the surrendered newborn infant or to the circuit court before which proceedings involving the surrendered newborn infant are pending. A claim of parental rights of the surrendered newborn infant may not be made after the judgment to terminate parental rights is entered, except as otherwise provided by subsection (9).

(7) If a claim of parental rights of a surrendered newborn infant is made before the judgment to terminate parental rights is entered, the circuit court may hold the action for termination of parental rights in abeyance for a period of time not to exceed 60 days.

(a) The court may order scientific testing to determine maternity or paternity at the expense of the parent claiming parental rights.

(b) The court shall appoint a guardian ad litem for the surrendered newborn infant and order whatever investigation, home evaluation, and psychological evaluation are necessary to determine what is in the best interests of the surrendered newborn infant.

(c) The court may not terminate parental rights solely on the basis that the parent left the newborn infant at a hospital, an emergency medical services station, or a fire station in accordance with s. 383.50.

(d) The court shall enter a judgment with written findings of fact and conclusions of law.

(8) Within 7 business days after recording the judgment,

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the clerk of the court shall mail a copy of the judgment to the department, the petitioner, and any person whose consent was required, if known. The clerk shall execute a certificate of each mailing.

(9) (a) A judgment terminating parental rights of a surrendered newborn infant pending adoption is voidable, and any later judgment of adoption of that child ~~minor~~ is voidable, if, upon the motion of a parent, the court finds that a person knowingly gave false information that prevented the parent from timely making known his or her desire to assume parental responsibilities toward the child ~~minor~~ or from exercising his or her parental rights. A motion under this subsection must be filed with the court originally entering the judgment. The motion must be filed within a reasonable time but not later than 1 year after the entry of the judgment terminating parental rights.

(b) No later than 30 days after the filing of a motion under this subsection, the court shall conduct a preliminary hearing to determine what contact, if any, will be allowed ~~permitted~~ between a parent and the child pending resolution of the motion. Such contact may be allowed only if it is requested by a parent who has appeared at the hearing and the court determines that it is in the best interests of the child. If the court orders contact between a parent and the child, the order must be issued in writing as expeditiously as possible and must state with specificity any provisions regarding contact with persons other than those with whom the child resides.

(c) The court may not order scientific testing to determine the paternity or maternity of the child ~~minor~~ until such time as

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the court determines that a previously entered judgment terminating the parental rights of that parent is voidable pursuant to paragraph (a), unless all parties agree that such testing is in the best interests of the child. Upon the filing of test results establishing that person's maternity or paternity of the surrendered newborn infant, the court may order visitation only if it appears to be in the best interests of the child.

(d) Within 45 days after the preliminary hearing, the court shall conduct a final hearing on the motion to set aside the judgment and shall enter its written order as expeditiously as possible thereafter.

(10) Except to the extent expressly provided in this section, proceedings initiated by a licensed child-placing agency for the termination of parental rights and subsequent adoption of a newborn infant left at a hospital, an emergency medical services station, or a fire station in accordance with s. 383.50 shall be conducted pursuant to this chapter.

Section 3. This act shall take effect July 1, 2021.

THE FLORIDA SENATE

COMMITTEES:

Ethics and Elections, *Chair*
Appropriations Subcommittee on Criminal and Civil Justice
Community Affairs
Criminal Justice
Health Policy
Judiciary
Rules

SENATOR DENNIS BAXLEY

12th District

JOINT COMMITTEE:

Joint Legislative Auditing Committee, *Alternating Chair*

December 11, 2020

The Honorable Chair Manny Diaz
306 Senate Office Building
Tallahassee, FL 32399

Dear Chairman Diaz,

I would like to request that SB 122 Surrendered Newborn Infants be heard in the next Health Policy Committee meeting.

This bill changes the age of an infant from 7 days old, current Safe Haven laws, to 30 days old, where the baby can be surrendered to either a hospital, fire station or law enforcement facility without being charged with abandonment.

It also allows for the use of what is called "Newborn Safety Device." These Newborn Safety Device's allow a mother in crisis to safely, securely, and anonymously surrender her newborn. It is designed to be installed in an exterior wall of a designated fire station, hospital or law enforcement facility. It will have an exterior door that automatically locks upon placement of a newborn inside, and an interior door which allows a staff member to secure the surrendered newborn from inside the designated building. The Newborn Safety Device, has to provide a temperature controlled environment. The door is sealed to ensure air circulation is free from pollutants, exhaust, chemical fumes, and smoke. It will have a clear medical bassinet that sits in a supporting frame with a bassinet mattress and sheet that fits snugly onto the mattress. The alarm system is set up to ensure safety and quick response with 3 alarm notifications/triggers. The medical facility that agrees to have one of these Newborn Safety Device installed will be required to inspect them at least twice daily to ensure they are performing accurately.

Thank you for your favorable consideration.

Onward & Upward,



Senator Dennis K. Baxley
Senate District 12

DKB/dd



ENTERED
12-11-20

320 Senate Office Building, 404 South Monroe St, Tallahassee, Florida 32399-1100 • (850) 487-5012

Email: baxley.dennis@flsenate.gov

Wilton Simpson
President of the Senate

Aaron Bean
President Pro Tempore

Safe Haven for Newborns Statistics

SAFE HAVEN FOR NEWBORNS, TRULY MAKING A DIFFERENCE:

- **324** newborns not abandoned in Florida, left at Safe Haven (Fire/EMS and hospitals).
- Over **5,000** girls/women assisted in their time of need or crisis.
- **72** mothers, their anonymity not a concern, choose to place their baby directly with a licensed adoption agency.
- **5** parents were helped to successfully regain their parental rights.
- **5** newborns saved from abandonment in other States, and **1** newborn saved in country of Honduras securing their future.



Each year, many girls and women in need or crisis are assisted through "A Safe Haven for Newborns"

By Year	SAFE HAVEN	Abandoned in Unsafe Places	Total	By County	SAFE HAVEN	Abandoned in Unsafe Places	Total
2000	1	3	4	Alachua	17	0	17
2001	4	3	7	Bay	4	1	5
2002	10	6	16	Brevard	5	2	7
2003	14	9	23	Broward	38	8	46
2004	10	3	13	Charlotte	4	0	4
2005	23	3	26	Clay	4	0	4
2006	16	7	23	Collier	3	1	4
2007	23	4	27	Columbia	5	0	5
2008	22	6	28	Duval	22	3	25
2009	17	3	20	Escambia	7	0	7
2010	11	0	11	Flagler	3	0	3
2011	13	0	13	Hernando	8	0	8
2012	21	3	24	Highlands	3	2	5
2013	23	3	26	Hillsborough	10	2	12
2014	10	0	10	Indian River	2	1	3
2015	18	0	18	Lake	4	0	4
2016	11	2	13	Lee	16	1	17
2017	21	3	24	Leon	6	1	7
2018	28	1	29	Manatee	7	1	8
2019	14	3	17	Marion	4	2	6
2020	14	0	14	Martin	1	0	1
Totals:	324	62	386	Miami-Dade	51	8	59
				Monroe	5	2	7
				Nassau	2	0	2
				Okaloosa	2	1	3
				Orange	18	8	26
				Osceola	2	0	2
				Palm Beach	21	6	27
				Pasco	2	1	3
				Pinellas	7	3	10
				Polk	6	3	9
				Putnam	1	1	2
				Santa Rosa	6	1	7
				Seminole	11	1	12
				St. Lucie	3	0	3
				Sumter	0	1	1
				St. Johns	2	0	2
				Taylor	1	0	1
				Wakulla	1	0	1
				Volusia	10	1	11
				Totals:	324	62	386

(Alive:30 - Dead:32)

By Location	Total
Fire Rescue & EMS	74
Hospitals	244
Police Station	1
Safe Haven for Newborns	3
Sheriff's Station	2
Other States/Countries	6
Total Saved:	330

"Thank you Uncle Nick!
If it wasn't for
Safe Haven for Newborns,
I wouldn't be here today."
- Gloria Hope



To make a donation please visit:
<http://www.asafehavenfornewborns.com>

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/27/20
Meeting Date

SB 122
Bill Number (if applicable)

Topic Surrender Newborns

Amendment Barcode (if applicable)

Name Julia DeLuce

Job Title Florida Regional coordinator - Students for Life of America

Address 1021 S Fairwinds Circle
Street

Phone 417 522 6331

Plant City Florida 33563
City State Zip

Email florida@studentsforlife.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Students for Life of America

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)

January 27, 2021

Meeting Date

SB122

Bill Number (if applicable)

Topic Surrendered Newborn Infants

Amendment Barcode (if applicable)

Name Jerome Hurtak Esq.

Job Title Attorney

Address 533 Grand Concourse

Phone 3056131555

Street

Miami Shores

FL

33138

Email jhurtak@meyecomputer.com

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Safe Haven for Newborns, Gloria M Silverio Foundation 501(c)3

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)

1-27-21
Meeting Date

122
Bill Number (if applicable)

Topic SB 122 (Support)

Amendment Barcode (if applicable)

Name Andrew Shirvell

Job Title Executive Director, Florida Voice For the Unborn

Address PO Box 14951
Street

Phone (386) 569-0563

Tallahassee FL 32317
City State Zip

Email andrew@FloridaVoiceFortheunborn.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Voice For the Unborn

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)

SB 122
Bill Number (if applicable)

Meeting Date

Amendment Barcode (if applicable)

Topic Safe Haven Law

Name Monica Kelsey

Job Title CEO

Address 22413 Maple Lane

Phone 260 750 3668

Street

Woodburn

City

FL

State

46797

Zip

Email

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Safe Haven Baby Boxes

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)

JAN 27 2021
Meeting Date

SB 122
Bill Number (if applicable)

Topic Surrendered Newborn Infants
Amendment Barcode (if applicable)

Name DAVID SURDAR (SIR-dar)

Job Title STATES MAN

Address 66 WINTERGREEN DR Phone 352 805 6597
Street

Fort Lauderdale FL 34731 Email golferdave1955@gmail.com
City State Zip

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Citizens / Newborn Children / Infants

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date

1/27/21

Bill Number (if applicable)

SB 122

Topic

child drop off boxes

Amendment Barcode (if applicable)

Name

Ron Watson

Job Title

Lobbyist

Address

9114 Seefair Lane

Phone 850 567 1202

Street

City

Tallahassee

State

FL

Zip

Email

watson.strategies@comcast.net

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

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

Representing

Midwife Association of Florida

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

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

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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)

01/27/2021
Meeting Date

SB 122
Bill Number (if applicable)

Topic Surrendered Newborns

Amendment Barcode (if applicable)

Name Patricia Schafer

Job Title Registered Nurse

Address 2015 SW 43rd Place
Street
Ocala FL 34471
City State Zip

Phone 352-362-3023

Email pgschafer7@aol.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Community Pregnancy Clinics

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)

1/27/21

Meeting Date

SB 122

Bill Number (if applicable)

Topic Surrendered Newborn Infants

Amendment Barcode (if applicable)

Name Lawrence Clermont

Job Title —

Address 2841 Englewood Drive

Street

Phone 727 458 5336

Largo

City

FL

State

33771

Zip

Email LCLERMONT@

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida PTA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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)

1-27-21
Meeting Date

SB122
Bill Number (if applicable)

Topic Health Policy SB122

Amendment Barcode (if applicable)

Name Pam Stenzel

Job Title Senior Regional Clinic Coordinator

Address 3805 Galleon Way

Phone 612 812 1284

Street

Tampa

City

FL 33615

State

Zip

Email pamstenzel819@gmail.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing SAFE HAVEN BABY BOXES

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 7000

INTRODUCER: For consideration by the Health Policy Committee

SUBJECT: OGSR/Nurse Licensure Compact/Department of Health

DATE: January 27, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Brown		HP Submitted as Comm. Bill/Fav
2.				
3.				
4.				

I. Summary:

SPB 7000 amends s. 464.0096, F.S., to save from repeal the following public records and meeting exemptions relating to the Expanded Nurse License Compact (eNLC or compact):

- The personal identifying information of a registered nurse (RN) or licensed practical nurse (LPN),¹ holding a multistate license under the eNLC, other than the nurse's name, licensure status, or licensure number, that is held by the Department of Health (DOH) or the Board of Nursing (BON), and was received from the Coordinated Licensure Information System (CLIS);
- The recordings, minutes, and records generated during an exempt meeting of the Interstate Commission of Nurse Licensure Compact Administrators (the commission); and
- A public meeting, or portion of a meeting, of the commission at which matters specifically exempt from disclosure under the Florida Constitution, or under federal or state statute, are discussed.

The public record and meeting exemptions in s. 464.0096, F.S., stand repealed on October 2, 2021, unless reviewed and reenacted by the Legislature.

The bill takes effect on October 1, 2021.

¹ The eNLC can apply to an LPN or a "vocational nurse" (VN), which is substantially equivalent to an LPN in some states. The compact's language often refers to such a practitioner as an "LPN/VN." This analysis refers to such practitioners as LPNs.

II. Present Situation:

Access to Public Records and Meetings – Generally

The Florida Constitution provides that the public has the right to access government records and meetings. The public may inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or of persons acting on their behalf.² The public also has a right to be afforded notice and access to meetings of any collegial public body of the executive branch of state government or of any local government.³ The Legislature's meetings must also be open and noticed to the public, unless there is an exception provided for by the Constitution.⁴

In addition to the Florida Constitution, the Florida Statutes specify conditions under which public access must be provided to government records and meetings. The Public Records Act⁵ guarantees every person's right to inspect and copy any state or local government public record.⁶ The Sunshine Law⁷ requires all meetings of any board or commission of any state or local agency or authority at which official acts are to be taken to be noticed and open to the public.⁸

The Legislature may create an exemption to public records or open meetings requirements.⁹ An exemption must specifically state the public necessity justifying the exemption¹⁰ and must be tailored to accomplish the stated purpose of the law.¹¹

² FLA. CONST. art. I, s. 24(a).

³ FLA. CONST. art. I, s. 24(b).

⁴ *Id.*

⁵ Chapter 119, F.S.

⁶ Section 119.011(12), F.S., defines "public record" to mean "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency." Section 119.011(2), F.S., defines "agency" to mean "any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency." The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So.2d 32 (Fla. 1992). The Legislature's records are public pursuant to section 11.0431, F.S.

⁷ Section 286.011, F.S.

⁸ Section 286.011(1)-(2), F.S. The Sunshine Law does not apply to the Legislature; rather, open meetings requirements for the Legislature are set out in the Florida Constitution. Article III, section 4(e) of the Florida Constitution provides that legislative committee meetings must be open and noticed to the public. In addition, prearranged gatherings, between more than two members of the Legislature, or between the Governor, the President of the Senate, or the Speaker of the House of Representatives, the purpose of which is to agree upon or to take formal legislative action, must be reasonably open to the public.

⁹ FLA. CONST. art. I, s. 24(c). There is a difference between records the Legislature designates as exempt from public records requirements and those the Legislature designates *confidential* and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential, such record may not be released, to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004).

¹⁰ FLA. CONST. art. I, s. 24(c).

¹¹ FLA. CONST. art. I, s. 24(c).

