

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**HEALTH POLICY**  
**Senator Diaz, Chair**  
**Senator Brodeur, Vice Chair**

**MEETING DATE:** Thursday, February 4, 2021  
**TIME:** 8:30—11:00 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 A2 AT THE DONALD L. TUCKER CIVIC CENTER, 505 W. PENSACOLA STREET, TALLAHASSEE, FL. 32301			
1	<b>SB 530</b> Perry (Similar H 725)	Nonopioid Alternatives; Authorizing certain health care practitioners to provide a specified educational pamphlet to patients in an electronic format, etc.  HP     02/04/2021 Favorable RC	Favorable Yeas 9 Nays 0
2	<b>SB 494</b> Burgess (Similar H 459, Compare S 768, S 898)	Administration of Vaccines; Revising the specified vaccines that certain pharmacists and registered interns under certain supervision may administer to adults, etc.  HP     02/04/2021 Fav/CS RC	Fav/CS Yeas 9 Nays 0
3	<b>SB 388</b> Wright (Identical H 697)	Injured Police Canines; Authorizing licensed life support services to transport injured police canines under certain circumstances; authorizing a paramedic or an emergency medical technician to provide emergency medical care to injured police canines under certain circumstances; providing for immunity from criminal and civil liability under certain circumstances, etc.  HP     02/04/2021 Favorable CJ RC	Favorable Yeas 9 Nays 0
4	<b>SB 352</b> Rodriguez (Similar H 245)	Massage Therapy; Revising a short title; revising and defining terms, etc.  HP     02/04/2021 Fav/CS CM RC	Fav/CS Yeas 9 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Health Policy

Thursday, February 4, 2021, 8:30—11:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	<b>SB 348</b> Rodriguez (Similar H 461)	Medicaid; Revising the types of emergency transportation vehicle services provided to Medicare-eligible persons for which Medicaid shall pay deductibles and coinsurance, etc.  HP 02/04/2021 Fav/CS AHS AP	Fav/CS Yeas 9 Nays 0
6	<b>SB 272</b> Baxley	Rare Disease Advisory Council; Creating the advisory council adjunct to the Department of Health; specifying the purpose of the advisory council; defining the term "rare disease"; prescribing duties and responsibilities of the advisory council, etc.  HP 02/04/2021 Fav/CS AHS AP	Fav/CS Yeas 9 Nays 0
7	<b>SJR 340</b> Diaz (Similar HJR 547)	Supermajority Vote Required to Enact a Single-payor Healthcare System; Proposing the creation of Section 22 of Article III of the State Constitution to provide that a single-payor health care system may not be enacted by the legislature except through legislation approved by two-thirds of the membership of each house of the legislature and presented to the Governor for approval, etc.  HP 02/04/2021 Favorable AHS AP RC	Favorable Yeas 6 Nays 3

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.)

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

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BILL: SB 530

INTRODUCER: Senator Perry

SUBJECT: Nonopioid Alternatives

DATE: February 3, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Brown	HP	<b>Favorable</b>
2.			RC	

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**I. Summary:**

SB 530 amends s. 456.44, F.S., to allow a specific educational pamphlet, which must be provided to health care patients or their representatives under certain circumstances, to be provided electronically or in printed form, instead of only in printed form as required under current law. The pamphlet contains information on the use of nonopioid alternatives for the treatment of pain and must be provided when a patient will receive anesthesia or will be prescribed certain opioid medications.

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

**II. Present Situation:**

**History of the Opioid Crisis in Florida**

According to the National Institute on Drug Abuse:<sup>1</sup>

- “In the late 1990s, pharmaceutical companies reassured the medical community that patients would not become addicted to prescription opioid pain relievers, and health care providers began to prescribe them at greater rates”; and
- “This subsequently led to widespread diversion and misuse of these medications before it became clear that these medications could indeed be highly addictive.”

Between the early 2000s and the early 2010s, Florida was infamous as the “pill mill capital” of the country. At the peak of the pill mill crisis, doctors in Florida bought 89 percent of all the oxycodone sold in the county.<sup>2</sup>

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<sup>1</sup> National Institute on Drug Abuse, *Opioid Overdose Crisis* (Rev. Jan. 2019), <https://www.drugabuse.gov/drugs-abuse/opioids/opioid-overdose-crisis> (last visited Jan. 25, 2021).

<sup>2</sup> Lizette Alvarez, *Florida Shutting ‘Pill Mill’ Clinics*, *The New York Times* (Aug. 31, 2011), available at <http://www.nytimes.com/2011/09/01/us/01drugs.html> (last visited Jan. 25, 2021).

Between 2009 and 2011, the Legislature enacted a series of reforms to combat prescription drug abuse. These reforms included strict regulation of pain management clinics; creating the Prescription Drug Monitoring Program (PDMP); and stricter regulation on selling, distributing, and dispensing controlled substances.<sup>3</sup> “In 2016, the opioid prescription rate was 75 per 100 persons in Florida. This rate was down from a high of 83 per 100.”<sup>4</sup>

As reported by the Florida Attorney General’s Opioid Working Group,

Drug overdose is now the leading cause of non-injury related death in the United States. Since 2000, drug overdose death rates increased by 137 percent, including a 200 percent increase in the rate of overdose deaths involving opioids. In 2015, over 52,000 deaths in the U.S. were attributed to drug poisoning, and over 33,000 (63 percent) involved an opioid. In 2015, 3,535 deaths occurred in Florida where at least one drug was identified as the cause of death. More specifically, 2,535 deaths were caused by at least one opioid in 2015. Stated differently, seven lives per day were lost to opioids in Florida in 2015. Overall the state had a rate of opioid-caused deaths of 13 per 100,000. The three counties with the highest opioid death rate were Manatee County (37 per 100,000), Dixie County (30 per 100,000), and Palm Beach County (22 per 100,000).<sup>5</sup>

Early in 2017, the Center for Disease Control (CDC) declared the opioid crisis an epidemic.<sup>6</sup> Shortly thereafter, on May 3, 2017, Governor Rick Scott signed Executive Order 17-146 declaring the opioid epidemic a public health emergency in Florida.<sup>7</sup>

### ***House Bill 21 (2018)***

In 2018, the Florida Legislature passed HB 21 (ch. 2018-13, L.O.F.) to combat the opioid crisis. HB 21:

- Required additional training for practitioners on the safe and effective prescribing of controlled substances;
- Restricted the length of prescriptions for Schedule II opioid medications to three days or up to seven days if medically necessary;
- Reworked the PDMP statute to require that prescribing practitioners check the PDMP prior to prescribing a controlled substance and to allow the integration of PDMP data with electronic health records and the sharing of PDMP data between Florida and other states; and
- Provided for additional funding for treatment and other issues related to opioid abuse.

### ***House Bill 451 (2019)***

In 2019, the Florida Legislature passed HB 451 (ch. 2019-123, L.O.F.) that required each health care practitioner to, prior to treating a patient with anesthesia or a Schedule II opioid medication

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<sup>3</sup> See chs. 2009-198, 2010-211, and 2011-141, Laws of Fla.

<sup>4</sup> Attorney General’s Opioid Working Group, *Florida’s Opioid Epidemic: Recommendations and Best Practices*, 7 (Jan. 25, 2021), available at [https://myfloridalegal.com/webfiles.nsf/WF/TDGT-B9UTV9/\\$file/AG+Opioid+Working+Group+Report+Final+2-28-2019.pdf](https://myfloridalegal.com/webfiles.nsf/WF/TDGT-B9UTV9/$file/AG+Opioid+Working+Group+Report+Final+2-28-2019.pdf).

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

<sup>6</sup> See Exec. Order No. 17-146, available at <https://www.flgov.com/wp-content/uploads/2017/05/17146.pdf>.

<sup>7</sup> *Id.*

in a non-emergency situation: inform the patient of available nonopioid alternatives for the treatment of pain; discuss the advantages and disadvantages of the use of nonopioid alternatives; provide the patient with the pamphlet created by the Department of Health (DOH); and document any alternatives considered in the patient's record.

### **III. Effect of Proposed Changes:**

SB 530 amends s. 456.44, F.S., to allow the pamphlet created by the DOH regarding nonopioid alternatives to managing pain to be provided to the patient or the patient's representative electronically or in printed form.

The bill 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:**

None.

#### **C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 456.44 of the Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

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

None.

**B. Amendments:**

None.

By Senator Perry

8-00852-21

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1                                   A bill to be entitled  
 2       An act relating to nonopioid alternatives; amending s.  
 3       456.44, F.S.; authorizing certain health care  
 4       practitioners to provide a specified educational  
 5       pamphlet to patients in an electronic format;  
 6       providing an effective date.  
 7  
 8   Be It Enacted by the Legislature of the State of Florida:  
 9  
 10       Section 1. Paragraph (c) of subsection (7) of section  
 11       456.44, Florida Statutes, is amended to read:  
 12       456.44 Controlled substance prescribing.—  
 13       (7) NONOPIOID ALTERNATIVES.—  
 14       (c) Except when a patient is receiving care in a hospital  
 15       critical care unit or emergency department or a patient is  
 16       receiving hospice services under s. 400.6095, before providing  
 17       care requiring the administration of anesthesia involving the  
 18       use of an opioid drug listed as a Schedule II controlled  
 19       substance in s. 893.03 or 21 U.S.C. s. 812, or prescribing or  
 20       ordering an opioid drug listed as a Schedule II controlled  
 21       substance in s. 893.03 or 21 U.S.C. s. 812 for the treatment of  
 22       pain, a health care practitioner who prescribes or orders an  
 23       opioid drug must:  
 24       1. Inform the patient or the patient's representative of  
 25       available nonopioid alternatives for the treatment of pain,  
 26       which may include nonopioid medicinal drugs or drug products,  
 27       interventional procedures or treatments, acupuncture,  
 28       chiropractic treatments, massage therapy, physical therapy,  
 29       occupational therapy, or any other appropriate therapy as

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

8-00852-21

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30       determined by the health care practitioner.  
 31       2. Discuss with the patient or the patient's representative  
 32       the advantages and disadvantages of the use of nonopioid  
 33       alternatives, including whether the patient is at a high risk  
 34       of, or has a history of, controlled substance abuse or misuse  
 35       and the patient's personal preferences.  
 36       3. Provide the patient or the patient's representative,  
 37       ~~electronically or in printed form, with a printed copy of~~ the  
 38       educational pamphlet described in paragraph (b).  
 39       4. Document the nonopioid alternatives considered in the  
 40       patient's record.  
 41       Section 2. This act shall take effect July 1, 2021.

Page 2 of 2

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



The Florida Senate

## Committee Agenda Request

**To:** Senator Manny Diaz, Jr., Chair  
Committee on Health Policy

**Subject:** Committee Agenda Request

**Date:** January 21, 2021

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I respectfully request that **Senate Bill #530**, relating to Nonopioid Alternatives, be placed on the:

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

A handwritten signature in black ink that reads "W. Keith Perry".

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Senator Keith Perry  
Florida Senate, District 8



**YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM**

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

2.4.21

*Meeting Date*

530

*Bill Number (if applicable)*

Topic Nonopioid Alternatives

*Amendment Barcode (if applicable)*

Name Barney Bishop III

Job Title President & CEO

Address 2215 Thomasville Road

Phone 850.510.9922

*Street*

Tallahassee

FL

32308

Email Barney@SmartJusticeAlliance.org

*City*

*State*

*Zip*

Speaking:  For  Against  Information

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

Representing Florida Smart Justice Alliance

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.)