Executive Agency Records – The Public Records Act

Chapter 119, F.S., known as the Public Records Act, provides that all state, county, and municipal records are open for personal inspection and copying by any person and that providing access to public records is a duty of each agency.¹²

A public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.¹³ The Florida Supreme Court has interpreted the statutory definition of “public record” to include “material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.”¹⁴

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.¹⁵ A violation of the Public Records Act may result in civil or criminal liability.¹⁶

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.¹⁷ The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.¹⁸

General exemptions from the public records requirements are contained in the Public Records Act.¹⁹ Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.²⁰

¹² Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

¹³ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.”

¹⁴ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc., Inc.*, 379 So.2d 633, 640 (Fla. 1980).

¹⁵ Section 119.07(1)(a), F.S.

¹⁶ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

¹⁷ FLA. CONST. art. I, s. 24(c).

¹⁸ *Id. See, e.g., Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So.2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So.2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

¹⁹ *See, e.g., s. 119.071(1)(a), F.S.* (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

²⁰ *See, e.g., s. 213.053(2)(a), F.S.* (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” Custodians of records designated as “exempt” are not prohibited from disclosing the record; rather, the exemption means that the custodian cannot be compelled to disclose the record.²¹ Custodians of records designated as “confidential and exempt” may not disclose the record except under circumstances specifically defined by the Legislature.²²

Executive Agency Meetings – The Sunshine Law

The Florida Constitution provides that the public has the right to access government meetings. The public also has a right to be afforded notice and access to meetings of any collegial public body of the executive branch of state government or of any local government.²³ The Legislature’s meetings must also be open and noticed to the public, unless there is an exception provided for by the Constitution.²⁴ The Sunshine Law²⁵ requires all meetings of any board or commission of any state or local agency or authority at which official acts are to be taken to be noticed and open to the public.²⁶

The Legislature may create an exemption to public open meetings requirements.²⁷ An exemption must specifically state the public necessity justifying the exemption²⁸ and must be tailored to accomplish the stated purpose of the law.²⁹

Open Government Sunset Review Act

The Act³⁰ prescribes a legislative review process for newly created or substantially amended³¹ public records or open meetings exemptions, with specified exceptions.³² It requires the

²¹ See *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA 1991).

²² *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004).

²³ FLA. CONST. art. I, s. 24(b).

²⁴ FLA. CONST. art. I, s. 24(b).

²⁵ Section 286.011, F.S.

²⁶ Section 286.011(1)-(2), F.S. The Sunshine Law does not apply to the Legislature; rather, open meetings requirements for the Legislature are set out in the Florida Constitution. Article III, section 4(e) of the Florida Constitution provides that legislative committee meetings must be open and noticed to the public. In addition, prearranged gatherings, between more than two members of the Legislature, or between the Governor, the President of the Senate, or the Speaker of the House of Representatives, the purpose of which is to agree upon or to take formal legislative action, must be reasonably open to the public.

²⁷ FLA. CONST. art. I, s. 24(c). There is a difference between records the Legislature designates as exempt from public records requirements and those the Legislature designates *confidential* and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential, such record may not be released, to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004).

²⁸ FLA. CONST. art. I, s. 24(c).

²⁹ FLA. CONST. art. I, s. 24(c).

³⁰ Section 119.15, F.S.

³¹ An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings, as well as records. Section 119.15(4)(b), F.S.

³² Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Courts System are not subject to the Open Government Sunset Review Act.

automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment unless the Legislature reenacts the exemption.³³

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.³⁴ An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- The exemption allows the state or its political subdivisions to effectively and efficiently administer a governmental program and such administration would be significantly impaired without the exemption;³⁵
- The exemption protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;³⁶ or
- The exemption protects information of a confidential nature concerning entities, such as trade or business secrets.³⁷

The Act also requires specified questions to be considered during the review process.³⁸ In examining an exemption, the Act directs the Legislature to carefully question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.³⁹ If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, then records created before the sunset date may not be made public unless otherwise provided by law.⁴⁰

³³ Section 119.15(3), F.S.

³⁴ Section 119.15(6)(b), F.S.

³⁵ Section 119.15(6)(b)1., F.S.

³⁶ Section 119.15(6)(b)2., F.S.

³⁷ Section 119.15(6)(b)3., F.S.

³⁸ Section 119.15(6)(a), F.S. The specified questions are:

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

³⁹ See generally s. 119.15, F.S.

⁴⁰ Section 119.15(7), F.S.

Practitioner Profiles

Pursuant to s. 456.041, F.S., the DOH operates a database of Florida's healthcare practitioners, which includes nurses. The practitioner profile database is online and searchable.⁴¹ A profile may include information that is public record and relates to the practitioner's profession.⁴²

Practitioners and the DOH are required to update profiles.⁴³ Information exempt from public disclosure and submitted by another governmental entity that the DOH uses for practitioner profiles continues to maintain its exempt status.⁴⁴

Expanded Nurse Licensure Compact (eNLC)

The original Nurse Licensure Compact was designed as a multistate agreement establishing a mutual recognition system between states for the licensure of an RN or LPN. Prior to the compact's enactment, the National Council of State Boards of Nursing (NCSBN) produced a model bill for state legislatures to enact in order for their respective states to join the compact.⁴⁵

The compact was revised and expanded prior to adoption in Florida. These revisions resulted in the eNLC, which is set out in s. 464.0095, F.S., the enactment of which authorized Florida to enter into the eNLC. Florida's entry took effect on January 19, 2018, upon the enactment of the eNLC⁴⁶ by a total of 26 states.⁴⁷

A nurse who is issued a multi-state license from a state that is party to the eNLC is permitted to practice in any state that is also party to the compact. A nurse with a multistate license privilege must comply with the practice laws of the state in which he or she is practicing or where the patient is located. A party state may continue to issue a single-state license and authorize practice only in that state.

The eNLC permits a state to take adverse action against the multistate licensure privilege of any nurse practicing in that state. The home state has the exclusive authority to take adverse action

⁴¹ Section 456.041(8), F.S. Department of Health Practitioner Profile Search, *available at* <https://appsmqa.doh.state.fl.us/MQASearchServices/HealthCareProviders/PractitionerProfileSearch> (last visited Jan. 20, 2021).

⁴² Section 456.041(7), F.S.

⁴³ Section 456.042, F.S.

⁴⁴ Section 456.046, F.S.

⁴⁵ National Council of State Boards of Nursing (NCSBN), *Licensure Compacts*, *available at* <https://www.ncsbn.org/compacts.htm> (last visited Jan. 20, 2021). The NCSBN arose out of the recognition that in order to guard the safety of the public, the organization involved in the regulation of nurses needed to be a separate entity from the American Nurses Association (ANA) and Council on State Boards of Nursing, which represents professional nurses. NCSBN's membership is now comprised of boards of nursing and other nursing regulatory bodies that are charged with the responsibility of providing regulatory excellence for public health, safety and welfare, and protecting the public by ensuring that safe and competent nursing care is provided by licensed nurses. The NCSBN is the vehicle through which these entities act and counsel together on matters of common interest.

⁴⁶ National Council of State Boards of Nursing, *Enhanced Nurse Licensure Compact (eNLC) Interstate Commission Sets Jan. 19, 2018, as Implementation Date for eNLC*, *available at* <https://www.ncsbn.org> (last visited Jan. 20, 2021). The eNLC, is an updated version of the original NLC. The Interstate Commission of Nurse Licensure Compact Administrators set Friday, January 19, 2018, as the implementation date for the enhanced Nurse Licensure Compact (eNLC). There are 26 states in the eNLC.

⁴⁷ Section 464.0095, art. X, F.S.

against the home state license, including revocation and suspension. The eNLC requires all participating states to report to the CLIS all adverse actions taken against a nurse's license or multistate licensure practice privilege, any current significant investigative information, and denials of information.

The DOH collects and provides the following information to the NCSBN CLIS system on all RNs and LPN/VNs with eNLC multistate licenses practicing in Florida:

- NCSBN ID;
- Name (first, middle, last and suffix);
- Mother's maiden name (needed for exam purposes);
- Date of birth;
- Social security number;
- Race;
- Home phone number;
- Work phone number;
- Mailing address;
- License number;
- License rank (RN, PN);
- License status;
- Basis for licensure (e.g. exam or endorsement);
- Current license issue date;
- License expiration date;
- Education program code;
- Education program name;
- Degree;
- Education program address information;
- Graduation date;
- Date of exam;
- Original date of licensure;
- Date license record was last updated;
- Death status indicator;
- Date of death;
- Other names the licensee has been known by;
- License status effective date;
- Level of education;
- License discipline indicator;
- eNLC indicator (multistate or single state);
- eNLC state of primary residence indicator;
- Administrative complaint filed indicator;
- Endorsed from Puerto Rico indicator;
- Null and void indicator; and
- Military active indicator.⁴⁸

⁴⁸ Health Policy Committee, The Florida Senate, Fla. Bd. of Nursing, Dept. of Health, *Open Government Sunset Review of s. 464.0096(3), Section 119.15, F.S., Questionnaire*, response (Oct. 5, 2020) (on file with the Senate Health Policy Committee).

The following other state and federal laws also protect the personal identifying information of a RN or LPN/VN holding a multistate license under the eNLC:

- 42 CFR Part 2 – Drug, Alcohol and Mental Health;
- 45 CFR 160, 162, and 164 – Health Insurance Portability and Accountability Act (HIPAA);
- Section 456.013(13), Florida Statutes – General Licensing Provisions;
- Section 456.014, Florida Statutes – Public Inspection of Information; and
- Section 119.071, Florida Statutes – General Exemptions from Public Record Inspection.⁴⁹

All party states may access the CLIS to see licensure and disciplinary information for nurses licensed in the party states. The CLIS includes a nurse's personal identifying information, licensure classification information and statuses, public emergency and final disciplinary action information, and status information about multistate licensure privileges from all party states. A party state may designate the information it contributes to the CLIS as confidential, prohibiting its disclosure to nonparty states. State licensing boards must report disciplinary information, significant investigative information, and denials of applications to the CLIS promptly.

The eNLC established the commission to oversee the operation of the eNLC. The head of each state's licensing board, or his or her designee, must serve as the state's delegate to the commission. The eNLC grants the commission authority to promulgate uniform rules relating to the implementation and administration of eNLC. The commission may also take action against a party state if a party state fails to meet its obligations under the eNLC, including termination of membership after exhausting all other means of compliance.⁵⁰

All commission meetings are open to the public and must be publicly noticed. Both meetings and hearings for proposed rules must be noticed at least 60 days prior to each meeting on the eNLC's website and on the website of each party state's licensing board or published in the publication in which each state would otherwise post proposed rules. The compact also provides for public comment opportunities through both oral and written testimony. Closed meetings are permitted if the commission is discussing:

- A party state's noncompliance with its obligations under the compact;
- The employment, compensation, discipline, or other personnel matters, practices, or procedures related to a specific employee or other matters related to the commission's internal personnel practices and procedure;
- Current, threatened, or reasonably anticipated litigation;
- Contract negotiations for the purchase or sale of goods, services, or real estate;
- Accusing a person of a crime or formally censuring a person;
- Disclosure of trade secrets or commercial or financial information that is privileged or confidential;
- Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
- Disclosure of investigatory records compiled for law enforcement purposes;
- Disclosure of information related to any reports prepared by or on behalf of the commission for the purpose of investigating compliance with the eNLC; or

⁴⁹ *Id.*

⁵⁰ Section 464.0095, art. VII, F.S.

- Matters specifically exempted from disclosure by federal or state law.⁵¹

The commission must keep comprehensive minutes of matters discussed in its meetings and provide a full and accurate summary of actions taken, and the reasons. Minutes of a closed meeting will be sealed; however, such minutes may be released pursuant to a majority vote of the commission or an order of a court of competent jurisdiction.⁵²

Staff Survey Regarding Exemptions Under Review

Legislative staff received a response from the DOH to a joint survey of the House Oversight, Transparency and Public Management Subcommittee and the Senate Committee on Health Policy regarding the public records submitted to the DOH under the eNLC and the public meeting exemptions of the commission under s. 464.0096, F.S., for the following:

- The personal identifying information of an RN or LPN/VN holding a multistate license under the eNLC, other than the nurse's name, licensure status, or licensure number, that is held by the DOH or the BON, and was received from the CLIS;
- The recordings, minutes, and records generated during an exempt meeting of the commission; and
- The public meeting, or portion of a meeting, of the commission at which matters specifically exempt from disclosure under the Florida Constitution, or under federal or state statute, are discussed.

The DOH recommends retaining the exemption in its current form as it is a uniform law.

III. Effect of Proposed Changes:

The bill saves from repeal the public records and public meeting exemptions in s. 464.0096, F.S., relating to the following:

- The personal identifying information of RNs and LPNs holding a multistate license under the eNLC, other than the nurse's name, licensure status, or licensure number, that is held by the DOH or the Board of Nursing (BON), and was received from the CLIS;
- The recordings, minutes, and records generated during an exempt meeting of the commission; and
- The public meeting, or portion of a meeting, at which the commission discusses matters specifically exempt from disclosure under the Florida Constitution, or under federal or state statute, are discussed.

The bill takes effect on October 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

⁵¹ Section 464.0095, art. VII, (2),(e), F.S.

⁵² Section 464.0095, art. VII (2),(f), F.S.

B. Public Records/Open Meetings Issues:**Voting Requirement**

Article I, s. 24(c), of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemptions. The bill continues the current public records and public meeting exemptions under sunset review. The bill does not expand the exemptions or create new ones. Therefore, a two-thirds vote of the members present and voting for final passage of the bill is not required.

Public Necessity Statement

Article I, s. 24(c), of the State Constitution requires a bill that creates or expands an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. The bill continues the current public records and public meeting exemptions under sunset review. The bill does not expand these exemptions or create new ones. Therefore, the bill does not require a public necessity statement.

Breadth of Exemption

Article I, s. 24(c), of the State Constitution requires an exemption to the public records and public meeting requirements to be no broader than necessary to accomplish the stated purpose of the law. The bill exempts the information, records and commission meetings, or portion of a meeting, at which matters specifically exempted from disclosure under the Florida Constitution, or under federal or state statute, are discussed. So unless the state that originally reported the information to the CLIS authorizes the disclosure of such information by law, such information may only be disclosed by the department to the extent permitted by the reporting state's law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 464.0096 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

FOR CONSIDERATION By the Committee on Health Policy

588-00695-21

20217000pb

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 464.0096, F.S., which provides an exemption from public record requirements for certain personal identifying information of nurses in the Nurse Licensure Compact and from public record and meeting requirements for certain meetings or portions of meetings and certain records held by the Interstate Commission of Nurse Licensure Compact Administrators; removing the scheduled repeal of the exemptions; providing an effective date.

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

Section 1. Section 464.0096, Florida Statutes, is amended to read:

464.0096 Nurse Licensure Compact; public records and meetings exemptions.—

(1) A nurse's personal identifying information, other than the nurse's name, licensure status, or licensure number, obtained from the coordinated licensure information system, as defined in s. 464.0095, and held by the department or the board is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution unless the state that originally reported the information to the coordinated licensure information system authorizes the disclosure of such information by law. Under such circumstances, the information may only be disclosed to the extent permitted by the reporting state's law.

(2) (a) A meeting or portion of a meeting of the Interstate

Page 1 of 2

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

588-00695-21

20217000pb

Commission of Nurse Licensure Compact Administrators established under s. 464.0095 at which matters specifically exempted from disclosure by federal or state statute are discussed is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution.

(b) Recordings, minutes, and records generated during an exempt meeting are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

~~(3) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.~~

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

Page 2 of 2

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

**The House Oversight, Transparency, and Public Management Subcommittee
The Senate Health Policy Committee
September 14, 2020**

Open Government Sunset Review Questionnaire

(Information held by the Department of Health or Board of Nursing received from the Nurse Licensure Compact Coordinated Licensure Information System and Meetings of the Interstate Commission of Nurse Licensure Compact Administrators)

PLEASE RETURN THIS QUESTIONNAIRE BY OCTOBER 5, 2020, TO BOTH:

**Lance Toliver, Attorney
Oversight, Transparency, and Public
Management Subcommittee
Florida House of Representatives
209 House Office Building
402 South Monroe Street
Tallahassee, FL 32399
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Tallahassee, Florida 32399-1100
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Phone: (850) 487-6824**

In 2016, the Legislature created a public record and public meeting exemption in Section 464.0096, Florida Statutes, for the following:

- The personal identifying information of a Registered Nurse (RN) or Licensed Practical/Vocational Nurse (LPN/VN), holding a multistate license under the Nurse Licensure Compact (NLC), other than the nurse's name, licensure status, or licensure number, that is held by the Department of Health (DOH) or the Board of Nursing (BON), and was received from the Coordinated Licensure Information System (CLIS); and
- The recordings, minutes, and records generated during an exempt meeting of the Interstate Commission of Nurse Licensure Compact Administrators (ICNLCA) .

Section 464.0096, Florida Statutes, also creates a public meeting exemption for a meeting or portion of a meeting of the ICNLCA at which matters specifically exempted from disclosure by federal or state statute are discussed.

These public record and public meeting exemptions stand repealed on October 2, 2021, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act, Section 119.15, Florida Statutes.

TO ASSIST PROFESSIONAL COMMITTEE STAFF AS PART OF THEIR REVIEW OF THIS PUBLIC RECORD AND PUBLIC MEETING EXEMPTION, PLEASE ANSWER THE FOLLOWING QUESTIONS. A COPY OF SECTION 464.0096(3), FLORIDA STATUTES, IS ATTACHED TO THE END OF THE QUESTIONNAIRE FOR YOUR CONVENIENCE.

Agency or Organization Completing this Questionnaire: Department of Health
Name and Title of Person Completing the Questionnaire: Joe Baker, Jr., Executive Director, Board of Nursing; Linda McMullen, Assistant General Counsel
Telephone Number: 850.245.4158; 850.245.4025
E-mail Address: joe.baker@flhealth.gov; linda.mcmullen@flhealth.gov
Date that this Questionnaire was Completed: 5 October 2020

Section 464.0096(1), Florida Statutes, provides a public record exemptions for the personal identifying information of a RN or LPN/VN, holding a multistate license under the NLC, other than the nurse's name, licensure status, or licensure number, that is held by the DOH or the BON, and was received from the CLIS.¹

I. Coordinated Licensure Information System Records

1. How many RNs and LPN/VNs, who received their initial nursing license in Florida, currently also hold NLC multistate licenses?

RNs – 18,458

LPNs – 2,744

2. How many RNs and LPN/VNs, who received their initial nursing license in a state other than Florida, currently also hold NLC multistate licenses, and currently practice in Florida?

*The following licensees endorsed from other states and hold Florida multistate licenses; it is unknown if they are currently practicing in Florida or in another Compact state on the privilege to practice there.

RNs – 12,988

LPNs – 2,375

¹ The NLC requires state nursing boards to participate in a national database, Coordinated Licensure Information System (CLIS), or Nurses License Verification database. The CLIS is provided and administered by the National Council of State Boards of Nursing (NCSBN), a not-for-profit organization, whose membership comprises the boards of nursing in the 50 states, the District of Columbia, and four US territories, and is tasked with providing and administering an integrated process for collecting, storing, and sharing information on RN and LPN/VN licensure and enforcement activities related to nurse licensure laws. American Nurses Association, *Interstate Nurse Licensure Compact*, available at <https://www.nursingworld.org/practice-policy/advocacy/state/interstate-nurse-compact2/> (last visited July 17, 2020).

3. Please explain the types of information collected by the National Council of State Boards of Nursing (NCSBN) CLIS.

The Department of Health provides the following NLC related data elements to Nursys:

1. NCSBN ID
2. Name (first, middle, last and suffix)
3. Mother's Maiden name (needed for exam purposes)
4. Date of Birth
5. Social Security Number
6. Race (Asian, Black/African American, Caucasian, Hispanic, Native American, Other, Pacific Islander, or Unknown)
7. Home phone number
8. Work phone number
9. Mailing Address (including street, city, state and ZIP)
10. License Number
11. License rank (RN, PN)
12. License Status (Active or Not Active)
13. Basis for licensure (Exam, Endorsement)
14. Current license issue date
15. License expiration date
16. Education program code
17. Education program name
18. Degree (MS, BS, AD, Diploma, CRT/PN, Other)
19. Education program address information (city, state and ZIP)
20. Graduation date
21. Date of exam
22. Original date of licensure
23. Date license record was last updated
24. Death status indicator
25. Date of death
26. Other names the licensee has been known by
27. License status effective date
28. Level of education (PN, RN)
29. License discipline indicator (Y for discipline, N for no discipline)
30. eNLC compact indicator (Multistate or Single state)
31. eNLC compact state of primary residence indicator (Yes, No/Unknown)
32. Administrative complaint filed indicator
33. Endorsed from Puerto Rico indicator
34. Null and Void indicator
35. Military active indicator

4. What specific records are affected by the public record exemption?
Date of birth; social security number; proof of residence offered in multistate application including driver license number, voter registration, federal income tax return, W2; health history, substance related disorder information.
5. Has DOH received a public record request for any such information? If “yes,”:
No. The three records that have been requested regarding multistate licensed nurses relate to disciplinary action taken by the Department and were from other party states.
 - a. How many requests for any such information have been received since January 18, 2018– the date the law became effective?
 - b. Please, if possible, describe the types of entities requesting such information and how many requests were received each year since January 18, 2018.
 - c. Was the information released? Please explain.
6. Does any other state or federal law protect the personal identifying information of a RN or LPN/VN, holding a multistate license under the NLC? If “yes”: Yes.
 - a. Please provide the specific state or federal citation for each exemption.
42 CFR Part 2; Drug, Alcohol and Mental Health
45 CFR 160, 162, and 164; Health Insurance Portability and Accountability Act (HIPAA) Section 456.013(13), Florida Statutes, General Licensing Provisions
Section 456.014, Florida Statutes, Public Inspection of Information
Section 119.071, General Exemptions from Public Record Inspection
 - b. Please explain which exemption your agency relies upon when responding to a public records request that would include the exempt information. All of the above.
 - c. Could the exemption under review be merged with the other exemption(s)? No. The personal identifying information that relates to establishing residency, such as a voter registration, would not be protected.
7. Has DOH received any complaints about the public record exemption? If “yes,” please explain. No
8. Has the public records exemption under review ever been the subject of litigation? If “yes,” please explain and provide the appropriate case citations. No.
9. Does your agency recommend that the Legislature repeal the public record exemption, reenact the public record exemption as is, or reenact the public record exemption with changes? Please explain.

We recommend reenactment as is since this is a uniform law.

II. Interstate Commission of Nurse Licensure Compact Administrators Meeting Recordings, Minutes, and Records

Section 464.0096(1), Florida Statutes, also provides public record exemptions for the recordings, minutes, and records generated during an exempt meeting of the ICNLCA.²

1. Please explain the types of recordings, minutes, or records that would be generated during an exempt meeting of the ICNLCA.

The Compact staff record, prepare minutes, and keep records of all meetings of the Commission. Under Section 464.0095, Florida Statutes, Article VII establishes that “If a meeting, or portion of a meeting, is closed pursuant to this subsection, the commission’s legal counsel or designee shall certify that the meeting, or portion of the meeting, is closed and shall reference each relevant exempting provision. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.”

2. Please explain the types of recordings, minutes or records that would be generated during an exempt meeting of the ICNLCA, that could be provided to the DOH or the BON.

Refer to answer in #1 above. Florida’s Commissioner or designee would have participated in any such exempt meeting and would have been provided with the meeting materials. There have not been any exempt meetings of the Commission.

²The ICNLCA is established as a quasi-governmental and joint public entity of the Party States to fulfill the NLC objectives through a means of joint cooperative action among the Party States. This is accomplished by developing a comprehensive process that facilitates the exchange of information in the areas of licensure and investigative authority of state boards of nursing and providing for mutual recognition of nursing licenses by all Party States, thereby enhancing the portability and mobility of a nursing license and promoting public protection. The ICNLCA’s activities shall include, but are not limited to, the following: the promulgation of rules; enforcement of Commission Rules and Bylaws; provision of dispute resolution; coordination of training and education; and the collection and dissemination of information concerning the activities of the NLC, as provided by the NLC, or as determined by the Commission to be warranted by, and consistent with, the objectives and provisions of the NLC. The provisions of the NLC shall be reasonably and liberally construed to accomplish the purposes and policies of the NLC. Nurse Licensure Compact, The Interstate Commission of Nurse Licensure Compact Administrators, By-Laws, Adopted August 3, 2017, Amended August 15, 2017, available at: <https://www.ncsbn.org/commissionbylaws.pdf> (last visited July 17, 2020).

3. What specific records are affected by the public record exemption?
Date of birth; social security number; proof of residence offered in multistate application including driver license number, voter registration, federal income tax return, W2; health history, substance related disorder information; confidential investigation and discipline cases.
4. Has your agency received a public record request for any such recordings, minutes, or records that would be generated during an exempt meeting of the ICNLCA ? If “yes,”: No.
 - a. How many requests for any such information have been received since Section 464.0096, Florida Statutes, was enacted?
 - b. Please describe the types of entities requesting such information and how many requests were received each year since Section 464.0096, Florida Statutes, was enacted.
 - c. Was the information released? Please explain.
5. Does any other state or federal law protect the recordings, minutes, and records generated during an exempt meeting of the ICNLCA? If “yes”: Not to our knowledge.
 - a. Please provide the specific state or federal citation for each exemption.
 - b. Please explain which exemption your agency relies upon when responding to a public records request that would include the exempt information.
 - c. Could the exemption under review be merged with the other exemption(s)?
6. Has DOH received any complaints about the public record exemption? If “yes,” please explain. No.
7. Has the public records exemption under review ever been the subject of litigation? If “yes,” please explain and provide the appropriate case citations. No.

Does your agency recommend that the Legislature repeal the public record exemption, reenact the public record exemption as is, or reenact the public record exemption with changes? Please explain. We recommend reenactment as is since this is a uniform law.

III. Interstate Commission of Nurse Licensure Compact Administrators Meetings

Section 464.0096, Florida Statutes, also creates a public meeting exemption for meetings, or any portion thereof, of an ICNLCA meeting at which matters specifically exempted from disclosure by federal or state statute are discussed.

1. Please describe what matters would be discussed at an ICNLCA meeting, or portion of a meeting, that are specifically exempted from disclosure by federal or state statute.

From Section 464.0095, Florida Statutes, Article VII: “The commission may convene in a closed, nonpublic meeting if the commission must discuss:

1. Failure of a party state to comply with its obligations under this compact;
2. The employment, compensation, discipline, or other personnel matters, practices, or procedures related to specific employees or other matters related to the commission’s internal personnel practices and procedures;
3. Current, threatened, or reasonably anticipated litigation;
4. Negotiation of contracts for the purchase or sale of goods, services, or real estate;
5. Accusing any person of a crime or formally censuring any person;
6. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;
7. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
8. Disclosure of investigatory records compiled for law enforcement purposes;
9. Disclosure of information related to any reports prepared by or on behalf of the commission for the purpose of investigation of compliance with this compact; or
10. Matters specifically exempted from disclosure by federal or state statute.”

2. Has your agency received any public record requests for information discussed in exempt meeting of the ICNLCA ? No. If “yes,”:

- a. How many public records requests have been received since Section 464.0096, Florida Statutes, was enacted?
- b. Please describe the types of entities requesting such information.
- c. Was the information released? Please explain.

3. Explain how your agency ensures the confidentiality of the information provide to the DOH or the BON by the ICNLCA, if the information is made available to such entities.

The Department information system has multiple levels of security access within the document storage system that determine the type of document that each employee/user can access. Each employee/user with access to the document storage system must meet Department requirements of his or her access level (advanced, standard, enforcement and administrative.) This ensures that only employee/users with the appropriate credentials, level

of access and permissions have access to the stored documents and records during the course of business.

In response to a public records request the records custodian gathers the requested records. The custodian then reviews the entire record. Documents that contain confidential and exempt information will have that portion redacted prior to release of the public portion of the document. If the entire document is confidential and or exempt the entire document will be withheld. Another review prior to release by the records custodian ensures that all identifying information related to the redaction is also redacted and confirms and cites the statute which provides for the confidentiality or exemption of the redacted and withheld records.

4. Is there any case law interpreting the exemption? No.

Does your agency recommend that the Legislature repeal the public record exemption, reenact the public record exemption as is, or reenact the public record exemption with changes? Please explain. We recommend reenactment as is since this is a uniform law.

5. Please provide any additional comments regarding the public meeting and public meeting exemption under review. None.

464.0096 Nurse Licensure Compact; public records and meetings exemptions.—

- (1) A nurse's personal identifying information, other than the nurse's name, licensure status, or licensure number, obtained from the coordinated licensure information system, as defined in s. 464.0095, and held by the department or the board is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution unless the state that originally reported the information to the coordinated licensure information system authorizes the disclosure of such information by law. Under such circumstances, the information may only be disclosed to the extent permitted by the reporting state's law.
- (2)(a) A meeting or portion of a meeting of the Interstate Commission of Nurse Licensure Compact Administrators established under s. 464.0095 at which matters specifically exempted from disclosure by federal or state statute are discussed is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution.
- (b) Recordings, minutes, and records generated during an exempt meeting are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.
- (3) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 2016-97.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Health Policy Chair
Appropriations Subcommittee on
Education Vice Chair
Appropriations
Appropriations Subcommittee on Health
and Human Services
Education
Commerce and Tourism
Rules

SENATOR MANNY DIAZ, JR.
36th District

January 27, 2021

Ms. Lynn Wells, Committee Administrative Assistant
Florida Senate Committee on Health Policy

Dear Ms. Wells,

As you know, I had to miss a portion of today's meeting of the Health Policy Committee to present a bill in another committee. As a result, I was absent for the votes on SPB 7000, SPB 7002, and SB 170.

Please include this letter in the Committee's records to indicate that if I had been present for those votes, I would have voted in the affirmative for all three bills.

Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "M. Diaz", is written over a horizontal line.