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

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BILL: CS/SB 494

INTRODUCER: Health Policy Committee and Senator Burgess

SUBJECT: Administration of Vaccines

DATE: February 4, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Brown	HP	Fav/CS
2.			RC	

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 494 revises the authority of pharmacists and pharmacy interns to administer immunizations and vaccines, within the framework of an established protocol with a supervising physician, by eliminating steps in the approval process for immunizations and vaccines that such practitioners may administer. The bill authorizes pharmacists and pharmacy interns to administer to an adult, under the protocol, any immunization or vaccine that is:

- Listed in the Adult Immunization Schedule by the federal Centers for Disease Control and Prevention (CDC), regardless of the date it was added to the schedule and without the need for authorization by rule of the Board of Pharmacy (BOP);
- Recommended by the CDC's Advisory Committee on Immunization Practices (ACIP); or
- Recommended by the CDC for international travel, regardless of the date of the recommendation and without the need for authorization by rule of the BOP.

The bill further requires a pharmacist, when administering epinephrine using an auto-injector delivery system in order to address an unforeseen allergic reaction, under a protocol with a supervising physician, to administer a weight-based dose of epinephrine.

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

## II. Present Situation:

### Vaccinations – U. S. Department of Health and Human Services

The Office of Infectious Disease and HIV/AIDS Policy (Office), in the U. S. Department of Health and Human Services (HHS), oversees the National Vaccine Program, which provides strategic leadership for vaccine and immunization activities among federal agencies and to the states and other stakeholders, to help reduce the burden of preventable infectious diseases. The Office's services include the National Vaccine Strategic Plans (NVSP) and National Vaccine Advisory Committee (NVAC).<sup>1</sup> The NVSP for 2021-2025, released January 19, 2021, is the newest roadmap to coordinate vaccine development and use and is based on the NVAC's recommendations that revise the Standards for Adult Immunization Practices.<sup>2</sup>

### *The Centers for Disease Control and Prevention's Immunization Recommendations*

The CDC, under the Secretary of HHS,<sup>3</sup> sets the adult and childhood immunization and vaccination schedules based on the recommendations from the ACIP.<sup>4</sup> The ACIP works with professional organizations, such as the American Academy of Pediatrics, the American Academy of Family Physicians, the American College of Obstetricians and Gynecologists, and the American College of Physicians, to develop annual childhood and adult immunization schedules.<sup>5</sup> The CDC reviews the ACIP's recommendations and, once approved, they are published as the CDC's official recommendations for immunizations for the population.<sup>6</sup> The current recommended immunization schedule for persons 18 years of age and older includes:<sup>7</sup>

- Influenza (annually) (IIV,RIV or LAIV);
- Measles, mumps, rubella (MMR) (if patient is born in 1957 or later);
- Zoster (ZVL) or (RZV);
- Pneumococcal polysaccharide (PPSV23);
- Haemophilus influenza Type B (Hib);
- Hepatitis B (HepB);
- Varicella (VAR) (if patient is born 1980 or later);
- Tetanus, diphtheria, pertussis (Tdap or Td) (booster every 10 years);
- Human papillomavirus (HPV);
- Pneumococcal conjugate (PCV13);

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<sup>1</sup> U.S. Department of Health & Human Services, *Vaccines & Immunizations*, available at <https://www.hhs.gov/vaccines/index.html> (last visited Feb. 1, 2021).

<sup>2</sup> U.S. Department of Health & Human Services, *Vaccines National Strategic Plan*, available at <https://www.hhs.gov/vaccines/vaccines-national-strategic-plan/index.html> (last visited Feb. 1, 2021).

<sup>3</sup> U.S. Department of Health & Human Service, HHS Leadership, *Office of the Secretary Leaders*, available at <https://www.hhs.gov/about/leadership/index.html#opdiv> (last visited Feb. 1, 2021).

<sup>4</sup> Center for Disease Control and Prevention, Advisory Committee on Immunization Practices (ACIP), *Role of the Advisory Committee on Immunization Practices in CDC's Vaccine Recommendations*, available at <https://www.cdc.gov/vaccines/acip/committee/role-vaccine-recommendations.html> (last visited Feb. 1, 2021).

<sup>5</sup> Centers for Disease Control and Prevention, Advisory Committee on Immunization Practices (ACIP), *ACIP Recommendations*, available at <https://www.cdc.gov/vaccines/acip/recommendations.html> (last visited Feb. 1, 2021).

<sup>6</sup> *Id.*

<sup>7</sup> Centers for Disease Control and Prevention, *Recommended Adult Immunization Schedule for Ages 19 Years or Older, United States, 2020*, available at <https://www.cdc.gov/vaccines/schedules/hcp/imz/adult.html> (last visited Feb. 1, 2021). The schedule provides the recommended age, as well as the administration intervals for vaccines that require multiple doses. Some vaccines are recommended only for populations with special situations that put these individuals at higher risk.

- Hepatitis A (HepA);
- Meningococcal A, C, W, Y (MenACWY); and
- Meningococcal B (MenB).

New vaccines are considered for addition to the schedule after being licensed by the Food and Drug Administration (FDA).<sup>8</sup> Not all newly licensed vaccines are added to the schedule. Some licensed vaccines are only recommended for people who are traveling to areas where certain vaccine-preventable diseases occur, such as yellow fever, cholera, dengue, Japanese encephalitis, plague, rabies, smallpox, and typhoid.<sup>9</sup>

### ***CDC Health Information for International Travel***

The CDC's *Health Information for International Travel*, commonly called the Yellow Book, is published biennially by the CDC as a reference to advise international travelers about health risks.<sup>10</sup> The Yellow Book includes the CDC's most current travel health guidelines, including pre-travel vaccine recommendations and destination-specific health advice. The Yellow Book is authored by subject-matter experts both within and outside the CDC and its guidelines are evidence-based and supported by best practices.<sup>11</sup>

Certain vaccinations are recommended by the CDC to protect international travelers from illness and prevent the importation of infectious diseases across international borders. The Yellow Book recommends that persons traveling internationally should be up to date on all CDC-recommended vaccines.<sup>12</sup> Additionally, the Yellow Book recommends additional vaccinations based on a traveler's destination and other factors.

### **Florida's Adult Vaccination Policy**

#### ***Communicable Disease Prevention and Control***

The Department of Health (DOH) is responsible for the state's public health system.<sup>13</sup> As part of fulfilling its public health mission, the DOH is responsible for conducting a communicable disease prevention and control program. A communicable disease is any disease caused by the transmission of a specific infectious agent, or its toxic products, from an infected person, animal, or the environment to a susceptible host, either directly or indirectly.<sup>14</sup>

The DOH communicable disease program includes, but need not be limited to, programs for the prevention and control of:

- Tuberculosis;

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<sup>8</sup> College of Physicians of Philadelphia, *The History of Vaccines: The Development of the Immunization Schedule*, available at <http://www.historyofvaccines.org/content/articles/development-immunization-schedule> (last visited Feb. 1, 2021).

<sup>9</sup> *Id.* For a complete list of FDA-licensed vaccines, see U.S. Food & Drug Administration, *Vaccines Licensed for Use in the United States*, (last rev. Apr. 24, 2020), available at <https://www.fda.gov/vaccines-blood-biologics/vaccines/vaccines-licensed-use-united-states> (last visited Feb. 1, 2021).

<sup>10</sup> Centers for Disease Control and Prevention. *CDC Yellow Book 2020: Health Information for International Travel*, available at <https://wwwnc.cdc.gov/travel/page/yellowbook-home> (last visited Feb. 1, 2021).

<sup>11</sup> *Id.*

<sup>12</sup> *Supra*, note 10.

<sup>13</sup> Section 381.001, F.S.

<sup>14</sup> Section 381.003(1), F.S.

- Human immunodeficiency virus (HIV) infection;
- Acquired Immune Deficiency Syndrome (AIDS);
- Sexually transmissible diseases;
- Communicable diseases of public health significance; and
- Vaccine-preventable diseases,<sup>15</sup> including programs to immunize school children<sup>16</sup> and the development of an automated, electronic, and centralized database or registry for immunization records.<sup>17</sup>

The DOH may adopt rules related to the prevention and control of communicable diseases and the administration of the immunization registry. Such rules may include procedures for:

- Investigating disease;
- Timeframes for reporting disease;
- Definitions;
- Procedures for managing specific diseases;
- Requirements for follow-up reports on disease exposure; and
- Procedures for providing access to confidential information necessary for disease investigations.<sup>18</sup>

The DOH recommends the following vaccines for adults:<sup>19</sup>

- Human Papillomavirus (HPV);
- Tetanus-diphtheria-pertussis (Tdap);
- Tetanus-diphtheria (Td) booster every ten years;
- Hepatitis A;
- Meningococcal;
- Measles-mumps-rubella (MMR);
- Varicella (chickenpox);
- Seasonal influenza;
- Zoster (shingles); and
- Pneumococcal.

### **The Practice of Pharmacy**

The Board of Pharmacy (BOP), in conjunction with the DOH, regulates the practice of pharmacists and registered pharmacist interns pursuant to ch. 465, F.S.<sup>20</sup>

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<sup>15</sup> Measles, mumps, rubella, pertussis, diphtheria, tetanus, polio, varicella, pneumococcal disease, hepatitis A, hepatitis B, influenza, meningococcal and Haemophilus influenza type b (Hib) are all preventable by vaccine. See Department of Health, *Vaccine Preventable Diseases*, available at <http://www.floridahealth.gov/diseases-and-conditions/vaccine-preventable-disease/index.html> (last visited Feb. 1, 2021).

<sup>16</sup> See s. 1003.22(3)-(11), F.S.

<sup>17</sup> Section 381.003(1), F.S.

<sup>18</sup> Section 381.003(2), F.S.

<sup>19</sup> The Florida Department of Health, *Don't Miss Opportunities to Vaccinate!* available at [http://www.floridahealth.gov/programs-and-services/immunization/publications/\\_documents/opportunities-to-vaccinate-adult.pdf](http://www.floridahealth.gov/programs-and-services/immunization/publications/_documents/opportunities-to-vaccinate-adult.pdf) (last visited Feb. 1, 2021).

<sup>20</sup> Sections 465.004 and 465.005, F.S.

### ***Licensure***

To be licensed as a pharmacist in Florida, a person must:<sup>21</sup>

- Complete an application and remit an examination fee;
- Be at least 18 years of age;
- Hold a degree from an accredited and approved school or college of pharmacy;<sup>22</sup>
- Have completed a BOP-approved internship; and
- Successfully complete the BOP-approved examination.

A pharmacist must complete at least 30 hours of BOP-approved continuing education during each biennial licensure renewal period.<sup>23</sup> Pharmacists who are certified to administer vaccines or epinephrine auto-injections must complete a three-hour continuing education course on the safe and effective administration of vaccines and epinephrine injections as a part of their renewal.<sup>24</sup> Pharmacists who administer long-acting antipsychotic medications must complete an approved eight-hour continuing education course as a part of the continuing education for their renewal.<sup>25</sup>

### ***Scope of Pharmacy Practice***

In Florida, the practice of the profession of pharmacy includes:<sup>26</sup>

- Compounding, dispensing, and consulting concerning the contents, therapeutic values, and uses of a medicinal drug;
- Consultation concerning therapeutic values and interactions of patented or proprietary preparations;
- Monitoring a patient's drug therapy and assisting the patient in the management of his or her drug therapy;
- Reviewing, and making recommendations regarding the patient's drug therapy and health care status in communication with the patient's prescribing health care provider as authorized by the patient;
- Initiating, modifying, or discontinuing drug therapy for a chronic health condition under a collaborative pharmacy practice agreement;<sup>27</sup>
- Transmitting information from prescribers to their patients;
- Administering vaccines to adults;<sup>28</sup>
- Administering epinephrine injections;<sup>29</sup>

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<sup>21</sup> Section 465.007, F.S. The DOH may also issue a license by endorsement to a pharmacist who is licensed in another state upon meeting the applicable requirements set forth in law and rule. *See s. 465.0075, F.S.*

<sup>22</sup> If the applicant has graduated from a four-year undergraduate pharmacy program of a school or college of pharmacy located outside the United States, the applicant must demonstrate proficiency in English, pass the BOP-approved Foreign Pharmacy Graduate Equivalency Examination, and complete a minimum of 500 hours in a supervised work activity program within Florida under the supervision of a DOH-licensed pharmacist.