Senator Manny Diaz, Jr.
Florida Senate, District 36

REPLY TO:

- ☐ 10001 Northwest 87th Avenue, Hialeah Gardens, Florida 33016 (305) 364-3073
- ☐ 306 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5036

Senate's Website: www.flsenate.gov

Wilton Simpson
President of the Senate

Aaron Bean
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SPB 7002

INTRODUCER: For consideration by the Health Policy Committee

SUBJECT: OGSR/Trade Secrets/Department of Health

DATE: January 27, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Smith	Brown		HP Submitted as Comm. Bill/Fav
2.				
3.				
4.				

I. Summary:

SPB 7002 amends s. 381.83, F.S., to save from repeal the public record exemption for trade secrets contained in records, reports, or information submitted to the Department of Health (DOH) under chapter 381, F.S. People or entities may be required to submit trade secrets to the DOH under chapter 381, F.S. to obtain a license or permit, such as with Medical Marijuana Treatment Centers, or to provide the DOH with the person's or entity's qualifications as the DOH seeks to procure services or commodities.

The public record exemption stands repealed on October 2, 2021, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act. This bill removes the repeal language.

The bill takes effect on October 1, 2021.

II. Present Situation:

Access to Public Records – Generally

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ The right to inspect or copy applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, s. 11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and the statutory provisions are adopted in the rules of each house of the legislature.³ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, ch. 119, F.S., provides requirements for public records held by executive agencies.

Executive Agency Records – The Public Records Act

Chapter 119, F.S., known as the Public Records Act, provides that all state, county, and municipal records are open for personal inspection and copying by any person and that providing access to public records is a duty of each agency.⁵

A public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁶ The Florida Supreme Court has interpreted the statutory definition of “public record” to include “material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.”⁷

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁸ A violation of the Public Records Act may result in civil or criminal liability.⁹

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.¹⁰ The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.¹¹

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2010-2022) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 2, (2020-2022).

⁴ *State v. Wooten*, 260 So.3d 1060 (Fla. 4th DCA 2018).

⁵ Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁶ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.”

⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc., Inc.*, 379 So.2d 633, 640 (Fla. 1980).

⁸ Section 119.07(1)(a), F.S.

⁹ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

¹⁰ FLA. CONST. art. I, s. 24(c).

¹¹ *Id.* See, e.g., *Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So.2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So.2d 189

General exemptions from the public records requirements are contained in the Public Records Act.¹² Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.¹³

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” Custodians of records designated as “exempt” are not prohibited from disclosing the record; rather, the exemption means that the custodian cannot be compelled to disclose the record.¹⁴ Custodians of records designated as “confidential and exempt” may not disclose the record except under circumstances specifically defined by the Legislature.¹⁵

Open Government Sunset Review Act

The Open Government Sunset Review Act¹⁶ (the Act) prescribes a legislative review process for newly created or substantially amended¹⁷ public records or open meetings exemptions, with specified exceptions.¹⁸ It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment unless the Legislature reenacts the exemption.¹⁹

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.²⁰ An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- The exemption allows the state or its political subdivisions to effectively and efficiently administer a governmental program and such administration would be significantly impaired without the exemption;²¹
- The exemption protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual’s safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²² or

(Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

¹² See, e.g., s. 119.071(1)(a), F.S. (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

¹³ See, e.g., s. 213.053(2)(a), F.S. (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

¹⁴ See *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA 1991).

¹⁵ *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004).

¹⁶ Section 119.15, F.S.

¹⁷ An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

¹⁸ Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Courts System are not subject to the Open Government Sunset Review Act.

¹⁹ Section 119.15(3), F.S.

²⁰ Section 119.15(6)(b), F.S.

²¹ Section 119.15(6)(b)1., F.S.

²² Section 119.15(6)(b)2., F.S.

- It protects information of a confidential nature concerning entities, such as trade or business secrets.²³

The Act also requires specified questions to be considered during the review process.²⁴ In examining an exemption, the Act directs the Legislature to carefully question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.²⁵ If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, then records created before the sunset date may not be made public unless otherwise provided by law.²⁶

Trade Secrets

For the purpose of s. 381.83, F.S., the term “trade secrets” is defined in s. 812.081(1)(c), F.S. In short, when the owner of the information in question takes measures to prevent it from becoming available to persons other than those selected by the owner to have access for limited purposes, a trade secret is considered to be secret, of value, for use or in use by the business, and of advantage to the business, or providing an opportunity to obtain an advantage, over those who do not know or use it.

The First District Court of Appeal held that the names and related information of a Medical Marijuana Treatment Center’s (“MMTC’s”) individual investors and partners are not trade secrets under s. 812.081(c), F.S. (2015), but that the names and related information of an MMTC’s consultants may be protected as trade secrets.²⁷

In 2016, the definition of “trade secret” in section 812.081, F.S., was expanded to include financial information.²⁸ As a result, this public record exemption was amended to include the new definition of “trade secret” and is subject to the Open Government Sunset Review Act.²⁹

²³ Section 119.15(6)(b)3., F.S.

²⁴ Section 119.15(6)(a), F.S. The specified questions are:

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

²⁵ See generally s. 119.15, F.S.

²⁶ Section 119.15(7), F.S.

²⁷ *Surterra Florida, LLC. v. Florida Department of Health*, 233 So.2d 376, 640 (Fla. 1st DCA 2017).

²⁸ Ch. 5, s. 1, Laws of Fla. (2016).

²⁹ Ch. 6, s. 6, Laws of Fla. (2016).

Chapter 381 - Public Health: General Provisions

Chapter 381, F.S. encompasses a wide variety of health services and licensing provisions under DOH regulation. This includes patients submitting medical records to apply for various programs, physicians providing reports and records on research and testing; permitting of MMTCs, licensing systems for medical marijuana patients and caregivers, permitting of migrant labor camps, and any other programs or service listed under the statute.

Licenses and permits that are issued by the DOH under chapter 381, F.S., and the number of active licenses or permits in the state for each type:³⁰

MMTCs – 22

Certified Medical Marijuana Testing Labs - 5

Medical Marijuana Patients and Caregivers – 435,105

Tattoo Artist Licensure: Tattoo Artist–11,865

Tattoo Artist Licensure: Guest Tattoo Artist– 89

Radon Program Certification: Radon Measurement Professional -379

Radon Program Certification: Radon Mitigation Professional -46

Certified Environmental Health Professional: Food Protection Only – 209

Certified Environmental Health Professional: OSTDS Only - 249

Certified Environmental Health Professional: Food Protection & OSTDS - 349

Septic Tank Contractor Registration – 650

Biomedical Waste Permits (46,648):

- Generator – 45,767
- Needle Collection – 356
- Storage – 217
- Transporter – 288
- Treatment - 20

Body Piercing Establishments (481):

- Salon – 479
- Temporary - 2

Food Hygiene Permits (14,747):

- Adult Day Care – 381
- Afterschool Meal Program – 334
- Assisted Living Facility – 1,490
- Bar/Lounge – 2,540
- CCFP-Religious Exempt – 26
- Civic Organization – 440
- Crisis Stabilization Unit – 33
- Detention Facility – 737
- Domestic Violence Shelter – 38
- Fraternal Organization – 921

³⁰ Department of Health, *Open Government Sunset Review Questionnaire relating to Trade Secrets contained in records, reports, or information submitted to the Department of Health under chapter 381, F.S.*, (prepared on Oct. 26, 2020) (on file with the Senate Committee on Health Policy).

- Homes for Special Services – 18
- Hospice – 56
- Intermediate Care Facility for the Developmentally Disabled – 52
- Migrant Labor – 8
- Movie Theater – 56
- Prescribed Pediatric Extended Care Center – 114
- Recreational Camp – 94
- Residential Treatment Facility (AHCA) – 154
- School (9 months or less) – 2,831
- School (more than 9 months) – 4,245
- Short-Term Residential Treatment Center (DCF) – 164
- Transitional Living Facility - 15

Limited Use Water Permits (11,270):

- Limited Use Commercial – 2,953
- Limited Use Community – 3,887
- Multifamily – 90
- Registered Limited Use Commercial – 4,340

Migrant Labor Camp Permit (1,150):

- H2A Migrant Camp – 438
- HUD Housing – 3
- MHP/RV/Migrant Housing – 3
- Migrant Labor Camp – 526
- Non-permitted – 45
- Other – 5
- Residential Migrant Housing - 130

Mobile Home Parks Permits (5,399):

- Lodging Park – 173
- MHP/RV/Migrant Housing – 28
- Mobile Home Park – 3,800
- Recreational Camp – 147
- Recreational Vehicle Park -1,225
- Temporary Event - 26

Onsite Sewage Treatment & Disposal System (OSTDS) Operating Permits (22,192):

- Aerobic – 11,165
- Commercial – 3,105
- Industrial or manufacturing – 5,781
- Performance Based – 2,141

OSTDS Service Permits – 1,220

OSTDS Construction Permits – 56,716

OSTDS Septic Tank Business Authorizations – 576

Public Swimming Pools (42,119):

- Exempt Pools < 32 Units – 1,813
- Exempt Pools > 32 Units – 1,304
- Exempt Pool Therapy – 33
- Fountains – 51

- Natural Bathing Place – 29
 - Other – 141
 - Public Pool <= 25,000 Gallons – 8,788
 - Public Pool > 25,000 Gallons – 20,963
 - River Ride – 16
 - Spa-Type Pools - 7,245
 - Special Purpose Pool – 148
 - Wading Pool – 839
 - Water Activity – 485
 - Water Attractions – 193
 - Water Slide Plunge Pool – 24
 - Zero Depth Entry Pool - 47
- Radon Measurement Business – 45
- Radon Mitigation Business - 26
- Tanning Establishments – 718
- Tattoo Establishments – 4,188

Trade Secrets Submitted to the DOH under Chapter 381

The information included in the records that would pertain to trade secrets would include financial and proprietary information from applicants and licensees, financial and proprietary information from those requesting permits, and any data software, programs, and/or information submitted or created pursuant to this section for any of the programs overseen by the DOH.

Individuals and entities may be required to submit trade secret information to the DOH to obtain a license or a permit. For example, s. 381.986, F.S., provides licensing requirements for MMTCs. Under this section, MMTCs provide detailed business plans to prove their ability to safely and efficiently provide medical marijuana to patients. Most of these business plans contain trade secret information. Such information is necessary for the DOH to weigh qualifications and determine the best candidates to receive licensure. However, the disclosure of this information could provide an unfair advantage to competitors and render the competitive application process meaningless.

Records and information may also be submitted to the DOH under chapter 381, F.S., as the DOH seeks to procure services or commodities. A potential vendor may include specific product specifications, financial records, or financial projections as part of its submission and may claim that the information and records are trade secrets.

Financial information that would fall under a trade secret may include calculations for pricing of certain products as the calculations may provide an advantage to a competitor on how to outbid by offering a lower price point. It could also include proprietary information on pricing from the entity's vendors, or wage and/or tax information that would give a competitor knowledge it did not previously possess, as well as bank notes and information regarding financial statuses of private investors. As part of the procurement process, it may be necessary to receive information from the potential vendors such as net worth, business plans, profit and loss statements, balance sheets, cash on hand, and other information which would support their ability to perform the

services. If this information were not protected from disclosure, there is a risk that the DOH would not receive the information it needs to make an informed decision.

Submitting Trade Secrets to the DOH

Each person or entity seeking a trade-secret exemption is required to provide documentation asserting the trade secret when the information is submitted. If necessary, the DOH may request a redacted and unredacted copy of the information, to be maintained on file in the case of a public records request. If a public records request is made, the DOH then makes a determination as to whether the information fits the statutory definition of “trade secret,” as that term is defined in s. 812.081(1)(c), F.S.³¹

If the information is not determined to be a trade secret, the DOH allows the person or entity to provide additional information.³² The person or entity is also put on notice that they can challenge that determination through a court proceeding.

If the information is determined to be a trade secret, the DOH will review the unredacted copy to ensure that only exempted trade secret information has been redacted. If the information should not have been redacted, the person or entity is notified and given the opportunity to correct the redactions or provide additional information prior to its release.³³

Staff Survey Regarding Exemption under Review

Legislative staff received a response from the DOH to a joint survey of the House Oversight, Transparency and Public Management Subcommittee and the Senate Committee on Health Policy regarding the public record exemption for trade secrets contained in records, reports, or information submitted to the DOH under chapter 381, F.S. The DOH recommends retaining the exemption in its current form.³⁴

III. Effect of Proposed Changes:

The bill saves from repeal the public records exemption in s. 381.83, F.S., for trade secrets contained in records, reports, or information submitted to the DOH under chapter 381, F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

³¹ Section 381.83(1), F.S.

³² *Id.* at 31.

³³ *Id.* at 31.

³⁴ *Id.* at 31.

B. Public Records/Open Meetings Issues:**Voting Requirement**

Article I, s. 24(c), of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record exemption. The bill continues the current public records exemption under sunset review; it does not expand this exemption or create a new one. Therefore, a two-thirds vote of the members present and voting for final passage of the bill is not required.

Public Necessity Statement

Article I, s. 24(c), of the State Constitution requires a bill that creates or expands an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. The bill continues the current public records exemption under sunset review; it does not expand this exemption or create a new one. Therefore, the bill does not require a public necessity statement.

Breadth of Exemption

Article I, s. 24(c), of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The bill exempts trade secret information “upon a showing satisfactory to the Department”³⁵ that the information meets the statutory definition in s. 812.081(1)(c), F.S. Whether information constitutes a trade secret is subject to interpretation by the Department. Specific applications of the exemption could be challenged. However, “exemptions from disclosure are to be narrowly construed,”³⁶ and the agency having custody of the records “bears the burden of proving its right to the claimed exemption.”³⁷

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

³⁵ Section 381.83(1), F.S.

³⁶ *WFTV, Inc. v. Sch. Bd. of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004) (citations omitted), *rev. den.*, 892 So.2d 1015 (Fla. 2004).

³⁷ *Id.*

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 381.83 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

FOR CONSIDERATION By the Committee on Health Policy

588-00681-21

20217002pb

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 381.83, F.S., which provides an exemption from public records requirements for certain trade secrets contained in records, reports, or information submitted to the Department of Health; removing the scheduled repeal of the exemption; providing an effective date.

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

Section 1. Section 381.83, Florida Statutes, is amended to read:

381.83 Trade secrets; confidentiality.—

~~(1)~~ Records, reports, or information obtained from any person under this chapter, unless otherwise provided by law, must be available to the public, except upon a showing satisfactory to the department by the person from whom the records, reports, or information is obtained that such records, reports, or information, or a particular part thereof, contains trade secrets as defined in s. 812.081. Such trade secrets are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. The person submitting such trade secret information to the department must request that it be kept confidential and must inform the department of the basis for the claim of trade secret. The department shall, subject to notice and opportunity for hearing, determine whether the information, or portions thereof, claimed to be a trade secret is or is not a trade secret. Such trade secrets may be

Page 1 of 2

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

588-00681-21

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disclosed, however, to authorized representatives of the department or, pursuant to request, to other governmental entities in order for them to properly perform their duties, or when relevant in any proceeding under this chapter. Authorized representatives and other governmental entities receiving such trade secret information shall retain its confidentiality. Those involved in any proceeding under this chapter, including a hearing officer or judge or justice, shall retain the confidentiality of any trade secret information revealed at such proceeding.