<sup>23</sup> Section 465.009, F.S.

<sup>24</sup> Section 465.009(6), F.S.

<sup>25</sup> Section 465.1893, F.S.

<sup>26</sup> Section 465.003(13), F.S.

<sup>27</sup> Section 465.1865, F.S.

<sup>28</sup> *See s. 465.189, F.S.*

<sup>29</sup> *Id.*

- Preparing prepackaged drug products in facilities holding Class III institutional facility permits;<sup>30</sup>
- Administering antipsychotic medications by injection;<sup>31</sup>
- Ordering and dispensing over-the-counter drugs approved by the FDA;<sup>32</sup>
- Ordering and dispensing within his or her professional judgment, subject to specified conditions:<sup>33</sup>
  - Certain oral analgesics for mild to moderate pain;
  - Anti-nausea preparations;
  - Certain antihistamines and decongestants;
  - Certain topical antifungal/antibacterial;
  - Topical anti-inflammatory preparations containing an amount of hydrocortisone not exceeding 2.5 percent;
  - Otic antifungal/antibacterial;
  - Salicylic acid;
  - Vitamins;
  - Ophthalmics;
  - Certain histamine H2 antagonists;
  - Acne products; and
  - Topical antivirals for herpes simplex infections of the lips.

### ***Pharmacists with a Broader Scope of Practice***

There are three categories of pharmacists that have broader scopes of practice than other pharmacists:

- The consultant pharmacist;<sup>34</sup>
- The pharmacist working under a collaborative pharmacy practice agreement with a physician;<sup>35</sup> and
- The pharmacist working within the framework of an established written protocol with a supervising physician.<sup>36</sup>

A consultant pharmacist works within the framework of a written collaborative practice agreement between the pharmacist and any of the following who are authorized to prescribe medicinal drugs:<sup>37</sup>

- A health care facility medical director;
- A medical, osteopathic, or podiatric physician; or
- A dentist.<sup>38</sup>

<sup>30</sup> A Class III institutional pharmacy are those pharmacies affiliated with a hospital. *See* s. 465.019(2)(d), F.S.

<sup>31</sup> Section 465.1893, F.S.

<sup>32</sup> Section 465.186, F.S.

<sup>33</sup> Fla. Admin. Code R. 64B16-27.220 (2020).

<sup>34</sup> Sections 465.003(3) and 465.0125, F.S.

<sup>35</sup> Section 465.1865, F.S.

<sup>36</sup> Section 465.1895, F.S.

<sup>37</sup> Section 465.0125, F.S.

<sup>38</sup> *Id.*

The consultant pharmacist may provide medication management services only in the following health care facilities:<sup>39</sup>

- Ambulatory surgical centers;
- Hospitals;
- Alcohol or chemical dependency treatment centers;
- Inpatient hospices;
- Nursing homes;
- Ambulatory care centers; or
- Nursing homes within a continuing care facility.

The scope of practice of a consultant pharmacist includes providing the following medical management services to the patients of the health care practitioner with whom he or she has a written collaborative practice agreement:

- Patient assessments;
- Ordering and evaluating laboratory and clinical tests;
- Monitoring drug therapy and treatment outcomes, including modifying, discontinuing or administering medicinal drugs; and
- Maintaining drug, patient care, and quality assurance records.

A pharmacist, with the consent of his employer if employed at a pharmacy, may also expand his or her scope of practice by entering into a collaborative pharmacy practice agreement with a medical or osteopathic physician, to provide specific services to the physician's patients named in the agreement, which may include:<sup>40</sup>

- Ordering and evaluating a patient's laboratory and clinical testing;
- Conducting patient assessments; and
- Modifying, discontinuing, or administering medicinal drugs.

The scope of practice for a pharmacist, within the framework of an established written protocol with a supervising medical or osteopathic physician, may also include the testing or screening for and treatment of minor, nonchronic health conditions, which are defined as short-term conditions that are generally managed with minimal treatment or self-care, and include:

- Influenza;
- Streptococcus;
- Lice;
- Skin conditions such as ring worm and athlete's foot; and
- Minor uncomplicated infections.

### ***Pharmacy Interns***

To become a pharmacy intern, a person must be certified by the BOP and enrolled in an intern program at an accredited school or college of pharmacy or as a graduate of an accredited school

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<sup>39</sup> Section 465.1865, F.S.

<sup>40</sup> Section 465.0125, F.S. A pharmacist with a collaborative practice agreement with a physician, may not modify or discontinue any medications of any other health care practitioner he or she does not have a collaborative pharmacy practice agreement with.



or college of pharmacy and not yet licensed as a pharmacist in Florida.<sup>41</sup> The BOP's rules outline the registration process for pharmacy interns and the internship program requirements for U.S. pharmacy students or graduates and foreign pharmacy graduates.<sup>42</sup>

A pharmacist is responsible for any delegated act performed by a registered pharmacy intern employed or supervised by the pharmacist.<sup>43</sup>

### **Administration of Vaccines by Pharmacists and Registered Pharmacy Interns**

A pharmacist or pharmacy intern must become certified to administer immunizations and vaccines that are:

- Listed in the CDC Adult Immunization Schedule as of February 1, 2015;
- Listed in the Adult Immunization Schedule after February 1, 2015, and have been authorized by BOP rule;
- Recommended by the CDC for international travel as of July 1, 2015;
- Recommended by the CDC for international travel after July 1, 2015, and have been authorized by BOP rule;<sup>44</sup> or
- Approved by the BOP in response to an emergency declared by the Governor.<sup>45</sup>

To be certified to administer vaccines, a pharmacist must:

- Enter into a written protocol with a supervising medical or osteopathic physician;<sup>46</sup> and the protocol must:<sup>47</sup>
  - Specify the categories of patients and patient conditions for which the pharmacist may administer vaccines;
  - Be appropriate to the pharmacist's training and certification for administering the vaccine;
  - Outline the process and schedule for the review of the administration of vaccines by the pharmacist under the written protocol; and
  - Be submitted to the BOP;
- Successfully complete a BOP-approved vaccine administration certification program that consists of at least 20 hours of continuing education;<sup>48</sup>
- Pass an examination and demonstrate vaccine administration technique;<sup>49</sup>
- Maintain and make available patient records using the same standards for confidentiality and retention of such records as required by s. 456.057, F.S., and maintain the records for at least five years;<sup>50</sup> and

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<sup>41</sup> Section 465.013, F.S.

<sup>42</sup> Fla. Admin. Code R. 64B16-26.2032 (U.S. pharmacy students/graduates); Fla. Admin. Code R. 64B16-26.2033 (foreign pharmacy graduates).

<sup>43</sup> Fla. Admin. Code R. 64B16-27.430

<sup>44</sup> Section 465.189(1)(b), F.S.

<sup>45</sup> Section 465.189, (1)(c), F.S.

<sup>46</sup> Section 465.189(1), F.S.

<sup>47</sup> Section 465.189(7), F.S.

<sup>48</sup> Section 465.189(6), F.S., Fla. Admin. Code R. 64B16-26.1031 (2020), provides more detail regarding subject matter that must be included in the certification course.

<sup>49</sup> *Id.*

<sup>50</sup> Section 456.057, F.S., requires certain health care practitioners to develop and implement policies, standards, and procedures to protect the confidentiality and security of medical records, provides conditions under which a medical record

- Maintain at least \$200,000 of professional liability insurance.<sup>51</sup>

To administer vaccines, a registered pharmacy intern must complete the same BOP-approved vaccine administration certification program as the pharmacist and also be supervised by a certified pharmacist, at a ratio of one pharmacist to one certified registered intern.<sup>52</sup>

Current law restricts the vaccines a pharmacist may administer to those vaccines listed in the February 1, 2015, CDC Recommended Adult Immunization Schedule, which is the same as the 2020 list of recommended vaccines, except that the CDC has added the Meningococcal B vaccine to the list.<sup>53</sup> A pharmacist may also administer epinephrine using an auto-injector delivery system within the framework of an established protocol under a supervising physician in order to address any unforeseen allergic reactions.<sup>54</sup>

### III. Effect of Proposed Changes:

SB 494 expands the source lists for the immunizations and vaccines that certified pharmacists and certified registered pharmacy interns may administer to adults. Currently, pharmacists and pharmacy interns, under a protocol with a supervising physician, are limited to administering vaccines that are:

- Listed in the CDC's Adult Immunization Schedule as of February 1, 2015;
- Recommended by the CDC for international travel as of July 1, 2015;
- Authorized by BOP rule if listed or recommended, respectively, after those dates; or
- Approved by the BOP in response to a state of emergency declared by the Governor.<sup>55</sup>

The bill authorizes certified pharmacists and certified registered pharmacy interns, still under a protocol with a supervising physician, to administer vaccines and immunizations to adults, without regard to date, that are:

- Listed in the CDC's Adult Immunization Schedule;
- Recommended by the ACIP;
- Recommended by the CDC for international travel; or
- Approved by the BOP in response to a state of emergency declared by the Governor.<sup>56</sup>

Under the bill:

- Immunizations and vaccines added to the Adult Immunization Schedule after February 1, 2015, or recommended by the CDC for international travel after July 1, 2015, will no longer

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may be disclosed without the express consent of the patient, provides procedures for disposing of records when a practice is closing or relocating, and provides for enforcement of its provisions.

<sup>51</sup> Section 465.189(3), F.S.

<sup>52</sup> Section 465.189(6), F.S.

<sup>53</sup> Centers for Disease Control and Prevention, *Recommended Adult Immunization Schedule, United States - 2015*, available at <https://www.cdc.gov/vaccines/schedules/downloads/past/2015-adult.pdf> (last visited Feb. 1, 2021). The schedule provides the recommended age, as well as the administration intervals for vaccines that require multiple doses. Some vaccines are recommended only for populations with special situations that put these individuals at higher risk. *Also supra*, note 7.

<sup>54</sup> Section 465.189(2), F.S.

<sup>55</sup> Section 465.186, F.S.

<sup>56</sup> *See* s. 252.36, F.S.

need authorization under BOP rule to be available for administration to adults by pharmacists and pharmacy interns; and

- An immunization or vaccine will no longer need to appear on the CDC's Adult Immunization Schedule to be available for administration by a pharmacist or pharmacy intern as long as the immunization or vaccine has been recommended by the ACIP.

The bill further requires a pharmacist, when administering epinephrine using an auto-injector delivery system in order to address an unforeseen allergic reaction, under a protocol with a supervising physician, to administer a weight-based dose of epinephrine.

The bill 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:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 465.189 of the Florida Statutes.

**IX. Additional Information:**

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

**CS by Health Policy on February 4, 2021:**

The CS amends s. 465.189(2), F.S., to require a pharmacist, when administering epinephrine using an auto injector delivery system to address an unforeseen allergic reaction, under a protocol with a supervising physician, to administer a weight-based dose of epinephrine.

- B. **Amendments:**

None.



165344

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/04/2021	.	
	.	
	.	
	.	

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

**Senate Amendment (with directory and title amendments)**

Between lines 42 and 43  
insert:

(2) In order to address any unforeseen allergic reaction, a pharmacist may administer a weight-based dose of epinephrine using an autoinjector delivery system within the framework of an established protocol under a supervising physician licensed under chapter 458 or chapter 459.



165344

11 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

12 And the directory clause is amended as follows:

13 Delete lines 10 - 11

14 and insert:

15 Section 1. Subsections (1) and (2) of section 465.189,  
16 Florida Statutes, are amended to read:

17

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

19 And the title is amended as follows:

20 Delete line 6

21 and insert:

22 adults; specifying that certain epinephrine  
23 administered by pharmacists must be weight-based  
24 doses; providing an effective date.

By Senator Burgess

20-00864-21

2021494\_\_

1 A bill to be entitled  
 2 An act relating to administration of vaccines;  
 3 amending s. 465.189, F.S.; revising the specified  
 4 vaccines that certain pharmacists and registered  
 5 interns under certain supervision may administer to  
 6 adults; providing an effective date.  
 7  
 8 Be It Enacted by the Legislature of the State of Florida:  
 9  
 10 Section 1. Subsection (1) of section 465.189, Florida  
 11 Statutes, is amended to read:  
 12 465.189 Administration of vaccines and epinephrine  
 13 autoinjection.—  
 14 (1) In accordance with guidelines of the Centers for  
 15 Disease Control and Prevention for each recommended immunization  
 16 or vaccine, a pharmacist, or a registered intern under the  
 17 supervision of a pharmacist who is certified under subsection  
 18 (6), may administer the following vaccines to an adult within  
 19 the framework of an established protocol under a supervising  
 20 physician licensed under chapter 458 or chapter 459:  
 21 (a) Immunizations or vaccines listed in the Adult  
 22 Immunization Schedule ~~as of February 1, 2015,~~ by the United  
 23 States Centers for Disease Control and Prevention. ~~The board may~~  
 24 ~~authorize, by rule, additional immunizations or vaccines as they~~  
 25 ~~are added to the Adult Immunization Schedule.~~  
 26 (b) Immunizations or vaccines recommended by the Centers  
 27 for Disease Control and Prevention Advisory Committee on  
 28 Immunization Practices.  
 29 (c) Immunizations or vaccines recommended by the United

Page 1 of 2

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

20-00864-21

2021494\_\_

30 States Centers for Disease Control and Prevention for  
 31 international travel ~~as of July 1, 2015. The board may~~  
 32 ~~authorize, by rule, additional immunizations or vaccines as they~~  
 33 ~~are recommended by the United States Centers for Disease Control~~  
 34 ~~and Prevention for international travel.~~  
 35 (d) ~~(e)~~ Immunizations or vaccines approved by the board in  
 36 response to a state of emergency declared by the Governor  
 37 pursuant to s. 252.36.  
 38  
 39 A registered intern who administers an immunization or vaccine  
 40 under this subsection must be supervised by a certified  
 41 pharmacist at a ratio of one pharmacist to one registered  
 42 intern.  
 43 Section 2. This act shall take effect July 1, 2021.

Page 2 of 2

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



The Florida Senate

## Committee Agenda Request

**To:** Senator Manny Diaz, Jr., Chair  
Committee on Health Policy

**Subject:** Committee Agenda Request

**Date:** January 22, 2021

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I respectfully request that **Senate Bill #494**, relating to Administration of Vaccines, be placed on the:

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

A handwritten signature in blue ink that reads "Danny".

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Senator Danny Burgess  
Florida Senate, District 20



THE FLORIDA SENATE

APPEARANCE RECORD

2.4.21

Meeting Date

494

Bill Number (if applicable)

Topic Administration of Vaccines

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title President & CEO

Address 2215 Thomasville Road

Phone 850.510.9922

Street

Tallahassee

FL

32308

City

State

Zip

Email Barney@SmartJusticeAlliance.org

Speaking:  For  Against  Information

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

Representing ~~Florida Smart Justice Alliance~~

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/4/21

Meeting Date

494

Bill Number (if applicable)

Topic Administration of Vaccines

Amendment Barcode (if applicable)

Name Philip ~~Skinner~~ Suderman

Job Title Policy Director

Address \_\_\_\_\_ Phone \_\_\_\_\_

Street

City

State

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing Americans for Prosperity

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.)

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

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BILL: SB 388

INTRODUCER: Senator Wright

SUBJECT: Injured Police Canines

DATE: February 3, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Brown</u>	<u>HP</u>	<b>Favorable</b>
2.	_____	_____	<u>CJ</u>	_____
3.	_____	_____	<u>RC</u>	_____

---

**I. Summary:**

SB 388 authorizes an emergency service transport vehicle permit holder to transport a police canine injured in the line of duty to a veterinary clinic, hospital emergency department, or similar facility if no person requires medical attention or transport when the canine needs it. The bill authorizes emergency medical technicians (EMTs) and paramedics to provide emergency medical care to an injured police canine at the scene of an emergency or while the canine is being transported.

The bill provides civil and criminal immunity for EMTs and paramedics providing emergency care to an injured police canine and exempts them from the application of the veterinary practice act for the provision of medical care to a police canine injured in the line of duty.

The bill may have a fiscal impact. *See* Section V of this analysis.

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

**II. Present Situation:**

**Police Canines**

Section 843.19, F.S., defines the term “police canine” for law enforcement purposes as any canine that is owned, or the service of which is employed, by a law enforcement agency or a correctional agency for the principal purpose of aiding in the detection of criminal activity, enforcement of laws, or apprehension of offenders.

## Special K-9 Units

Specially-trained dogs are used by various agencies and departments throughout the state in their K-9 units. These departments employ dogs to assist with tracking and apprehending offenders, narcotics and bomb detection,<sup>1</sup> and building and article searches.<sup>2</sup> Additionally, some fire departments use dogs as part of arson detection programs.<sup>3</sup> Various non-profit organizations also use dogs for the purpose of search and rescue, such as the Community Emergency Response Team, which provides support to the federal Emergency Management Agency.<sup>4</sup>

## Veterinary Medical Care and Treatment for Canines

The practice of veterinary medicine is licensed and regulated by the Department of Business and Professional Regulation (DBPR), Board of Veterinary Medicine.<sup>5</sup> A veterinarian is a licensed practitioner who engages in the practice of veterinary medicine which the Legislature has determined can be potentially dangerous to the public health and safety if conducted by incompetent and unlicensed persons.<sup>6</sup> The practice of veterinary medicine includes:

- The diagnosis of medical conditions of animals;
- Prescribing, dispensing, or administering drugs, medicine, appliances, and applications for animals;
- The treatment of animals for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease;
- Performing any manual procedure for the diagnosis of or treatment for pregnancy or fertility or infertility of animals;
- The determination of the health, fitness, or soundness of an animal; and
- The practice of the following on animals:
  - Surgery;
  - Acupuncture;
  - Obstetrics;
  - Dentistry;
  - Physical therapy;
  - Radiology;
  - Theriogenology; and
  - Any other veterinary medicine specialty.

Section 474.202, F.S., defines an animal as a wild or domestic, dead or alive, bird, amphibian, fish, reptile, or mammal, other than a human being. A dog, or canine, is a mammal.<sup>7</sup> It is the responsibility of every veterinarian licensed and practicing in Florida to provide, either

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<sup>1</sup> City of Orlando, *K-9 Unit*, available at <http://www.cityoforlando.net/police/k-9-unit/> (last visited Jan. 22, 2021).

<sup>2</sup> St. Petersburg Police Department, *K-9 Unit*, available at <https://police.stpete.org/k-9/> (last visited Jan. 22, 2021).

<sup>3</sup> City of Orlando, *Accelerant Detection Canines*, available at <http://www.cityoforlando.net/fire/accelerant-detection-canines/> (last visited Jan. 22, 2021).

<sup>4</sup> Boondocks K9 SAR-CERT Unit, *Community Emergency Response Team (CERT)*, available at <https://www.boondocksk9.org/> (last visited Jan. 22, 2021).

<sup>5</sup> Chapter 474, F.S.; and see s. 20.165, F.S.

<sup>6</sup> Sections 474.201 and 202(11), F.S.

<sup>7</sup> Merriam-Webster Dictionary, dog or canine is a highly variable domestic mammal (*Canis familiaris*) closely related to the gray wolf, available at <https://www.merriam-webster.com/dictionary/dog> (last visited Jan. 22, 2021).

personally or through another licensed veterinarian, 24-hour emergency services for all animals under his or her continuing care.<sup>8</sup>

When the DBPR has probable cause to believe that a person is practicing, or attempting to practice, veterinary medicine without a license, or aiding and abetting a person to practice veterinary medicine without a license, the DBPR may issue to the offender a notice to cease and desist. If the person fails to comply with the notice, the DBPR may file a proceeding seeking an injunction or a writ of mandamus. Additionally, the DBPR may impose an administrative penalty not to exceed \$5,000 per incident or may issue a citation.<sup>9</sup>

## **Emergency Medical Services, Paramedics, and Emergency Medical Technicians (EMTs)**

### ***Emergency Medical Transport Services***

Prehospital life support transport services fall into two general categories – basic life support (BLS) and advanced life support (ALS).

BLS includes the assessment or treatment by a person qualified under part III of ch. 401, F.S., through the use of techniques described in the Emergency Medical Technician (EMT)-Basic National Standard Curriculum or the National EMS Education Standards of the U.S. Department of Transportation.<sup>10</sup> The term includes the administration of oxygen and other techniques that have been approved and are performed under specific conditions.<sup>11</sup> BLS services are usually performed by EMTs.<sup>12</sup>

ALS includes patient assessment or treatment, including the implementation of advanced medical skills such as endotracheal intubation, the administration of drugs or intravenous fluids, telemetry, cardiac monitoring, cardiac defibrillation, and other techniques described in the EMT-Paramedic National Standard Curriculum or the National EMS Education Standards.<sup>13</sup> ALS services can be performed on site and are usually provided by physicians or paramedics<sup>14</sup>

To obtain a transport vehicle permit to provide BLS or ALS services, an applicant must provide to the Department of Health (DOH) the following:

- An application and required fees; and
- Documentation that the vehicle qualifies as follows:
  - Is furnished with essential medical supplies and equipment which is in good working order;
  - Meets appropriate standards for design and construction;

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<sup>8</sup> Fla. Admin. Code R. 61G19-19.001 (2019).

<sup>9</sup> Section 455.228, F.S.

<sup>10</sup> United States Department of Transportation, National Highway Traffic Safety Administration, *National Emergency Medical Services Education Standards*, available at <https://www.ems.gov/pdf/National-EMS-Education-Standards-FINAL-Jan-2009.pdf> (last visited Jan. 22, 2021).

<sup>11</sup> Sections 401.23(7) and (8), F.S.

<sup>12</sup> Rynanen, et. al, *Is advanced life support better than basic life support in prehospital care? A systematic review*, Scand J Trauma Resusc. Emerg. Med. 2010; 18:-62, available at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3001418/> (last visited Jan. 22, 2021).