~~(2) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.~~

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

Page 2 of 2

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

**The House Oversight, Transparency, & Public Management Subcommittee
The Senate Committee on Health Policy
August 24, 2020**

Open Government Sunset Review Questionnaire

(Trade secrets contained in records, reports, or information submitted to the Department of Health under chapter 381, F.S.)

PLEASE RETURN THIS QUESTIONNAIRE BY OCTOBER 1, 2020, TO BOTH:

**Chris Villa,
Attorney
House Oversight, Transparency, and Public
Management Subcommittee
Chris.Villa@myfloridahouse.gov
Phone: (850) 717-4890**

**Kelly Kibbey Smith
Senior Attorney
Committee on Health Policy
The Florida Senate
Smith.Kelly@flsenate.gov
Phone: (850) 487-5824**

Section 381.83, F.S., provides a public record exemption for trade secrets (as defined in section 812.081, F.S.) contained in records, reports, or information submitted to the Department of Health (DOH) under chapter 381, F.S. In 2016, the definition of “trade secret” in section 812.081, F.S., was expanded to include financial information. As a result, this public record exemption was reenacted to include the new definition of “trade secret” and is subject to the Open Government Sunset Review Act (section 119.15, F.S.).

The public record exemption stands repealed on October 2, 2021, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act.

TO ASSIST PROFESSIONAL COMMITTEE STAFF AS PART OF THEIR REVIEW OF THIS PUBLIC RECORD EXEMPTION, PLEASE ANSWER THE FOLLOWING QUESTIONS. A COPY OF SECTIONS 381.83 AND 812.081(1)(C), F.S., ARE ATTACHED FOR YOUR CONVENIENCE.

Agency or Organization Completing this Questionnaire: Florida Department of Health

Name of Person Completing the Questionnaire: Louise St. Laurent

Title: General Counsel

Telephone Number: 850-245-4005

E-mail Address: Louise.StLaurent@flhealth.gov

Date that this Questionnaire was Completed: October 26, 2020

I. Records, Reports, and Information Submitted to the Department of Health

Section 381.83, F.S., provides a public record exemption for trade secrets contained in records, reports, or information submitted to the Department of Health (DOH) from any person under chapter 381, F.S.

1. Generally, explain who submits records, reports, or information to DOH under chapter 381, F.S., and for what purpose?

Chapter 381 encompasses a wide variety of health services and licensing provisions. This includes patients submitting medical records to apply for various programs, physicians providing reports and records on research and testing; permitting of Medical Marijuana Treatment Centers (“MMTCs”), licensing systems for medical marijuana patients and caregivers, permitting of migrant labor camps, and any other programs or service listed under the statute.

- a. Explain the type of information contained in these records and reports submitted to DOH under chapter 381, F.S.

The information included in the records that would pertain to trade secrets would include financial and proprietary information from applicants and licensees, financial and proprietary information from those requesting permits, and any data software, programs, and/or information submitted or created pursuant to this section for any of the programs overseen by the Department.

- b. Why would trade secrets be included in the submitted records, reports, or information? Please provide examples of when a trade secret is included.
Trade secrets may be a requirement of the information requested for licensure or permitting. For example, MMTCs are required to provide detailed business plans to support their ability to safely and efficiently provide medical marijuana to patients and submit amendments or variances to those plans each time they modify their business for approval by the Department’s Office of Medical Marijuana Use (OMMU). This information is required to determine the best candidates to receive licensure, but disclosure of this information could provide an unfair advantage to competitors and render the competitive application process meaningless. Another example is when records and information are received through the procurement of services or commodities. The potential vendors may include specific product specifications, financial records, or financial projections as part of its submission, and will claim that the information and records are trade secrets.

- c. For what general purpose does DOH use trade secrets submitted under chapter 381, F.S.? For example, is the information required as part of a licensing or permitting requirement?

The general purpose of obtaining the trade secret information when it comes to licensure is to determine the qualifications of the persons and or companies to receive licensure. If it is a data or software trade secret, the Department obtains the information as part of the creation of the program, and in some circumstances, the trade secret could be the pricing information of the product, which the Department uses to determine which company to award a specific contract.

2. Please list the different licenses or permits that are issued by DOH under chapter 381, F.S. Include the number of active licenses or permits in the state for each type.

MMTCs – 22

Certified Medical Marijuana Testing Labs - 5

Medical Marijuana Patients and Caregivers – 435,105

Tattoo Artist Licensure: Tattoo Artist–11,865

Tattoo Artist Licensure: Guest Tattoo Artist– 89

Radon Program Certification: Radon Measurement Professional -379

Radon Program Certification: Radon Mitigation Professional -46

Certified Environmental Health Professional: Food Protection Only – 209

Certified Environmental Health Professional: OSTDS Only - 249

Certified Environmental Health Professional: Food Protection & OSTDS - 349

Septic Tank Contractor Registration – 650

Biomedical Waste Permits (46,648):

- **Generator – 45,767**
- **Needle Collection – 356**
- **Storage – 217**
- **Transporter – 288**
- **Treatment - 20**

Body Piercing Establishments (481):

- **Salon – 479**
- **Temporary - 2**

Food Hygiene Permits (14,747):

- **Adult Day Care – 381**
- **Afterschool Meal Program – 334**
- **Assisted Living Facility – 1,490**
- **Bar/Lounge – 2,540**
- **CCFP-Religious Exempt – 26**

- **Civic Organization – 440**
- **Crisis Stabilization Unit – 33**
- **Detention Facility – 737**
- **Domestic Violence Shelter – 38**
- **Fraternal Organization – 921**
- **Homes for Special Services – 18**
- **Hospice – 56**
- **Intermediate Care Facility for the Developmentally Disabled – 52**
- **Migrant Labor – 8**
- **Movie Theater – 56**
- **Prescribed Pediatric Extended Care Center – 114**
- **Recreational Camp – 94**
- **Residential Treatment Facility (AHCA) – 154**
- **School (9 months or less) – 2,831**
- **School (more than 9 months) – 4,245**
- **Short-Term Residential Treatment Center (DCF) – 164**
- **Transitional Living Facility - 15**

Limited Use Water Permits (11,270):

- **Limited Use Commercial – 2,953**
- **Limited Use Community – 3,887**
- **Multifamily – 90**
- **Registered Limited Use Commercial – 4,340**

Migrant Labor Camp Permit (1,150):

- **H2A Migrant Camp – 438**
- **HUD Housing – 3**
- **MHP/RV/Migrant Housing – 3**
- **Migrant Labor Camp – 526**
- **Non-permitted – 45**
- **Other – 5**
- **Residential Migrant Housing - 130**

Mobile Home Parks Permits (5,399):

- **Lodging Park – 173**
- **MHP/RV/Migrant Housing – 28**
- **Mobile Home Park – 3,800**
- **Recreational Camp – 147**
- **Recreational Vehicle Park -1,225**
- **Temporary Event - 26**

Onsite Sewage Treatment & Disposal System (OSTDS) Operating Permits (22,192):

- **Aerobic – 11,165**

- **Commercial – 3,105**
- **Industrial or manufacturing – 5,781**
- **Performance Based – 2,141**
- OSTDS Service Permits – 1,220**
- OSTDS Construction Permits – 56,716**
- OSTDS Septic Tank Business Authorizations – 576**
- Public Swimming Pools (42,119):**
 - **Exempt Pools < 32 Units – 1,813**
 - **Exempt Pools > 32 Units – 1,304**
 - **Exempt Pool Therapy – 33**
 - **Fountains – 51**
 - **Natural Bathing Place – 29**
 - **Other – 141**
 - **Public Pool <= 25000 Gallons – 8,788**
 - **Public Pool > 25000 Gallons – 20,963**
 - **River Ride – 16**
 - **Spa-Type Pools - 7,245**
 - **Special Purpose Pool – 148**
 - **Wading Pool – 839**
 - **Water Activity – 485**
 - **Water Attractions – 193**
 - **Water Slide Plunge Pool – 24**
 - **Zero Depth Entry Pool - 47**
- Radon Measurement Business – 45**
- Radon Mitigation Business - 26**
- Tanning Establishments – 718**
- Tattoo Establishments – 4,188**

II. Public Record Exemption under Review

Section 381.83, F.S., provides a public record exemption for trade secrets (as defined in section 812.081, F.S.) contained in records, reports, or information submitted to DOH under chapter 381, F.S. In 2016, the definition of “trade secret” in section 812.081, F.S., was expanded to include financial information.

Subsection 381.83(1), F.S., requires persons submitting trade secret information to DOH to request that such information be kept confidential and inform DOH of the basis for the claim of trade secret. DOH must, subject to notice and an opportunity for hearing, determine whether the information, or any portion thereof, is or is not a trade secret.

1. Does DOH have a standard process for how a person may inform DOH that a record contains a trade secret? **Yes.**

- a. If “yes,” please explain the process, including any standard questions or forms.

The person and/or entity is required to provide documentation asserting the trade secret when the information is submitted. If necessary, the Department will request a redacted and unredacted copy of the information, which will be maintained on file in the case of a public records request. If a public records request is made, the Department will then review the unredacted copy to ensure only the trade secret information that falls under the exemption was redacted. If the information should not have been redacted, the person or entity is notified and given the opportunity to correct the redactions or provide additional information prior to its release. The Department will typically notify an individual that they can request a hearing or intervene to assert their trade secret prior to its release.

- b. If DOH does not have a standard process or form, generally how does a person inform DOH that a record contains a trade secret? **The individual or business is expected to note on the document(s) that they contain trade secret information.**

2. Is there a standard process or form used for how a person communicates the basis for the claim of trade secret to DOH? **Yes.**

- a. If “yes,” please explain the process, including any standard questions or forms.

As explained above in question 1., the person and/or entity would assert the trade secret and provide the basis for their assertion. If and when a public records request for the information is received, the Department would obtain additional information if necessary.

- b. If there is not a standard form or process, how is this information generally provided to DOH?

3. Does DOH have a standard policy for reviewing and evaluating trade secrets submitted under chapter 381, F.S.? **No.**

- a. If “yes,” explain the process, including how the agency gives notice and how a person can appear or be heard.

- b. If there is not a standard policy, how is the review and evaluation process typically conducted? **Although not written as a policy in the Department’s internal policies, after a trade secret is asserted, the Department reviews the assertion and determines the legal sufficiency of the assertion if a**

public record request is received. If the Department makes the determination that the assertion is incorrect, the Department provides the opportunity to provide additional information. The person and/or entity is also put on notice that they can challenge their assertion through a court proceeding.

4. At the time of submission, information may contain a trade secret, but months or years later the same information may no longer fall within the definition of trade secret. For example, the information may no longer be a secret. Does DOH ever ask the person who submitted and marked the record as containing a trade secret if the information continues to be considered a trade secret? **The Department would only ask the person and/or entity who submitted the trade secret for clarification if a public record request is received.**
 - a. Has anyone ever independently contacted DOH to inform the agency that records submitted as containing a trade secret are no longer considered trade secrets? **No.**
5. Does DOH have a standard interpretation of “trade secret” that is used as part of the evaluation process? **The Department relies on the statutory provisions to make a determination on whether or not the trade secret exemption applies.**
 - a. If “yes,” please explain the agency’s interpretation. Is there any guidance to support this interpretation? **The agency defers to the statutory provisions of section 381.83, Florida statutes, and the definition provided in section 812.081, Florida Statutes, when evaluating trade secret assertions under chapter 381.**
6. What types of “financial information” does DOH consider to be trade secrets? **Financial information that would fall under a trade secret may include calculations for pricing of certain products as the calculations may provide an advantage to a competitor on how to outbid by offering a lower price point. It could also include proprietary information on pricing from the entity’s vendors, or wage and/or tax information that would give a competitor knowledge they did not previously possess, as well as bank notes and information regarding financial statuses of private investors. As part of the procurement process it may be necessary to receive information from the potential vendors such as net worth, business plans, profit and loss statements, balance sheets, cash on hand, and other information which would support their ability to perform the services. If this information were not protected from disclosure, there is a risk that the Department would not receive the information it needs to make an informed decision.**
 - a. Prior to 2016, would that “financial information” have been protected under the definition of trade secret? Please explain.

The “financial information” may not have been protected in all circumstances under the prior version of the statute as it was specific to the businesses processes and data of the company that would provide an advantage. If the financial information was incorporated into an already protected report, then it would have been covered under the trade secret exemption.

7. If possible, please provide how many records, on an annual basis (for the last six years), are submitted by persons claiming such records or a particular part thereof contains trade secrets as defined in s. 812.081? **To provide a number of records where trade secrets were asserted would require a large amount of time and coordination through multiple programs. There are several assertions made through contracting with vendors, licensees, and entities requesting permits that would fall under this category. In any given year, there are over 2,000 active contracts. Each would have to be reviewed manually to determine if there is a claim to trade secrets exemptions. In addition, there are thousands of purchase orders which would need to be reviewed manually.**
 - a. Of those records received during the last six years, how many records has DOH determined to be a trade secret? **The Department has determined that many of the records did qualify for the trade secret exemption, especially those who have provided information related to the MMTC licensure, as well as software and data provided from vendors.**
 - i. Please give examples of the type of information that DOH found to be a trade secret.
Generally, the Department has found proprietary information such as pesticide formulas, plant growing processes, security measures, and business plans to be trade secrets.
 - ii. Please give examples of the type of information provided to DOH as supporting documentation for a claim that the trade secret exemption applied.
The Department received detailed explanations for several of the trade secret assertions, such as why the information was specialized knowledge, and examples of how the information could provide an unfair advantage to competitors.
 - b. Of those received, how many records has DOH determined not to be a trade secret? Please give examples of the types of information that a person has marked as trade secret but that DOH found not to be a trade secret.
Although a specific number is not available at this time, at least 23 MMTC applicants received determinations that some of the asserted exemptions did not apply, such as consultants, names of investors, planned locations for facilities, and names of consultants.

- c. Has the agency's determination ever been challenged? If "yes," please explain.

Yes, several of the MMTCs challenged the determinations and requested informal hearings. One case was sent to civil court, and ultimately appealed. It is *Surterra Fla., LLC v. Fla. Dep't of Health*, 223 So. 3d 376 (Fla. 1st DCA 2017), which analyzed the trade secret exemptions, and how they relate to different types of proprietary information.

8. Since October 1, 2016, has DOH received a public record request for any records containing trade secrets? If "yes:" **Yes.**

- a. Please describe the types of entities requesting such information, if available, and how many requests were received each year since October 1, 2016.

The types of entities requesting information included law firms, consulting firms, and other entities who were competing for similar licenses and/or bids.

- b. Was the trade secret information released? Please explain.

If the information met the definition of a trade secret, it was not released.

9. There is a distinction between records that are made "exempt" and records that are made "confidential and exempt." A record classified as exempt from public disclosure may be disclosed under certain circumstances. If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated by statute.

The exemption under review provides that the trade secret information is confidential and exempt from public record disclosure requirements. As such, the confidential and exempt information may only be released as provided in statute. Subsection 381.83(1), F.S., authorizes the release of trade secret information to authorized representatives of DOH, or, pursuant to request, to other governmental entities in order for them to properly perform their duties, or when relevant in any proceeding under chapter 381, F.S.