<sup>13</sup> Sections 401.23(1) and (2), F.S.

<sup>14</sup> *Supra*, note 12.

- Is equipped with an appropriate communication system;
- Meets appropriate safety standards;
- Meets sanitation and maintenance standards;
- Is insured for a minimum of \$100,000/\$300,000 against injuries to or the death of any person arising out of an accident; and
- Has been awarded a Certificate of Public Convenience and Necessity (COPCN).<sup>15</sup>

The following adult and pediatric medical equipment and supplies are required for BLS service vehicles:

- Bandaging, dressing, and taping supplies;
- Bandage shears;
- Patient restraints;
- Blood pressure cuffs;
- Stethoscopes;
- Blankets;
- Sheets;
- Pillows;
- Patient rain cover;
- Long and short spine boards;
- Cervical, spine and extremity immobilization devices and traction splints;
- Portable oxygen tanks, masks, and nasal cannula;
- Hand-operated bag-valve mask resuscitators;
- Portable suction;
- Sterile obstetrical kit;
- Burn sheets;
- Flashlight;
- Occlusive dressings;
- Gloves, face masks;
- Nasopharyngeal airways;
- Biohazardous waste bags; and
- Bulb syringe.<sup>16</sup>

The following additional adult and pediatric medical equipment and medications are required for ALS service vehicles:

- Medications:
  - Atropine;
  - Dextrose;
  - Epinephrine;
  - Ventricular dysrhythmic;
  - Benzodiazepine sedative/anticonvulsant;
  - Naloxone (Narcan);
  - Nitroglycerin; and
  - Beta adrenergic inhalant with nebulizer apparatus.

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<sup>15</sup> Section 401.26(2), F.S. and Fla. Admin. Code R. 64J-1.002 and 63J-1.003 (2019).

<sup>16</sup> Fla. Admin. Code R. 64J-1.002(4) (2019).

- I.V. Solutions:
  - Lactated ringers or normal saline with stopcocks;
  - Pressure infuser; and
  - Drip sets, tubing, and cannula.
- Equipment:
  - Laryngoscope handle, blades and batteries;
  - I.V. arm boards or splints;
  - Disposable endotracheal tubes and stylets;
  - Magill forceps;
  - Device for intra-tracheal meconium suctioning;
  - Tourniquets;
  - Needles and syringes;
  - Portable monitor with defibrillator, pacing capabilities, ECG printout, and electrodes; and
  - Glucometer.<sup>17</sup>

### ***Emergency Medical Technicians***

The primary focus of an EMT is to provide basic emergency medical care and transportation for critical and emergent patients who access the emergency medical system. An EMT possesses the basic knowledge and skills necessary to provide patient care and transportation and functions as part of a comprehensive EMS response, under medical oversight. An EMT performs interventions with the basic equipment typically found on an ambulance and is a link from the scene to the emergency health care system.<sup>18</sup>

### ***Paramedics***

A paramedic is an allied health professional whose primary focus is to provide advanced emergency medical care for critical and emergent patients who access the emergency medical system. A paramedic possesses the complex knowledge and skills necessary to provide patient care and transportation and functions as part of a comprehensive EMS response, under medical oversight. A paramedic performs interventions with the basic and advanced equipment typically found on an ALS service vehicle and is a link from the scene into the health care system.<sup>19</sup>

## **III. Effect of Proposed Changes:**

SB 388 creates s. 401.254, F.S., to authorize an emergency service transport vehicle permit holder to transport a police canine injured in the line of duty to a veterinary clinic, hospital emergency department, or similar facility if no person requires medical attention or transport when the canine needs it.

The bill defines the term “police canine” as any canine that is owned, or the service of which is employed, by a state or local law enforcement agency, a correctional agency, a fire department, a special fire district, or the State Fire Marshal for the principal purpose of aiding in the detection of criminal activity, flammable materials, or missing persons; enforcement of laws; investigation of fires; or apprehension of offenders.

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<sup>17</sup> Fla. Admin. Code R. 64J-1.002(7) (2019).

<sup>18</sup> *Supra*, note 10.

<sup>19</sup> *Id.*

The bill authorizes EMTs and paramedics to provide emergency medical care to an injured police canine at the scene of the emergency or while being transported. The bill provides civil and criminal immunity for EMTs and paramedics who act in good faith to provide emergency care to an injured police canine and exempts them from the application of the veterinary practice act while they are providing medical care to a police canine injured in the line of duty.

The bill 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:

None.

C. Government Sector Impact:

If a police canine is transported to an emergency medical center for the treatment of injuries suffered in the line of duty under the bill, the cost of such transportation and services would need to be covered, presumably by the law enforcement agency or other government agency that owns the canine. Such fiscal impact is indeterminate.



**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Emergency medical treatment for canines is very different than that for human beings, as is the training of veterinarians when compared to that of EMTs and paramedics. The bill does not require or provide for any emergency treatment protocols for EMTs and paramedics to follow for the emergency care and treatment of police canines injured in the line of duty, nor does the bill require the collaborative development of treatment protocols for injured police canines between the boards of medicine and osteopathic medicine and the board of veterinary medicine.

If an injured police canine is transported to a hospital emergency department or similar facility under the bill, the health care practitioners at such a facility might not have veterinary training and might not be willing to treat animals. The bill does not provide immunity from liability for such practitioners, nor does it exempt them from ch. 474, F.S., as it does for EMTs and paramedics.

**VIII. Statutes Affected:**

This bill substantially amends section 474.203 of the Florida Statutes.

This bill creates section 401.254 of the Florida Statutes.

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

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

None.

**B. Amendments:**

None.

By Senator Wright

14-00252-21

2021388\_\_

A bill to be entitled

An act relating to injured police canines; creating s. 401.254, F.S.; defining the term "police canine"; authorizing licensed life support services to transport injured police canines under certain circumstances; authorizing a paramedic or an emergency medical technician to provide emergency medical care to injured police canines under certain circumstances; providing for immunity from criminal and civil liability under certain circumstances; amending s. 474.203, F.S.; providing applicability; providing an effective date.

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

Section 1. Section 401.254, Florida Statutes, is created to read:

401.254 Treatment of injured police canines.-

(1) As used in this section, the term "police canine" means any canine that is owned, or the service of which is employed, by a state or local law enforcement agency, a correctional agency, a fire department, a special fire district, or the State Fire Marshal for the principal purpose of aiding in the detection of criminal activity, flammable materials, or missing persons; the enforcement of laws; the investigation of fires; or the apprehension of offenders.

(2) A licensee with a valid permit for the transport vehicle may transport a police canine injured in the line of duty to a veterinary clinic, hospital emergency department, or

Page 1 of 2

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

14-00252-21

2021388\_\_

similar facility if there is no individual requiring medical attention or transport at that time.

(3) Notwithstanding s. 474.213, a paramedic or an emergency medical technician may provide emergency medical care to a police canine injured in the line of duty while at the scene of the emergency or while the police canine is being transported to a veterinary clinic, hospital emergency department, or similar facility. A paramedic or an emergency medical technician who acts in good faith to provide emergency medical care to an injured police canine is immune from criminal or civil liability.

Section 2. Subsection (10) is added to section 474.203, Florida Statutes, to read:

474.203 Exemptions.—This chapter does not apply to:

(10) A paramedic or an emergency medical technician providing emergency medical care to a police canine injured in the line of duty as authorized under s. 401.254.

For the purposes of chapters 465 and 893, persons exempt pursuant to subsection (1), subsection (2), or subsection (4) are deemed to be duly licensed practitioners authorized by the laws of this state to prescribe drugs or medicinal supplies.

Section 3. 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:

Military and Veterans Affairs, Space, and  
Domestic Security, *Chair*  
Commerce and Tourism, *Vice Chair*  
Appropriations Subcommittee on Education  
Appropriations Subcommittee on Transportation,  
Tourism, and Economic Development  
Children, Families, and Elder Affairs  
Finance and Tax  
Transportation

**SENATOR TOM A. WRIGHT**  
14th District

January 12, 2021

The Honorable Manny Diaz, Jr.  
306, Senate Office Building  
404 S. Monroe Street  
Tallahassee, FL 32399

Re: Senate Bill 388 – Injured Police Canines

Dear Chair Diaz:

Senate Bill 388, relating to Injured Police Canines has been referred to the Committee on Health Policy. I am requesting your consideration on placing SB 388 on your next agenda. Should you need any additional information please do not hesitate to contact my office.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom A. Wright", with a large, sweeping flourish underneath.

Tom A. Wright, District 14

cc: Allen Brown, Staff Director of the Committee on Health Policy  
Daniel Looke, Deputy Staff Director of the Committee on Health Policy  
Celia Georgiades, Administrative Assistant of the Committee on Health Policy

### REPLY TO:

- 4606 Clyde Morris Blvd., Suite 2-J, Port Orange, Florida 32129 (386) 304-7630
- 320 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**WILTON SIMPSON**  
President of the Senate

**AARON BEAN**  
President Pro Tempore

**YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM**

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

2.4.21

*Meeting Date*

388

*Bill Number (if applicable)*

Topic Injured Police Canines

*Amendment Barcode (if applicable)*

Name Barney Bishop III

Job Title President & CEO

Address 2215 Thomasville Road

Phone 850.510.9922

*Street*

Tallahassee

FL

32308

Email Barney@SmartJusticeAlliance.org

*City*

*State*

*Zip*

Speaking:  For  Against  Information

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

Representing Florida Smart Justice Alliance

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.)

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

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BILL: CS/SB 352

INTRODUCER: Health Policy Committee and Senator Rodriguez

SUBJECT: Massage Therapy

DATE: February 4, 2021      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto Van-Winkle	Brown	HP	<b>Fav/CS</b>
2.	_____	_____	CM	_____
3.	_____	_____	RC	_____

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**Please see Section IX. for Additional Information:**  
COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 352 makes multiple changes to the regulation of the practice of massage. The bill:

- Exchanges the term “massage therapy” in place of “massage” throughout ch. 480, F.S., and revises the chapter title from “Massage Practice” to “Massage Therapy Practice;”
- Specifies that massage therapy is a therapeutic health care practice;
- Revises the legislative purpose of ch. 480, F.S.;
- Amends the definitions of “massage” and “massage therapist” to expand the scope of practice of massage therapists; and
- Defines “massage therapy assessment” and includes the performance of such assessment, for compensation, in the scope of practice of massage therapy.

The bill provides 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.<sup>1</sup> The DOH is charged with the regulation of health care

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<sup>1</sup> Section 20.43, F.S.

practitioners for the preservation of the health, safety, and welfare of the public. The Division of Medical Quality Assurance (MQA) is responsible for the boards<sup>2</sup> and professions within the DOH.<sup>3</sup>

### **Massage**

The term “massage” is defined as the manipulation of the soft tissues of the human body with the hand, foot, arm, or elbow, whether or not the manipulation is aided by hydrotherapy, including colonic irrigation, or thermal therapy; any electrical or mechanical device; or the application to the human body of a chemical or herbal preparation.<sup>4</sup>

Chapter 480, F.S., entitled the “Massage Practice Act,” governs the practice of massage in Florida. Section 480.035, F.S., establishes the Board of Massage Therapy (BMT) within the DOH to license and regulate the practice of massage. A massage therapist is a health care practitioner licensed under ch. 480, F.S.<sup>5</sup>

### ***Massage Therapy Schools***

A person seeking licensure as a massage therapist may complete a course of study at a BMT-approved massage school. The BMT requires the course of study to comprise at least 500 classroom hours and be completed at a rate of no more than six hours per day and no more than 30 classroom hours per calendar week.<sup>6</sup> Classroom education must include:<sup>7</sup>

- 150 hours of anatomy and physiology;
- 100 hours of basic massage theory and history;
- 125 hours of clinical practicum;
- 76 hours of allied modalities;
- 15 hours of business;
- 15 hours of theory and practice of hydrotherapy;
- 10 hours of Florida laws and rules;
- 4 hours of professional ethics;
- 3 hours of HIV/AIDS education; and
- 2 hours on reducing medical errors.

A massage therapy student may also complete a course of study in colonic training in addition to the training described above. Such course of study must include a minimum of 100 classroom hours, consisting of 50 hours in theory, anatomy, physiology, pathology of the colon and digestive system and principles of colon hygiene, 45 hours of clinical practicum that includes procedure, history, clinical records, indications and contraindication, 20 treatments, and five hours in sterilization techniques and equipment training.<sup>8</sup>

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<sup>2</sup> 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.

<sup>3</sup> Section 20.43, F.S.

<sup>4</sup> Section 480.033, F.S.

<sup>5</sup> Section 456.001(4), F.S.

<sup>6</sup> Fla. Admin. R. 64B7-32.003

<sup>7</sup> *Id.*

<sup>8</sup> Fla. Admin. R. 64B7-32.005

### *Massage Licensure*

Individuals seeking an initial Florida massage license currently have three options:

- They can meet the educational requirements by attending a BMT-approved school with a massage program and taking an examination;
- For persons issued a massage apprentice license before July 1, 2020, they may continue that apprenticeship and perform massage as authorized under that license until it expires. Upon completion of the apprenticeship, which must occur before July 1, 2023, they may apply to the BMT for full licensure and be granted a license if all other applicable licensure requirements are met;<sup>9,10</sup> or
- They may obtain a license by endorsement, if the applicant:
  - Holds an active license in another state with licensing requirements equivalent to, or exceeding, those required for a Florida license; and
  - Has 10 hours of Florida Laws and Rules as part of their BMT-approved massage education program or with an approved continuing education (CE) provider.<sup>11</sup>

The general requirements for a person to obtain a Florida license to practice as a massage therapist are as follows:

- Submit an application and fee;
- Be at least 18 years of age;
- Have a high school diploma or high school equivalency diploma;
- Submit to background screening;
- Have completed a course of study at a BMT-approved massage school or have completed a massage apprenticeship program by July 1, 2023, that meets BMT-approved standards;
- Receive a passing grade on a national examination approved by the BMT;<sup>12</sup> and
- Complete 10 hours of Florida Laws and Rules as part of their BMT-approved massage education program or with an approved CE provider.<sup>13</sup>

The DOH no longer offers or administers a massage therapy licensure exam.<sup>14</sup> Florida Administrative Code Rule 64B7-25.001(3) lists five national exams that are approved by the BMT.

<sup>9</sup> See ss. 480.033(5) and 480.041(8), F.S., (2020). After June 30, 2020, massage apprenticeships licenses were no longer available from the DOH.

<sup>10</sup> Fla. Admin. R. 64B7-29.003 (2020). During the apprenticeship, the sponsor is required to file quarterly reports and the apprentice must complete the following courses of study: 300 hours of physiology, 300 hours of anatomy, 20 hours of theory and history of massage, 50 hours of theory and practice of hydro-therapy, five hours of hygiene, 25 hours of statutes and rules of massage practice, 50 hours of introduction to allied modalities, 700 hours of practical massage, and three hours of BMP-approved HIV/AIDS instruction.

<sup>11</sup> Florida-approved Massage Therapy programs are required to have 10 hours of Florida laws and rules as a part of their curriculum. Graduates from out of state programs must show that they have met the same course requirements as students attending Florida schools. Out of state programs do not typically teach Florida laws and rules. By including a course as a separate requirement in the board's checklist, the board has reduced confusion by out of state applicants and given them notice that if they did not take this class during their schooling they will need to take it before they are licensed. See e-mail of Kama Monroe, Executive Director, Department of Health, Division of Medical Quality Assurance, Bureau of Health Care Practitioner Regulation, Board of Massage Therapy (Jan. .27, 2021) (on file with the Senate Health Policy Committee).

<sup>12</sup> Section 480.041, F.S.

<sup>13</sup> *Supra*, note 11.

<sup>14</sup> Florida Board of Massage Therapy, Requirements for all Applicants, *Additional Requirements for Examination Applicants*, available at <https://floridasmassagetherapy.gov/licensing/licensed-massage-therapist-lmt/> (last visited Jan. 26, 2021).

The BMT also specifies the licensing procedures for practitioners who desire to practice in Florida and have practiced and hold active licenses in other states, territories, or jurisdictions, or a foreign national jurisdiction, which have licensing standards substantially similar, equivalent to, or more stringent than Florida's standards.<sup>15</sup>

According to the DOH, there are 176 approved, licensed massage schools in Florida. In Fiscal Year 2019-2020, there were 32,435 in-state, active licensed massage therapists and 96 apprentices licensed under the Florida apprenticeship program.<sup>16</sup>

### ***Colonic Irrigation***

In 2020, the Legislature redefined the term "apprentice" in the Massage Practice Act to include only licensed massage therapists approved by the BMT to study colonic irrigation under the instruction of another licensed massage therapist practicing colonic irrigation.<sup>17</sup> "Colonic irrigation" is a method of hydrotherapy used to cleanse the colon with the aid of a mechanical device and water.<sup>18</sup> The BMT is required to adopt rules to:

- Establishing the minimum training program for colonic irrigation apprentices; and
- Provide educational standards, examinations, and certifications for the practice of colonic irrigation by licensed massage therapists.<sup>19</sup>

The BMT licenses apprentices in colonic irrigation. These individuals are either attending a massage therapy school that does not offer colonic training or are licensed massage therapists who are seeking to add colonic irrigation to their practice. Since there are few schools in the state that offer a colonic irrigation program, apprenticeships are the primary method of training for this service. The BMT is currently accepting The National Board for Colon Hydrotherapy Examination administered by the National Board of Colon Hydrotherapy for certification.<sup>20</sup>

### **Health Coverage and Billing for Massage Services**

The Florida Insurance Code<sup>21</sup> requires that any health insurance policy or health maintenance organization (HMO) contract that provides coverage for massage must also cover the services of a licensed massage therapist in cases where massage has been prescribed by an allopathic, osteopathic, chiropractic, or podiatric physician as being medically necessary and the prescription specifies the number of treatments.<sup>22</sup> Medical benefits under personal injury protection coverage, however, specifically exclude massage.<sup>23</sup>

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<sup>15</sup> Section 480.041(5)(c), F.S.

<sup>16</sup> Florida Department of Health, Medical Quality Assurance, *Annual Report and Long-Range Plan, Fiscal Year 2019-2020*, pg. 14 available at [http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/\\_documents/2019-2020-annual-report.pdf](http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/_documents/2019-2020-annual-report.pdf) (last visited Jan. 26, 2021).

<sup>17</sup> Section 480.033(5), F.S.

<sup>18</sup> Section 480.033(6), F.S.

<sup>19</sup> Section 480.041(5)(a) and (b), F.S.

<sup>20</sup> Department of Health, Board of Massage Therapy, Application for Colonic Irrigation Certification, *Examination*, available at <https://floridasmassagetherapy.gov/licensing/colonic-irrigation-upgrade-to-massage-therapist-license/> (last visited Jan. 29, 2021).

<sup>21</sup> See s. 624.01, F.S.

<sup>22</sup> Sections 627.6407, 627.6619, and 641.31(37), F.S.

<sup>23</sup> Section 627.736(1)(a)5., F.S.



All medical billing by health care practitioners in the United States is done using standardized diagnosis ICD-10 codes<sup>24</sup> and standardized procedure CPT codes<sup>25</sup> or HCPCS codes,<sup>26</sup> with or without modifiers.” The CPT codes are generally preferred for office and outpatient setting, as well as for Medicare, Medicaid, and by private insurers.<sup>27</sup> The CPT codes are evidence-based codes that have been created by the American Medical Association (AMA) and designated by the U.S. Department of Health and Human Services under the Health Insurance Portability and Accountability Act (HIPAA) as the national coding set for physicians and other health care professional services. The 2021 CPT codes were released September 1, 2020.<sup>28</sup>

Massage therapists, like other health care practitioners, bill Medicare, Medicaid, private insurers or private-pay patients for the procedures and services they provide. At the AMA's invitation, the American Massage Therapy Association (AMTA) is part of the Physical Medicine and Rehabilitation workgroup that was tasked to develop language that appropriately describes the services of massage therapists across the country.<sup>29</sup> Massage therapists may not use any CPT codes from any area of the CPT code manual outside of the physical medicine and rehabilitation pages.<sup>30</sup> According to the AMTA, the following are some of the more common CPT codes currently billed by massage therapists that are paid by Medicare, Medicaid, and private insurers:<sup>31</sup>

- CPT Code 97124 Massage Therapy;
- CPT Code 97140 Manual Therapy;
- CPT Code 97112 Neuromuscular Re-education;
- CPT Codes 97010 Hot/Cold Packs; and
- CPT Codes 97110 Therapeutic Exercise.

Typically, health care providers who provide medical evaluations and management (E/M) services also bill Medicare, Medicaid, and private insurers for the initial office visit using CPT

<sup>24</sup> ICD-10 codes refers to the 77,000 diagnosis codes listed in the 10th edition of the International Statistical Classification of Diseases and Related Health Problems, a medical classification list produced by the World Health Organization. World Health Organization, International Statistical Classification of Diseases and Related Health Problems (ICD), *ICD-11*, available at <https://www.who.int/standards/classifications/classification-of-diseases> (last visited Jan. 28, 2021). (Note: ICD-11 was adopted by the 72 World Health Assembly, May, 2019, and comes into effect on January 1, 2022.)

<sup>25</sup> CPT codes refer to the Current Procedural Terminology (CPT) codes, and are produced by the American Medical Association (AMA), Board of Trustees, CPT® Editorial Panel. American Medical Association, *CPT® overview and code approval*, available at <https://www.ama-assn.org/practice-management/cpt/cpt-overview-and-code-approval> (last visited Jan. 28, 2021).

<sup>26</sup> HCPCS codes refer to Healthcare Common Procedure Coding System (HCPCS) codes, developed by Centers for Medicare and Medicaid Services and maintained by the AMA. Both CPT and HCPCS codes are the primary medical language used by health care providers to bill for the procedures and services they provide. Center for Medicare and Medicaid Services, Medicare, Coding, HCPCS Coding Questions, *Do You Have A Coding Question?* available at [https://www.cms.gov/Medicare/Coding/MedHCPCSGenInfo/HCPCS\\_Coding\\_Questions](https://www.cms.gov/Medicare/Coding/MedHCPCSGenInfo/HCPCS_Coding_Questions) (last visited Jan. 28, 2021).

<sup>27</sup>*Id.*

<sup>28</sup> *Supra*, note 25.

<sup>29</sup> American Massage Therapy Association, Insurance Reimbursement, *What Are CPT Codes and Who Develops Them?* available at <https://www.amtamassage.org/resources/business-financial-tools/insurance-reimbursement/> (last visited Jan. 28, 2021).

<sup>30</sup> Massage Therapy, *CPT Codes* (Sept. 2, 2020), available at <https://www.massagetoday.com/articles/12049/CPT-Codes> (last visited Jan. 28, 2021).