- a. Has DOH released confidential and exempt trade secret records to:

 X Authorized representatives of DOH? Please explain, including an explanation of who is considered to be an authorized representative of DOH.
DOH administers many programs that overlap in respect to services provided. It may be necessary to share information with another program or office in order for DOH to perform its administrative functions. An authorized representative would include DOH employees in managerial positions, contract managers, employees in the Division of Administration, the Office of Finance and Accounting, the Office of General Services, the Office the Office of Budget and Revenue Management, the Office of General Counsel, and executive leadership.

X Another governmental entity? Please explain. **For example, law enforcement officials requesting the information for investigations.**

 X In proceedings under chapter 381, F.S.? Please explain. **Licensing proceedings and challenges to those decisions.**

- b. Are there other instances when such information must be released? If “yes,” please provide under what circumstances the information would need to be released and identify the entities who would need access to such information. **It is possible the information may be required to be released pursuant to a lawful subpoena, in discovery in litigation, or pursuant to a court order.**

10. Has DOH had any difficulties interpreting or applying the public record exemption under review generally? If “yes,” please explain.

The Department has not had difficulty in the interpretation. However, a stakeholder challenged the Department’s interpretation of the trade secret exemption under 381.

11. Has the public record exemption ever been the subject of litigation? If “yes,” please explain and provide the appropriate case citations.

A case arose regarding trade secrets with the medical marijuana treatment center licensure, *Surterra Fla., LLC v. Fla. Dep’t of Health*, 223 So. 3d 376 (Fla. 1st DCA 2017), which analyzed the trade secret exemptions, and how they relate to different types of proprietary information.

12. Does any other Florida or federal law protect trade secret information provided to DOH under chapter 381, F.S.? **Yes.**

- a. If “yes,” provide the specific state or federal citation for each exemption and specify the types of information each state or federal law protects.

Federal law has a general provision exempting trade secrets from public information under Freedom of Information Act (FOIA) 5 U.S.C. § 552(b)(4).

Section 815.45, Florida Statutes, also specifically discusses the need for the trade secret exemption and discusses the legislative intent.

There are also trade secret exemptions in other agency specific Florida statutes such as section 288.075(1)(c) and (3), Florida Statutes, (Economic Development Agency), section 288.9626(1)(f)(1)(a), Florida Statutes, (Florida Opportunity Fund), and section 366.093(3)(a), Florida Statutes, (Public Utilities).

- i. Which specific trade secret exemption does DOH rely upon when responding to a public record request that would include trade secret information? **The Department specifically relies upon section 381.83, Florida Statutes, when responding to a public record request that includes trade secret information under 381. If the information falls under another category, the Department may also review the exemptions set forth in sections 815.04(3), 119.071(1)(f), or 815.045, Florida Statutes.**
 - ii. Can the public record exemption under review for trade secrets held by DOH be merged with any other exemption(s)? Please explain.
No, the exemption cannot be merged as this exemption relates specifically to information provided under chapter 381 and it encompasses a broader scope of information than other applicable statutes.
13. Does your agency recommend that the Legislature repeal the public record exemption, reenact the public record exemption as is, or reenact the public record exemption with changes? Please explain.
The Department recommends that the Legislature reenact the public record exemption as is.
14. Please provide any additional comments regarding the public record exemption under review.
The public record exemption is a necessary component which allows the Department to receive complete and accurate supporting documentation and information without the threat that the information will be disclosed to competitors, utilizing the methods described herein.

381.83 Trade secrets; confidentiality.—

(1) Records, reports, or information obtained from any person under this chapter, unless otherwise provided by law, must be available to the public, except upon a showing satisfactory to the department by the person from whom the records, reports, or information is obtained that such records, reports, or information, or a particular part thereof, contains trade secrets as defined in s. 812.081. Such trade secrets are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. The person submitting such trade secret information to the department must request that it be kept confidential and must inform the department of the basis for the claim of trade secret. The department shall, subject to notice and opportunity for hearing, determine whether the information, or portions thereof, claimed to be a trade secret is or is not a trade secret. Such trade secrets may be disclosed, however, to authorized representatives of the department or, pursuant to request, to other governmental entities in order for them to properly

perform their duties, or when relevant in any proceeding under this chapter. Authorized representatives and other governmental entities receiving such trade secret information shall retain its confidentiality. Those involved in any proceeding under this chapter, including a hearing officer or judge or justice, shall retain the confidentiality of any trade secret information revealed at such proceeding.

(2) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 4, ch. 95-366; s. 188, ch. 96-406; s. 6, ch. 2016-6.

812.081 Trade secrets; theft, embezzlement; unlawful copying; definitions; penalty.—

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

(c) “Trade secret” means the whole or any portion or phase of any formula, pattern, device, combination of devices, or compilation of information which is for use, or is used, in the operation of a business and which provides the business an advantage, or an opportunity to obtain an advantage, over those who do not know or use it. The term includes any scientific, technical, or commercial information, including financial information, and includes any design, process, procedure, list of suppliers, list of customers, business code, or improvement thereof. Irrespective of novelty, invention, patentability, the state of the prior art, and the level of skill in the business, art, or field to which the subject matter pertains, a trade secret is considered to be:

1. Secret;
2. Of value;
3. For use or in use by the business; and
4. Of advantage to the business, or providing an opportunity to obtain an advantage, over those who do not know or use it

when the owner thereof takes measures to prevent it from becoming available to persons other than those selected by the owner to have access thereto for limited purposes.

History.—ss. 1, 2, 3, ch. 74-136; s. 1, ch. 85-34; s. 1240, ch. 97-102; s. 1, ch. 2016-5.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Health Policy Chair
Appropriations Subcommittee on
Education Vice Chair
Appropriations
Appropriations Subcommittee on Health
and Human Services
Education
Commerce and Tourism
Rules

SENATOR MANNY DIAZ, JR.
36th District

January 27, 2021

Ms. Lynn Wells, Committee Administrative Assistant
Florida Senate Committee on Health Policy

Dear Ms. Wells,

As you know, I had to miss a portion of today's meeting of the Health Policy Committee to present a bill in another committee. As a result, I was absent for the votes on SPB 7000, SPB 7002, and SB 170.

Please include this letter in the Committee's records to indicate that if I had been present for those votes, I would have voted in the affirmative for all three bills.

Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "M. Diaz", is written over a horizontal line.

Senator Manny Diaz, Jr.
Florida Senate, District 36

REPLY TO:

- ☐ 10001 Northwest 87th Avenue, Hialeah Gardens, Florida 33016 (305) 364-3073
- ☐ 306 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5036

Senate's Website: www.flsenate.gov

Wilton Simpson
President of the Senate

Aaron Bean
President Pro Tempore

Department of Health

Administrative Actions in Response to COVID-19



Cassandra G. Pasley, BSN, JD, Director
Division of Medical Quality Assurance

Florida Senate
Health Policy Committee
January 27, 2021



COVID-19 Administrative Response

- Executive Orders Issued by Governor Ron DeSantis
- Emergency Orders Issued by State Surgeon General Dr. Scott Rivkees
- Federal Guidance Related to COVID-19 Response
- Emergency Rules Issued by Department of Health
- Emergency Rules Issued by Health Care Regulatory Boards



COVID-19 Administrative Response

Executive Orders Issued by Governor Ron DeSantis

Executive Order Contents	Effective Date	Expiration Date
EO 20-51 <ul style="list-style-type: none">• Directs the Florida Department of Health (DOH) to declare a Public Health Emergency.• Directs State Health Officer and State Surgeon General to take any necessary action to protect the public health.• Designates DOH as the lead state agency to coordinate emergency response activities.	3/1/2020	



COVID-19 Administrative Response

Executive Order Contents	Effective Date	Expiration Date
EO 20-52 <ul style="list-style-type: none">• Declares State of Emergency in Florida.• Authorizes pharmacists to dispense up to a 30-day emergency prescription refill.• Authorizes the State Surgeon General to waive regulatory statutes or rules in order to cope with the state of emergency.	3/9/2020	2/27/2021



COVID-19 Administrative Response

Emergency Orders Issued by the State Surgeon General

Emergency Order Contents	Effective Date	Expiration Date
Declaration of Public Health Emergency <ul style="list-style-type: none">On March 1, 2020, State Health Officer and State Surgeon General declared a Public Health Emergency in Florida in response to COVID-19 which included guidance and directed health care practitioners to report all suspected cases of COVID-19 to their local county health department.	3/1/2020	2/20/2021



COVID-19 Administrative Response

Emergency Order Contents	Effective Date	Expiration Date
<p>EO 20-001</p> <ul style="list-style-type: none">• Waives competitive procurement and purchasing limitations of chapter 287, Florida Statutes (F.S.) and chapter 60A-1, Florida Administrative Code (F.A.C.).<ul style="list-style-type: none">○ Health Services Exemptions under section 287.057(3)(e)6.○ Emergency Procurement under section 287.057(3)(a) (must determine in writing that an immediate danger to public health, safety, or welfare requires emergency action).	3/1/2020	2/20/2021



COVID-19 Administrative Response

Emergency Order Contents	Effective Date	Expiration Date
<p>EO 20-002</p> <ul style="list-style-type: none">Allows health care professionals from other states, territories, districts that have a valid, unrestricted, unencumbered license (similar to section 456.001(4), part III of chapter 401, or part IV of chapter 468, F.S.) to render services in Florida so long as they do not represent that they are licensed to practice in Florida.Allows certain out-of-state health care professionals with a valid, clear, unrestricted license and are not under investigation or prosecution in disciplinary actions to provide telehealth in Florida without the need to register as a telehealth provider under section 456.47(4), F.S., to include: physicians, osteopathic physicians, physician assistants, and advanced practice registered nurses.	3/16/2020	2/27/2021



COVID-19 Administrative Response

Emergency Order Contents		Effective Date	Expiration Date
EO 20-002 (Continued)	• Allows Emergency Medical Services training programs to provide remote live videoconferencing for half of the supervised clinical hours required under section 401.2701, F.S.	3/16/2020	2/27/2021
	• Allows for the recertification of existing medical marijuana patients by the patient's existing qualified physician through means of telehealth; waives section 381.986(4)(a)1, F.S.		
	• Allows for renewal prescriptions of controlled substances under chapter 893, F.S., for existing patients to treat chronic nonmalignant pain through means of telehealth.		
	• Waives any requirements of chapters 499 and 465, F.S., that may limit distribution, dispensing, or administration of prescription drugs (except controlled substances).		



COVID-19 Administrative Response

Emergency Order Contents		Effective Date	Expiration Date
EO 20-003	<ul style="list-style-type: none">Licensure renewal deadlines between March 21, 2020 and April 30, 2020, for any professional license are extended until May 31, 2020.		
	<ul style="list-style-type: none">Permits licensure approval and denial hearings, and disciplinary hearing involving standard of care, sexual misconduct, impairment, or felony convictions to be held via teleconferencing; waives section 456.011(3), F.S.	3/21/2020	2/27/2021



COVID-19 Administrative Response

Emergency Order	Contents	Effective Date	Expiration Date
EO 20-003 (Continued)	<ul style="list-style-type: none">• Permits nursing courses to substitute supervised remote live teleconferencing for clinical instruction hours.• Expands eligible out-of-state health care professionals who may provide telehealth in Florida without the need to register as a telehealth provider under section 456.47(4)(a)-(c), (h) and (i), F.S., to include: clinical social workers, marriage and family therapists, mental health counselors and psychologists.	3/21/2020	2/27/2021



COVID-19 Administrative Response

Emergency Order	Contents	Effective Date	Expiration Date
EO 20-003 (Continued)	<ul style="list-style-type: none">Permits emergency medical technicians or paramedics possessing a clear and active Florida license or certification under section 456.001(4) and part III of chapter 401, F.S., to provide basic or advanced life support in an acute care setting at a hospital licensed under chapter 395, F.S.Extends time for individuals receiving services through HIV/AIDS Patient Care Programs whose eligibility must be recertified between March 1, 2020 and April 30, 2020.	3/21/2020	2/27/2021



COVID-19 Administrative Response

Emergency Order	Contents	Effective Date	Expiration Date
EO 20-006	<ul style="list-style-type: none">Suspends section 483.813, F.S., requirement that a pharmacist be separately licensed to perform a laboratory test and section 465.003(13), F.S., requirement that prohibits pharmacists from ordering, administering, or reporting COVID-19 tests authorized by the U.S. Food and Drug Administration (FDA).Suspends Rules 64I-2.002(5) and 64I-2.004(1)(f), F.A.C., requiring completion of Form DH 1032 in order to render services for existing patients that present with new or different issues from their original referral. Requires Form 1032 to be completed within 30 days of expiration of Executive Order 20-52. Also extends expiration of Volunteer Health Care Provider Program Contracts.	4/24/2020	2/27/2021



COVID-19 Administrative Response

Emergency Order	Contents	Effective Date	Expiration Date
EO 20-006 (Continued)	<ul style="list-style-type: none">Suspends Rule 64D-4.007(1)(c), F.A.C., to allow individuals to enroll or re-enroll in AIDS Drug Assistance Program (ADAP) without a viral load laboratory result within the previous 6 months and an HIV CD4 laboratory result in the previous 12 months.	4/24/2020	2/27/2021



COVID-19 Administrative Response

Emergency Order	Contents	Effective Date	Expiration Date
EO 20-008	<ul style="list-style-type: none">Allows use of mannequins or simulated patients in lieu of live patients during administrations of American Dental Licensing Examination and Dental Hygiene Examination.		9/1/2020
	<ul style="list-style-type: none">Waives skills demonstration examination for examination candidates who successfully completed a Board-approved CNA training program within the past 6 months.	5/28/2020	7/31/2020
	<ul style="list-style-type: none">Licensure renewal deadlines between May 31, 2020 and July 31, 2020, for any Department issued professional license are extended until August 31, 2020.		8/31/2020



COVID-19 Administrative Response

Emergency Order	Contents	Effective Date	Expiration Date
EO 20-010	<ul style="list-style-type: none">Suspends section 401.25(2)(d), F.S., to allow basic life support, advanced life support, and air ambulance service providers to transport individuals in any county without obtaining a certificate of public convenience and necessity.Extends renewal of basic life support, advanced life support, and air ambulance service provider licenses and permits issued under sections 401.25(4) and 401.26(5)(a), F.S.	5/31/2020	2/27/2021



COVID-19 Administrative Response

Emergency Order	Contents	Effective Date	Expiration Date
EO 20-010 (Continued)	<ul style="list-style-type: none">Permits remote live videoconferencing in lieu of site visits to emergency medical services training programs required by section 401.2701(1)(b), F.S.Permits remote live videoconferencing or simulation for field internship requirements; waives Rule 64J-1.020(6), F.A.C.	5/31/2020	2/27/2021



COVID-19 Administrative Response

Emergency Order	Contents	Effective Date	Expiration Date
EO 20-011	<ul style="list-style-type: none">• Waives section 456.023(1)(c) and (2), F.S., to allow for services to be rendered by out-of-state health care providers to anyone (including family members of team members, coaches, and staff) from visiting sports leagues for sporting events of any duration.	7/20/2020	2/27/2021