<sup>31</sup> American Massage Therapy Association, *Insurance Reimbursement*, available at <https://www.amtamassage.org/resources/business-financial-tools/insurance-reimbursement/> (last visited Jan. 28, 2021).

codes 99201 through 99215 depending on whether the patient is a new or established patient and the complexity of the visit. The practitioner would follow the E/M documentation guidelines in the CPT manual for all E/M services. The E/M CPT code requirements and average reimbursement rates for a new patient office visit are as follows:<sup>32</sup>

<b>CPT Code</b>	<b>Description</b>	<b>Services Provided</b>	<b>Average Fee</b>
99201	10 Minute - Problem Focused Exam & Plan	Requires Problem Focused: <ul style="list-style-type: none"> <li>• History;</li> <li>• Examination; and</li> <li>• Straightforward Decision Making.</li> </ul>	\$30-\$40
99202	20 Minute - Expanded Problem Focused Exam & Plan	Requires Expanded Problem Focused: <ul style="list-style-type: none"> <li>• History;</li> <li>• Examination; and</li> <li>• Straightforward Decision Making.</li> </ul>	\$70-\$80
99203	30 Minute - Detailed Exam & Plan	Requires Detailed: <ul style="list-style-type: none"> <li>• History;</li> <li>• Examination; and</li> <li>• Decision Making of Low Complexity.</li> </ul>	\$80-\$110
99204	45 Minute - Exam of Moderate Complexity & Plan	Requires Comprehensive: <ul style="list-style-type: none"> <li>• History;</li> <li>• Examination; and</li> <li>• Decision Making of Moderate Complexity.</li> </ul>	\$130-\$170
99205	60 Minutes - Exam of High Complexity & Plan	Requires Comprehensive: <ul style="list-style-type: none"> <li>•History;</li> <li>•Examination; and</li> <li>•Decision Making of High Complexity.</li> </ul>	\$180-\$210

Currently the scope of practice of a massage therapist in Florida does not include the patient evaluation and management required for the utilization of the CPT codes 99201 through 99215, and massage therapists are not currently reimbursed by Medicare, Medicaid, or private insurers for those services.<sup>33</sup>

The CPT code modifiers (also called Level I modifiers) are two-digit numeric codes used to supplement information and adjust care descriptions to provide extra details concerning a

<sup>32</sup> Medical Billing, *CPT Code 99201, 99202, 99203, 99204, 99205 - Which code to USE*, available at <http://www.whatismedicalinsurancebilling.org/p/cpt-99201-99202-99203-99204-99205-which.html> (last visited Jan. 29, 2021).

<sup>33</sup> National Correct Coding Initiative Policy Manual for Medicare Services, Current Procedural Terminology (CPT) Codes, Descriptions and Other Data Copyright 2020 American Medical Association, published by the Centers for Medicare and Medicaid Services, Jan. 1, 2021, Ch. 11, available at <https://www.cms.gov/Medicare/Coding/NationalCorrectCodInitEd> (last visited Jan. 29, 2021). E/M services for specific non-physician practitioners, i.e. nurse practitioner (NP), clinical nurse specialist (CNS) and certified nurse midwife (CNM) whose Medicare benefit permits them to bill these services. A physician assistant (PA) may also provide a physician service; however, the physician collaboration and general supervision rules as well as all billing rules, apply to all the above non-physician practitioners. The service provided must be medically necessary and the service must be within the scope of practice for a non-physician practitioner in the state in which he or she practices. Medicare, Medicaid, and most private insurers will not pay for CPT evaluation and management codes billed by massage therapists, physical therapists, or occupational therapists in independent practice.

procedure or service provided by a health care provider. Some are informational and some can enhance the amount of reimbursement as much as 110 percent to 150 percent.<sup>34</sup> The federal Centers for Medicare & Medicaid Services lists the following as some common billing modifiers:

- Modifier 25 = The medical provider performs a significant, separately identifiable evaluation and management service on the same day of a procedure or other service;
- Modifier 51 = Multiple procedures by the same provider at the same session; and
- Modifier 59 = Linked services by the medical provider; providing two wholly-separate and distinct services during the same treatment period.<sup>35</sup>

Under the current definition of massage practice in Florida, the use of CPT code modifiers in billing Medicare, Medicaid, or private insurers for massage therapy is seldom necessary or appropriate.<sup>36</sup>

### III. Effect of Proposed Changes:

#### Massage Practice

CS/SB 352 makes multiple changes to statutes governing the practice of massage in Florida. The bill:

- Exchanges the term “massage therapy” in place of “massage” throughout ch. 480, F.S.;
- Renames ch. 480, F.S., to “Massage Therapy Practice” instead of “Massage Practice;”
- Revises the short title of the act to “Massage Therapy Practice Act” instead of “Massage Practice Act;”
- Specifies that massage therapy is a therapeutic health care practice;
- Revises the legislative purpose for the necessity of regulating massage practice under ch. 480, F.S. Under current law, the Legislature recognizes the practice of massage as being potentially dangerous to the public. Under the bill, the Legislature recognizes that unregulated massage therapy poses a danger to the public;
- Expands the scope of practice of massage therapy to include:
  - Manipulation of the soft tissues of the human body with the knee;
  - Authorization for a massage therapist to make “massage therapy assessments,” defined as the determination of the course of a patient’s massage therapy treatment, for compensation; and
- Amends multiple other statutes to make technical and conforming changes.

#### Insurance and Health Maintenance Coverage of Massage Therapy

The bill amends the Florida Insurance Code to change occurrences of “massage” to “massage therapy.” Additionally, the bill provides an avenue for a massage therapist to bill health insurers and HMOs for massage-related services that are not applicable under current law.

<sup>34</sup> *Id.*

<sup>35</sup> Center for Medicare and Medicaid Services, Medicare, Coding, HCPCS Coding Questions, *Do You Have A Coding Question? available at [https://www.cms.gov/Medicare/Coding/MedHCPCSGenInfo/HCPCS\\_Coding\\_Questions](https://www.cms.gov/Medicare/Coding/MedHCPCSGenInfo/HCPCS_Coding_Questions)* (last visited Jan. 28, 2021).

<sup>36</sup> Massage Therapy, *CPT Codes* (Sept. 2, 2020), available at <https://www.massagetoday.com/articles/12049/CPT-Codes> (last visited Jan. 28, 2021).

The bill's expansion of a massage therapist's scope of practice to include massage therapy assessment, for compensation, for the determination of the course of a patient's massage therapy treatment, could have the effect of increasing costs borne by health insurers and HMOs that cover massage therapy. Under the bill, massage therapists may seek payment from insurers and HMOs using CPT billing codes 99201 through 99215 for initial assessment of a new patient and for periodic reevaluation of preexisting patents.

The bill 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:**

The bill might result in increased costs borne by private health insurers and HMOs that cover massage therapy services.

##### **C. Government Sector Impact:**

The bill might result in increased costs for massage therapy services under state group health insurance, Medicaid,<sup>37</sup> and the Children's Health Insurance Program, to the extent

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<sup>37</sup> Massage therapy is not specified in the Florida Statutes as a benefit that Medicaid managed care plans must cover. *See* s. 409.973(1), F.S. However, the Agency for Health Care Administration (AHCA) requires such plans to provide medical massage therapy services to enrollees diagnosed with AIDS, and who have had a history of an AIDS-related opportunistic

massage therapy is covered and provided under those respective benefit packages. The fiscal impact is indeterminate at this time.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 480.031, 480.032, 480.033, 477.013, 477.0135, 477.0265, 480.034, 480.035, 480.041, 480.043, 480.046, 480.0465, 480.047, 480.052, 480.0535, 627.6407, 627.6619, 627.736, 641.31, and 823.05.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Substantial Changes:**

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

**CS by Health Policy on February 4, 2021:**

The CS removes from the underlying bill the authorization for a massage therapist to apply over-the-counter topical agents, or prescription topical agents prescribed by a third-party health care practitioner, to the body of a massage client. The CS reverts to current law regarding which substances may be applied to the human body by a massage therapist.

**B. Amendments:**

None.

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

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infection, for the treatment of peripheral neuropathy or severe neuromuscular pain and lymphedema. *See* 2018-2023 Model Health Plan Contract (Oct. 1, 2020), pg. 21, *available at* [https://ahca.myflorida.com/medicaid/statewide\\_mc/pdf/Contracts/2020-10-01/Exhibit\\_II\\_A\\_MMA-2020-10-01.pdf](https://ahca.myflorida.com/medicaid/statewide_mc/pdf/Contracts/2020-10-01/Exhibit_II_A_MMA-2020-10-01.pdf) (last visited Feb. 2, 2021). Medicaid managed care plans are also allowed to customize their benefit packages and offer additional services beyond the minimum they are required to cover. *See* s. 409.973(2), F.S., Massage therapy has been approved by the AHCA as an additional service that plans may offer, and, according to the AHCA, 14 Medicaid managed care plans are currently covering massage therapy. *available at* [https://ahca.myflorida.com/Medicaid/statewide\\_mc/pdf/mma/EB\\_by\\_Plan\\_October\\_2019.pdf](https://ahca.myflorida.com/Medicaid/statewide_mc/pdf/mma/EB_by_Plan_October_2019.pdf) (last visited Feb. 2, 2021).



776914

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/04/2021	.	
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The Committee on Health Policy (Rodriguez) recommended the following:

**Senate Amendment**

Delete lines 52 - 54  
and insert:  
to the human body of a chemical or herbal preparation.

By Senator Rodriguez

39-00680-21

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A bill to be entitled

An act relating to massage therapy; renaming ch. 480, F.S., as "Massage Therapy Practice"; amending s. 480.031, F.S.; revising a short title; amending s. 480.032, F.S.; revising the purpose of ch. 480, F.S.; reordering and amending s. 480.033, F.S.; revising and defining terms; amending ss. 477.013, 477.0135, 477.0265, 480.034, 480.035, 480.041, 480.043, 480.046, 480.0465, 480.047, 480.052, 480.0535, 627.6407, 627.6619, 627.736, 641.31, and 823.05, F.S.; conforming provisions to changes made by the act; making technical changes; providing an effective date.

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

Section 1. Chapter 480, Florida Statutes, entitled "Massage Practice," is renamed "Massage Therapy Practice."

Section 2. Section 480.031, Florida Statutes, is amended to read:

480.031 Short title.—This act ~~shall be known and~~ may be cited as the "Massage Therapy Practice Act."

Section 3. Section 480.032, Florida Statutes, is amended to read:

480.032 Purpose.—The Legislature recognizes that the unregulated practice of massage therapy poses a danger is ~~potentially dangerous~~ to the public in that massage therapists must have a knowledge of anatomy and physiology and an understanding of the relationship between the structure and the function of the tissues being treated and the total function of

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the body. Massage therapy is a therapeutic health care practice, and regulations are necessary to protect the public from unqualified practitioners. It is therefore deemed necessary in the interest of public health, safety, and welfare to regulate the practice of massage therapy in this state ~~and, therefore,~~ ~~however,~~ ~~restrictions must shall~~ be imposed to the extent necessary to protect the public from significant and discernible danger to health ~~and yet not~~ in ~~such~~ a manner that does not ~~which will~~ unreasonably affect the competitive market. Further, consumer protection for both health and economic matters must ~~shall~~ be afforded the public through legal remedies provided for in this act.

Section 4. Section 480.033, Florida Statutes, is reordered and amended to read:

480.033 Definitions.—As used in this act:

(2)(1) "Board" means the Board of Massage Therapy.