COVID-19 Administrative Response

Emergency Order	Contents	Effective Date	Expiration Date
EO 20-012	<ul style="list-style-type: none">Extends reactivation of inactive licenses of health care practitioners holding valid, unrestricted and unencumbered licenses as physicians under chapter 458 or 459, F.S., physician assistants under chapter 458 or 459, F.S., licensed practical nurses, registered nurses and advanced registered nurses under part I of chapter 464, F.S., respiratory therapists under part V of chapter 468, F.S., and emergency medical technicians and paramedics under part III of chapter 401, F.S., who reactivate their licenses in response to the public health emergency may remain in active status for the duration of the declared public health emergency.	8/14/2020	2/27/2021



COVID-19 Administrative Response

Emergency Order	Contents	Effective Date	Expiration Date
EO 20-012 (Continued)	<ul style="list-style-type: none">Allows use of mannequins or simulated patients in lieu of live patients during administrations of American Dental Licensing Examination and Dental Hygiene Examination.Waives skills demonstration examination for examination candidates who successfully completed a Board-approved CNA training program within the past 6 months.Licensure renewal deadlines between August 31, 2020, and October 31, 2020, for any Department issued professional license are extended until November 30, 2020.	8/14/2020	11/30/2020



COVID-19 Administrative Response

Emergency Order	Contents	Effective Date	Expiration Date
EO 20-013	<ul style="list-style-type: none">Prohibits laboratories from electronically reporting COVID-19 test results older than seven days through the Health Level Seven (HL 7) Electronic Laboratory Reporting (ELR) system without authorization by Florida DOH.Requires immediate reporting of all delinquent laboratory reports upon discovery of delinquent COVID-19 electronic reporting in compliance with Rule 64D-3.031(6), F.A.C.Waives Rule 64D-3.031(5) only as outlined in Emergency Order 20-013, until the expiration of Executive Order 20-52, including any extensions thereof.	10/1/2020	2/27/2021



COVID-19 Administrative Response

Emergency Order	Contents	Effective Date	Expiration Date
EO 20-014	<ul style="list-style-type: none">• Permits pharmacist and registered pharmacy interns to administer FDA-approved vaccines to minors; waives section 465.189(1), F.S.• Permits pharmacists and registered pharmacy interns to administer vaccines approved by the FDA for COVID-19; waives section 465.189(1)(a), F.S.• Licensure renewal deadline for emergency medical technicians and paramedics licensed under chapter 401, F.S., is extended from December 1, 2020, until June 1, 2021.	10/1/2020	2/27/2021



COVID-19 Administrative Response

Emergency Order Contents		Effective Date	Expiration Date
EO 20-015	• Allows use of mannequins or simulated patients in lieu of live patients during administrations of American Dental Licensing Examination and Dental Hygiene Examination.		
	• Waives skills demonstration examination for examination candidates who successfully completed a Board-approved CNA training program within the past 6 months.	12/23/2020	3/31/2021
	• Licensure renewal deadlines between December 31, 2020, and February 28, 2021, for any Department issued professional license are extended until March 31, 2021.		



COVID-19 Administrative Response

Emergency Order	Contents	Effective Date	Expiration Date
EO 20-015 (Continued)	<ul style="list-style-type: none">Suspends section 381.003(1)(e)2. and 3., F.S., to ensure all COVID-19 vaccination data for any child and college or university students up to 23 years of age is recorded in the immunization registry, Florida SHOTS, as required by Emergency Rule 64DER20-43. Expires 12/31/21.	12/23/2020	3/31/2021



COVID-19 Administrative Response

Federal Guidance Related to COVID-19 Response

Guidance Contents

[HHS Guidance](#)
9/3/2020

- On September 9, 2020, the U.S. Department of Health and Human Services (HHS) issued guidance under the Public Readiness and Emergency Preparedness Act (PREP Act) to expand access to safe and effective COVID-19 vaccines. This guidance authorizes state-licensed pharmacists to order and administer, and registered pharmacy interns acting under the supervision of the qualified pharmacist to administer, FDA-authorized or FDA-licensed COVID-19 vaccinations to persons ages 3 or older, subject to certain requirements.

[HHS Guidance](#)
10/20/2020

- On October 21, 2020, HHS issued guidance authorizing qualified pharmacy technicians acting under the supervision of a qualified pharmacist to administer childhood vaccines, COVID-19 vaccines and COVID-19 tests, all subject to several requirements.



COVID-19 Administrative Response

DOH Division of Disease Control and Health Protection

Rule	Contents	Effective Date	Expiration Date
64DER20-34	<ul style="list-style-type: none">Requires immediate reporting of all COVID-19 test results (positive, negative and inconclusive) by health care practitioners, laboratories, and hospital facilities.All point-of-care tests results (positive, negative, and inconclusive) must be reported within 24 hours of test administration.Data fields required by Rules 64D-3.030 and 3.031, F.A.C., all test results reported must include the CLIA number of the reporting practitioner, laboratory, or facility.	11/12/2020	2/10/2021



COVID-19 Administrative Response

DOH Division of Disease Control and Health Protection

Rule	Contents	Effective Date	Expiration Date
64DER20-43	<p>Vaccine Reporting Requirements:</p> <ul style="list-style-type: none">Requires all health care practitioners licensed under chapter 458, 459 or 464, F.S., and all other enrolled COVID-19 vaccine providers, to report specified data elements in Florida State Health Online Tracking System (Florida SHOTS) within 24 hours of administration to an individual of any dose of a COVID-19 vaccine that has Emergency Use Authorization from the FDA.	12/14/2020	3/14/2021



COVID-19 Administrative Response

DOH Division of Disease Control and Health Protection

Rule	Contents	Effective Date	Expiration Date
64DER20-44	<p>Vaccine Redistribution Requirements:</p> <ul style="list-style-type: none">• Prior to any redistribution of COVID-19 vaccines between COVID-19 vaccine provider sites, all COVID-19 vaccine redistributions require approval from the Florida Vaccines for Children and Vaccines for Adults (VFC/VFA) Program.• All COVID-19 vaccine redistributions must be to providers who are fully enrolled in the Florida SHOTS and the VFC/VFA Program.	12/17/2020	3/17/2021



COVID-19 Administrative Response

DOH Division of Disease Control and Health Protection

Rule	Contents	Effective Date	Expiration Date
64DER20-44 (Continued)	<p>Vaccine Redistribution Requirements:</p> <ul style="list-style-type: none">• In order to redistribute any COVID-19 vaccine product to an enrolled COVID-19 Vaccine Program outside of the provider's organization, a provider must complete a "CDC Supplemental COVID-19 Vaccine Redistribution Agreement."• A copy of the completed redistribution agreement must be sent to the VFC/VFA program at FloridaVFC@flhealth.gov no less than 24 hours before the anticipated redistribution.	12/17/2020	3/17/2021



COVID-19 Administrative Response

DOH Division of Disease Control and Health Protection

Rule	Contents	Effective Date	Expiration Date
64DER20-44 (Continued)	<p>Vaccine Redistribution Requirements</p> <ul style="list-style-type: none">A Florida SHOTS Vaccine Transfer form (09/15) must be completed and signed by both the redistributing provider and the receiving provider for all vaccine redistributions.	12/17/2020	3/17/2021



COVID-19 Administrative Response

Emergency Rules Issued by Health Care Regulatory Boards

Board	Rule	Contents	Effective Date	Expiration Date
Osteopathic Medicine	64B15ER20-18	<ul style="list-style-type: none">Allows continuing education (CE) routinely required to be in person to be completed using distance learning.	3/13/2020	6/11/2020
Optometry	64B13ER20-40	<ul style="list-style-type: none">Allows Florida optometrists to obtain online CE through the end of the biennium.	12/1/2020	2/28/2021
Podiatric Medicine	64B18ER20-19	<ul style="list-style-type: none">Allows licensees to complete CE entirely on-line. Renewal period concluded.	3/18/2020	6/16/2020



COVID-19 Administrative Response

Board	Rule	Contents	Effective Date	Expiration Date
Chiropractic Medicine	Order	<ul style="list-style-type: none">Temporarily extends the 40 hour of CE requirement to align with the extended renewal deadline.	3/19/2020	1/1/2021
Chiropractic Medicine	64B2ER20-30	<ul style="list-style-type: none">Allows Florida licensed Chiropractors to attain their CE hours by any means, live, virtual live, or synchronous or asynchronous online.	8/20/2020	11/18/2020
Massage Therapy	64B7ER20-22	<ul style="list-style-type: none">Allows Massage Therapy schools to teach certain subjects through distance learning.The regular Rule 64B7-28.009(4)(g), F.A.C., was adopted on October 18, 2020.	3/20/2020	6/18/2020



COVID-19 Administrative Response

Board	Rule	Contents	Effective Date	Expiration Date
Speech-Language Pathology and Audiology	64B20ER20-23	<ul style="list-style-type: none">Allows Speech Language Pathology Assistants (SLPAs) to practice under a protocol agreement without direct supervision. This allowed SLPAs to deliver services through telehealth.Regular rule became effective on April 20, 2020 and contained the same language as emergency rule.	3/27/2020	6/25/2020



COVID-19 Administrative Response

Board	Rule	Contents	Effective Date	Expiration Date
Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling	64B4ER20-24	<ul style="list-style-type: none">• Authorizes registered interns to provide mental health services by telehealth methods to any client.• Removes the requirement that the client have an existing therapeutic relationship with the registered intern.• Revises requirement for in-person qualified supervisor training to allow for live interactive training.• Regular rule language became effective October 4, 2020.	4/3/2020	7/2/2020



COVID-19 Administrative Response

Board	Rule	Contents	Effective Date	Expiration Date
Hearing Aid Specialists	64B6ER20-25	<ul style="list-style-type: none">Permits applicants and licensed specialists to complete training requirements on-line.	4/9/2020	7/8/2020
Nursing Home Administrators	64B10ER20-27	<ul style="list-style-type: none">Allows clear and active licensees to complete their CE hours online.	5/22/2020	8/20/2020
Opticianry	64B12ER20-28	<ul style="list-style-type: none">Permits CE courses to be provided to licensees by distance learning methods.Regular rule language became effective on December 21, 2020.	7/1/2020	9/29/2020



COVID-19 Administrative Response

Board	Rule	Contents	Effective Date	Expiration Date
Pharmacy	64B16ER20-21	<ul style="list-style-type: none">• Waives the requirement that off-site consultant pharmacists conduct in-person inspections and on-site consultations.	3/19/2020	6/17/2020
Pharmacy	64B16ER20-42	<ul style="list-style-type: none">• Waives the requirement for off-site consultant pharmacists to conduct monthly inspections if they are refused access by the permit holder due to COVID-19 concerns.	12/4/2020	2/2/2021



Questions?

Contact

Cassandra G. Pasley, BSN, JD

Director

Division of Medical Quality Assurance

(850) 245-4080

Cassandra.Pasley@flhealth.gov

Agency for Health Care Administration Laws and Policy Exemptions or Modifications Implemented During COVID-19 Pandemic

Molly McKinstry, Deputy Secretary for Health Quality Assurance

Beth Kidder, Deputy Secretary for Medicaid

**Senate Committee on Health Policy
January 27, 2021**



COVID 19 Response

Law and Policy Exemptions and Flexibilities

- Emergency Orders and Emergency Rules
- Federal Centers for Medicare and Medicaid Services (CMS)
Blanket Waivers and Flexibilities and Mandates
- Centers for Disease Control guidance and other federal agencies
- Medicaid Flexibilities
- Critical Coverage and Access to Care Flexibilities



Federal Rules / Declarations / Guidance



Federal Blanket Waivers

Series of flexibilities activated during emergencies



Nursing Facilities

- Waiver of 3-day prior hospitalization for Medicare reimbursement
- Waiver of Pre-Admission Screening and Annual Resident review (PASARR)
- Flexibility in room utilization to accommodate surge



Hospitals

- Alternate care sites
- Acute Care at Home/
Hospitals Without walls



All Providers

- Waiver of certain physical environment requirements
- Waiver of prescriptive requirements for alcohol-based hand-rub dispensers



State Emergency Orders/Rules/Directives

State Declaration of Emergency

Protective Measures for Vulnerable Populations

- Long term care facility residents at greatest risk
- Mandatory masks and infection control measures
- Resident testing prior to hospital discharge

Entry, Testing, and Infection Control in Long Term Care Facilities

- Access by Department of Health infection control teams
- Mandatory staff testing and access to testing for residents

Access and Visitation Limits at Long Term Care Facilities

- Mandatory screening
- Restriction of entry
- Revisions to allow limited visitation



State Emergency Orders/Rules/Directives

Non-Essential Elective Medical Procedures

Daily Emergency Status System Reporting

- COVID admissions and case
 - ICU and ventilator use
 - Surge capabilities
- Personal Protective Equipment
 - Vaccination progress

Long Term Care Vaccination

Enrollment in CDC Pharmacy Partnership

Require entry to offer vaccines

Address Regulatory Barriers

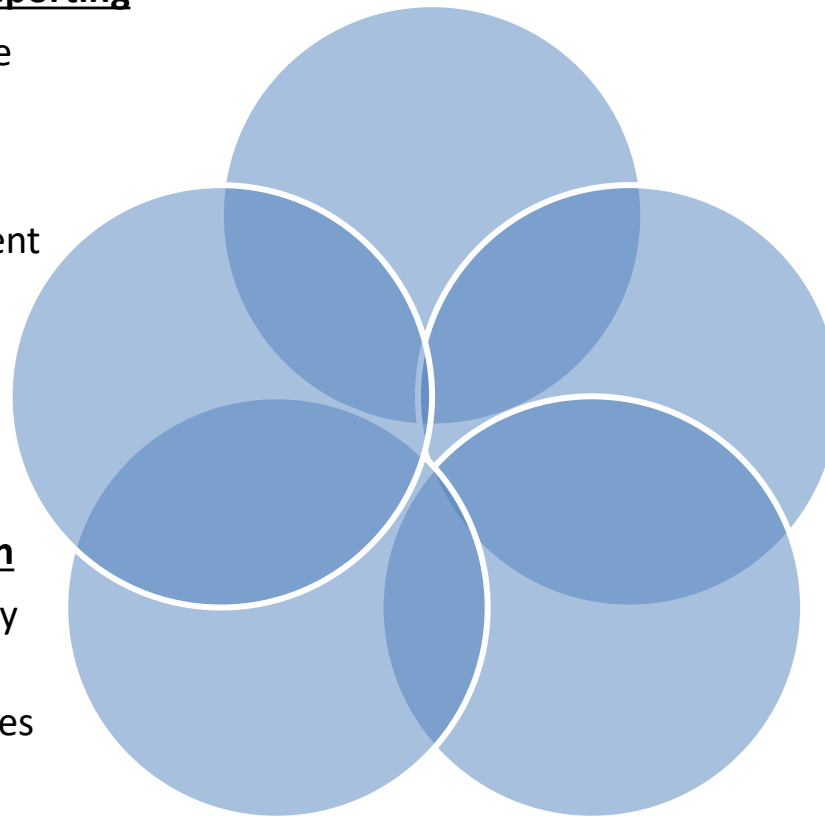
Background screening of staff

Certificate of Need flexibility

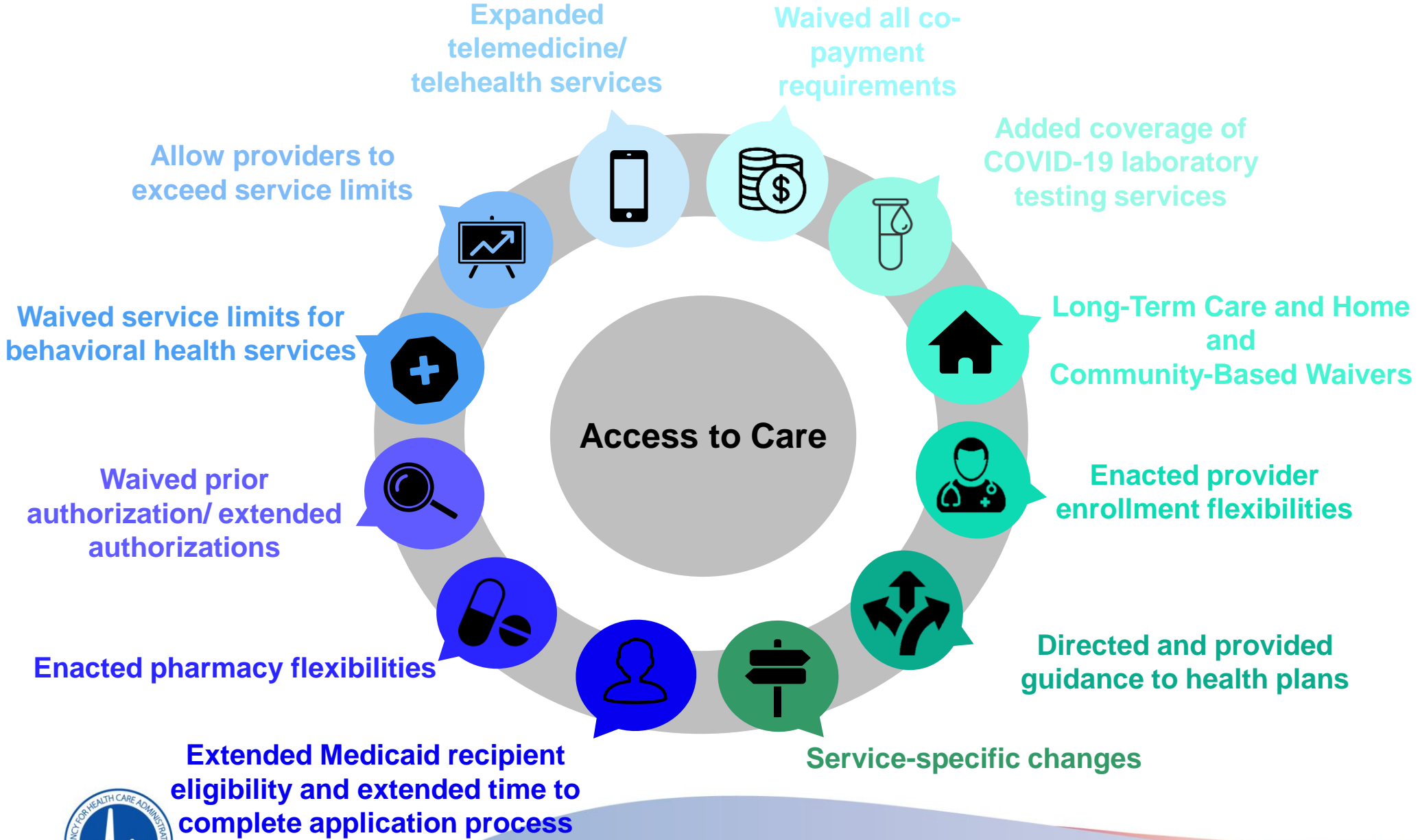
Personal care attendant program for nursing homes

Laboratory Reporting

- Timely test results



Medicaid Access to Care During Pandemic



THE FLORIDA SENATE
APPEARANCE RECORD

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

1/27/21
Meeting Date

Bill Number (if applicable)

Topic Suspended statutes and rules relating to the Public Health Emergency Amendment Barcode (if applicable) _____

Name Cassandra Pasley

Job Title Department of Health, Director of Medical Quality Assurance

Address 4052 Bold Cypress Way Phone _____
Street

Tallahassee FL 32399
City State Zip

Email cassandra.pasley@flhealth.gov

Speaking: ☐ For ☐ Against ☒ Information

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

Representing DOH

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

01/27/2021

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

Meeting DateBill Number (if applicable)Topic Workshop on health care related laws and policies during public health emergencyAmendment Barcode (if applicable)Name Molly McKinstryJob Title Deputy Secretary of Health Quality AssuranceAddress 2727 Mahan Drive, Building 3, Room 3107Phone 850-412-4420StreetTallahasseeFL32308CityStateZipEmail molly.mckinstry@ahca.myflorida.comSpeaking: ☐ For ☐ Against ☒ InformationWaive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)Representing Agency for Health Care AdministrationAppearing at request of Chair: ☒ Yes ☐ NoLobbyist 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)

1/27/21
Meeting Date

Bill Number (if applicable)

Topic Pandemic Response

Amendment Barcode (if applicable)

Name Beth Kidder

Job Title Deputy Secretary for Medicaid

Address 2727 Mahan Dr.
Street

Phone 850 412 4006

Tallahassee FL 32308
City State Zip

Email beth.kidder@ahca.myflorida.com

Speaking: ☐ For ☐ Against ☒ Information

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

Representing AHCA

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

Tallahassee, Florida 32399-1100

COMMITTEES:

Finance and Tax, *Vice Chair*
Appropriations Subcommittee on Education
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Community Affairs
Health Policy
Military and Veterans Affairs, Space,
and Domestic Security

JOINT COMMITTEE:

Joint Legislative Auditing Committee

SENATOR JANET CRUZ
18th District

January 27, 2021

The Honorable Manny Diaz, Jr.
Chair, Health Policy Committee
530 Knott Building
404 South Monroe Street
Tallahassee, Florida 32399-1100

Dear Chairman Diaz,

I respectfully request to be excused from the Health Policy Committee meeting on January 27, 2021. I will monitor the committee virtually to remain informed on the legislation that is on the agenda.

Please let me know if you have any questions or concerns regarding this request.

Thank you,

A handwritten signature in black ink, appearing to read "Janet Cruz", written over a horizontal line.

Janet Cruz
State Senator, District 18

CC: Lynn Wells, Health Policy Committee – Administrative Assistant

REPLY TO:

- ☐ 210A S. MacDill Avenue, Tampa, Florida 33609 (813) 348-1017 FAX: (888) 263-3681
- ☐ 216 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5018

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations
Appropriations Subcommittee on Health and
Human Services
Health Policy
Rules

SENATOR GARY M. FARMER, JR.

Democratic Leader
34th District

January 26, 2021

Chairman Diaz,

Yesterday afternoon I was notified that I had been in contact with an individual who has tested positive for COVID-19. In accordance with the established Senate protocol and CDC guidelines I am currently in a state of quarantine. In light of my current situation I ask that you please excuse my absence from the Health Policy Committee meeting scheduled for 9 am on Wednesday January 27th.

Thank you for your understanding,

A handwritten signature in black ink, appearing to read "Gary M. Farmer Jr.", written in a cursive style.

State Senator Gary M. Farmer Jr.
Senate Democratic Leader

REPLY TO:

- ☐ Broward College Campus, 111 East Las Olas Boulevard, Suite 913, Fort Lauderdale, Florida 33301 (954) 467-4227
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WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

CourtSmart Tag Report

Room: KN 412

Case No.:

Type:

Caption: Senate Health Policy Committee

Judge:

Started: 1/27/2021 9:03:23 AM

Ends: 1/27/2021 11:19:14 AM **Length:** 02:15:52

9:03:22 AM Meeting called to order by Senator Brodeur
9:03:24 AM Roll call by CAA Lynn Wells
9:03:31 AM Quorum present
9:03:44 AM Comments from Chair Brodeur regarding Senator Farmer being excused
9:04:34 AM Introduction of Tab 3, SPB 7000 by Chair Brodeur
9:05:02 AM Explanation of SPB 7000, Open Government Sunset Review, the Nurse Licensure Compact, and the Department of Health by Tari Rossitto-Van Winkle
9:08:22 AM Comments from Chair Brodeur
9:08:47 AM Senator Bean moves that SPB 7000 be submitted as a Committee Bill
9:08:57 AM Roll call by CAA
9:09:07 AM SPB 7000 is reported favorably as a Committee Bill
9:09:17 AM Introduction of Tab 4, SPB 7002 by Chair Brodeur
9:09:30 AM Explanation of SPB 7002, Open Government Sunset Review and trade secrets held by the Department of Health by Kelly Smith
9:10:15 AM Comments from Chair Brodeur
9:10:36 AM Senator Albritton moves that SPB 7002 be submitted as a Committee Bill
9:10:44 AM Roll call by CAA
9:10:53 AM SPB 7002 is reported favorably as a Committee Bill
9:11:07 AM Introduction of Tab 1, SB 170 by Chair Brodeur
9:11:17 AM Explanation of SB 170, Podiatric Medicine by Senator Hooper
9:11:55 AM Comments from Chair Brodeur
9:12:07 AM Introduction of Amendment Barcode No. 482288 by Chair Brodeur
9:12:15 AM Explanation of Amendment by Senator Hooper
9:12:40 AM Comments from Chair Brodeur
9:12:57 AM Closure waived
9:13:00 AM Amendment Barcode No. 482288 adopted
9:13:14 AM Speaker Chris Hansen, Florida Podiatric Medical Association in support
9:14:23 AM Comments from Chair Brodeur
9:14:38 AM Closure waived
9:14:41 AM Roll call by CAA
9:14:55 AM CS/SB 170 reported favorably
9:15:07 AM Introduction of Tab 2, SB 122 by Chair Diaz
9:15:16 AM Explanation of SB 122, Surrendered Newborn Infants by Senator Baxley
9:17:34 AM Comments from Chair Diaz
9:17:42 AM Question from Senator Book
9:17:53 AM Response from Senator Baxley
9:18:31 AM Follow-up question from Senator Book
9:18:37 AM Response from Senator Baxley
9:19:29 AM Follow-up question from Senator Book
9:19:37 AM Response from Senator Baxley
9:20:43 AM Follow-up question from Senator Book
9:20:52 AM Response from Senator Baxley

9:30:41 AM Follow-up question from Senator Book
9:31:22 AM Response from Senator Baxley
9:34:54 AM Follow-up question from Senator Book
9:35:54 AM Response from Chair Diaz
9:36:57 AM Response from Senator Baxley
9:38:05 AM Follow-up question from Senator Book
9:38:14 AM Response from Senator Baxley
9:39:17 AM Question from Senator Jones
9:39:25 AM Response from Senator Baxley
9:40:16 AM Follow-up question from Senator Jones
9:40:22 AM Response from Senator Baxley
9:40:58 AM Follow-up question from Senator Jones
9:41:04 AM Response from Senator Baxley
9:42:00 AM Follow-up question from Senator Jones
9:42:08 AM Response from Senator Baxley
9:44:09 AM Follow-up question from Senator Jones
9:44:26 AM Response from Senator Baxley
9:45:23 AM Follow-up question from Senator Jones
9:45:33 AM Response from Senator Baxley
9:45:52 AM Comments from Chair Diaz
9:46:14 AM Question from Senator Book
9:46:28 AM Response from Senator Baxley
9:46:52 AM Follow-up question from Senator Book
9:46:59 AM Response from Senator Baxley
9:48:05 AM Follow-up question from Senator Book
9:48:28 AM Response from Senator Baxley
9:52:17 AM Follow-up question from Senator Book
9:52:26 AM Response from Senator Baxley
9:53:35 AM Julia Deluce, Students for Life of America waives in support
9:54:21 AM Jerome Hurtax, Esq., Safe Haven for Newborns, Gloria M. Silverio Foundation in opposition
9:59:37 AM Speaker Andrew Shirvell, Executive Director, Florida Voice for the Unborn in support
10:02:18 AM Speaker Monica Kelsey, CEO, Safe Haven Baby Boxes in support
10:06:16 AM Speaker David Serdar
10:08:23 AM Ron Watson, Midwife Association of Florida waives in support
10:08:34 AM Speaker Patricia Schafer, Community Pregnancy Clinics in support
10:09:42 AM Lawrence Clermont, Florida PTA waives in support
10:10:13 AM Pam Stenzel, Safe Haven Baby Boxes waives in support
10:10:45 AM Comments from Chair Diaz
10:11:08 AM Senator Jones in debate
10:13:05 AM Senator Garcia in debate
10:16:06 AM Senator Bean in debate
10:17:53 AM Senator Book in debate
10:19:04 AM Comments from Chair Diaz
10:20:02 AM Closure by Senator Baxley
10:20:22 AM Roll call by CAA
10:21:23 AM SB 122 reported favorably
10:21:51 AM Introduction of Tab 5, Workshop on health care related laws and policies that have been set aside or altered during the current public health emergency
10:23:39 AM Presentation by Cassandra Pasley, Director of Medical Quality Assurance, Department of Health
10:35:56 AM Question from Chair Diaz

10:36:06 AM Response from Ms. Pasley
10:37:07 AM Follow-up question from Chair Diaz
10:37:18 AM Response from Ms. Pasley
10:38:40 AM Follow-up question from Chair Diaz
10:38:51 AM Response from Ms. Pasley
10:40:04 AM Question from Chair Diaz
10:40:36 AM Response from Ms. Pasley
10:41:19 AM Follow-up question from Chair Diaz
10:41:29 AM Response from Ms. Pasley
10:42:40 AM Follow-up question from Chair Diaz
10:42:49 AM Response from Ms. Pasley
10:43:30 AM Follow-up question from Chair Diaz
10:43:42 AM Response from Ms. Pasley
10:43:56 AM Question from Senator Book
10:44:04 AM Response from Ms. Pasley
10:44:19 AM Question from Chair Diaz
10:44:58 AM Response from Ms. Pasley
10:45:27 AM Follow-up question from Chair Diaz
10:45:38 AM Response from Ms. Pasley
10:46:01 AM Question from Senator Book
10:46:11 AM Response from Ms. Pasley
10:46:45 AM Question from Senator Baxley
10:46:55 AM Response from Ms. Pasley
10:48:35 AM Comments from Chair Diaz
10:49:02 AM Presentation by Molly McKinstry, Deputy Secretary of Health Quality Assurance, Agency for Health Care Administration
11:03:40 AM Question from Senator Baxley
11:06:30 AM Presentation from Beth Kidder, Deputy Secretary for Medicaid, Agency for Health Care Administration
11:14:59 AM Comments from Chair Diaz
11:15:15 AM Question from Senator Jones
11:15:23 AM Response from Ms. Kidder
11:16:09 AM Follow-up question from Senator Jones
11:16:16 AM Response from Ms. Kidder
11:17:26 AM Follow-up question from Senator Jones
11:17:33 AM Response from Ms. Kidder
11:17:50 AM Comments from Chair Diaz
11:18:20 AM Chair stated that Senators Farmer and Cruz are excused
11:18:43 AM Senator Bean moves to adjourn
11:18:51 AM Meeting adjourned