(5)(2) "Department" means the Department of Health.

(11)(3) "Massage therapy" means the manipulation of the soft tissues of the human body with the hand, foot, knee, arm, or elbow, regardless of whether ~~or not~~ such manipulation is aided by hydrotherapy, including colonic irrigation, or thermal therapy; any electrical or mechanical device; or the application to the human body of a chemical or herbal preparation, an over-the-counter topical agent, or a topical agent prescribed by a health care practitioner applied in accordance with board rule.

(10)(4) "Massage therapist" means a person licensed as required by this act, who performs administers ~~administers~~ massage therapy, including massage therapy assessment, for compensation.

(1)(5) "Apprentice" means a person approved by the board to

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59 study colonic irrigation under the instruction of a licensed  
60 massage therapist practicing colonic irrigation.

61 ~~(4)(6)~~ "Colonic irrigation" means a method of hydrotherapy  
62 used to cleanse the colon with the aid of a mechanical device  
63 and water.

64 (7) "Establishment" or "massage establishment" means a site  
65 or premises, or portion thereof, wherein a massage therapist  
66 practices massage therapy.

67 ~~(9)(8)~~ "Licensure" means the procedure by which a person,  
68 hereinafter referred to as a "practitioner," applies to the  
69 board for approval to practice massage therapy or to operate an  
70 establishment.

71 ~~(3)(9)~~ "Board-approved massage therapy school" means a  
72 facility that meets minimum standards for training and  
73 curriculum as determined by rule of the board and that is  
74 licensed by the Department of Education pursuant to chapter 1005  
75 or the equivalent licensing authority of another state or is  
76 within the public school system of this state or a college or  
77 university that is eligible to participate in the William L.  
78 Boyd, IV, Effective Access to Student Education Grant Program.

79 ~~(8)(10)~~ "Establishment owner" means a person who has  
80 ownership interest in a massage establishment. The term includes  
81 an individual who holds a massage establishment license, a  
82 general partner of a partnership, an owner or officer of a  
83 corporation, and a member of a limited liability company and its  
84 subsidiaries who holds a massage establishment license.

85 ~~(6)(11)~~ "Designated establishment manager" means a massage  
86 therapist who holds a clear and active license without  
87 restriction, who is responsible for the operation of a massage

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88 establishment in accordance with the provisions of this chapter,  
89 and who is designated the manager by the rules or practices at  
90 the establishment.

91 (12) "Massage therapy assessment" means the determination  
92 of the course of massage therapy treatment.

93 Section 5. Subsection (13) of section 477.013, Florida  
94 Statutes, is amended to read:

95 477.013 Definitions.—As used in this chapter:

96 (13) "Skin care services" means the treatment of the skin  
97 of the body, other than the head, face, and scalp, by the use of  
98 a sponge, brush, cloth, or similar device to apply or remove a  
99 chemical preparation or other substance, except that chemical  
100 peels may be removed by peeling an applied preparation from the  
101 skin by hand. Skin care services must be performed by a licensed  
102 cosmetologist or facial specialist within a licensed cosmetology  
103 or specialty salon, and such services may not involve massage  
104 therapy, as defined in s. 480.033 ~~s. 480.033(3)~~, through  
105 manipulation of the superficial tissue.

106 Section 6. Paragraph (a) of subsection (1) of section  
107 477.0135, Florida Statutes, is amended to read:

108 477.0135 Exemptions.—

109 (1) This chapter does not apply to the following persons  
110 when practicing pursuant to their professional or occupational  
111 responsibilities and duties:

112 (a) Persons authorized under the laws of this state to  
113 practice medicine, surgery, osteopathic medicine, chiropractic  
114 medicine, massage therapy, naturopathy, or podiatric medicine.

115 Section 7. Paragraph (f) of subsection (1) of section  
116 477.0265, Florida Statutes, is amended to read:

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117 477.0265 Prohibited acts.—

118 (1) It is unlawful for any person to:

119 (f) Advertise or imply that skin care services, as  
 120 performed under this chapter, have any relationship to the  
 121 practice of massage therapy as defined in s. 480.033 ~~or~~  
 122 ~~480.033(3)~~, except those practices or activities defined in s.  
 123 477.013.

124 Section 8. Subsection (4) of section 480.034, Florida  
 125 Statutes, is amended to read:

126 480.034 Exemptions.—

127 (4) An exemption granted is effective to the extent that an  
 128 exempted person's practice or profession overlaps with the  
 129 practice of massage therapy.

130 Section 9. Subsection (2) of section 480.035, Florida  
 131 Statutes, is amended to read:

132 480.035 Board of Massage Therapy.—

133 (2) Five members of the board shall be licensed massage  
 134 therapists and shall have been engaged in the practice of  
 135 massage therapy for not less than 5 consecutive years prior to  
 136 the date of appointment to the board. The Governor shall appoint  
 137 each member for a term of 4 years. Two members of the board  
 138 shall be laypersons. Each board member shall be a high school  
 139 graduate or shall have received a high school equivalency  
 140 diploma. Each board member shall be a citizen of the United  
 141 States and a resident of this state for not less than 5 years.  
 142 The appointments are ~~will be~~ subject to confirmation by the  
 143 Senate.

144 Section 10. Subsections (1) and (4) and paragraph (b) of  
 145 subsection (5) of section 480.041, Florida Statutes, are amended

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146 to read:

147 480.041 Massage therapists; qualifications; licensure;  
 148 endorsement.—

149 (1) Any person is qualified for licensure as a massage  
 150 therapist under this act who meets all of the following  
 151 requirements:

152 (a) Is at least 18 years of age or has received a high  
 153 school diploma or high school equivalency diploma. ~~+~~

154 (b) Has completed a course of study at a board-approved  
 155 massage therapy school that meets standards adopted by the  
 156 board. ~~+~~ ~~and~~

157 (c) Has received a passing grade on a national examination  
 158 designated by the board.

159 (4) Upon an applicant's passing the examination and paying  
 160 the initial licensure fee, the department shall issue to the  
 161 applicant a license, valid until the next scheduled renewal  
 162 date, to practice massage therapy.

163 (5) The board shall adopt rules:

164 (b) Providing for educational standards, examination, and  
 165 certification for the practice of colonic irrigation, as defined  
 166 in s. 480.033 ~~s. 480.033(6)~~, by massage therapists.

167 Section 11. Subsection (14) of section 480.043, Florida  
 168 Statutes, is amended to read:

169 480.043 Massage establishments; requisites; licensure;  
 170 inspection; human trafficking awareness training and policies.—

171 (14) Except for the requirements of subsection (13), this  
 172 section does not apply to a physician licensed under chapter  
 173 457, chapter 458, chapter 459, or chapter 460 who employs a  
 174 licensed massage therapist to perform massage therapy on the

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175 physician's patients at the physician's place of practice. This  
176 subsection does not restrict investigations by the department  
177 for violations of chapter 456 or this chapter.

178 Section 12. Paragraphs (a), (b), (c), (f) through (i), and  
179 (o) of subsection (1) of section 480.046, Florida Statutes, are  
180 amended to read:

181 480.046 Grounds for disciplinary action by the board.—

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

184 (a) Attempting to procure a license to practice massage  
185 therapy by bribery or fraudulent misrepresentation.

186 (b) Having a license to practice massage therapy revoked,  
187 suspended, or otherwise acted against, including the denial of  
188 licensure, by the licensing authority of another state,  
189 territory, or country.

190 (c) Being convicted or found guilty, regardless of  
191 adjudication, of a crime in any jurisdiction which directly  
192 relates to the practice of massage therapy or to the ability to  
193 practice massage therapy. Any plea of nolo contendere shall be  
194 considered a conviction for purposes of this chapter.

195 (f) Aiding, assisting, procuring, or advising any  
196 unlicensed person to practice massage therapy contrary to the  
197 ~~provisions of this chapter or to department or board~~ a rule of  
198 ~~the department or the board~~.

199 (g) Making deceptive, untrue, or fraudulent representations  
200 in the practice of massage therapy.

201 (h) Being unable to practice massage therapy with  
202 reasonable skill and safety by reason of illness or use of  
203 alcohol, drugs, narcotics, chemicals, or any other type of

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204 material or as a result of any mental or physical condition. In  
205 enforcing this paragraph, the department ~~shall have~~, upon  
206 probable cause, ~~may authority to~~ compel a massage therapist to  
207 submit to a mental or physical examination by physicians  
208 designated by the department. Failure of a massage therapist to  
209 submit to such examination when so directed, unless the failure  
210 was due to circumstances beyond her or his control, constitutes  
211 ~~shall constitute~~ an admission of the allegations against her or  
212 him, consequent upon which a default and final order may be  
213 entered without the taking of testimony or presentation of  
214 evidence. A massage therapist affected under this paragraph  
215 shall at reasonable intervals be afforded an opportunity to  
216 demonstrate that she or he can resume the competent practice of  
217 massage therapy with reasonable skill and safety to clients.

218 (i) Gross or repeated malpractice or the failure to  
219 practice massage therapy with that level of care, skill, and  
220 treatment which is recognized by a reasonably prudent massage  
221 therapist as being acceptable under similar conditions and  
222 circumstances.

223 (o) Practicing massage therapy at a site, location, or  
224 place which is not duly licensed as a massage establishment,  
225 except that a massage therapist, as provided by ~~rules adopted by~~  
226 ~~the board~~ rule, may provide massage therapy services, excluding  
227 colonic irrigation, at the residence of a client, at the office  
228 of the client, at a sports event, at a convention, or at a trade  
229 show.

230 Section 13. Section 480.0465, Florida Statutes, is amended  
231 to read:

232 480.0465 Advertisement.—Each massage therapist or massage

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233 establishment licensed under ~~the provisions of~~ this act shall  
 234 include the number of the license in any advertisement of  
 235 massage therapy services appearing in a newspaper, airwave  
 236 transmission, telephone directory, or other advertising medium.  
 237 Pending licensure of a new massage establishment pursuant to ~~the~~  
 238 ~~provisions of~~ s. 480.043(7), the license number of a licensed  
 239 massage therapist who is an owner or principal officer of the  
 240 establishment may be used in lieu of the license number for the  
 241 establishment.

242 Section 14. Paragraphs (a), (b), and (c) of subsection (1)  
 243 of section 480.047, Florida Statutes, are amended to read:

244 480.047 Penalties.—

245 (1) It is unlawful for any person to:

246 (a) Hold himself or herself out as a massage therapist or  
 247 to practice massage therapy unless duly licensed under this  
 248 chapter or unless otherwise specifically exempted from licensure  
 249 under this chapter.

250 (b) Operate any massage establishment unless it has been  
 251 duly licensed as provided herein, except that nothing herein  
 252 shall be construed to prevent the teaching of massage therapy in  
 253 this state at a board-approved massage therapy school.

254 (c) Permit an employed person to practice massage therapy  
 255 unless duly licensed as provided herein.

256 Section 15. Section 480.052, Florida Statutes, is amended  
 257 to read:

258 480.052 Power of county or municipality to regulate massage  
 259 therapy.—A county or municipality, within its jurisdiction, may  
 260 regulate persons and establishments licensed under this chapter.  
 261 Such regulation may shall not exceed the powers of the state

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262 under this act or be inconsistent with this act. This section  
 263 may shall not be construed to prohibit a county or municipality  
 264 from enacting any regulation of persons or establishments not  
 265 licensed pursuant to this act.

266 Section 16. Subsections (1) and (2) of section 480.0535,  
 267 Florida Statutes, are amended to read:

268 480.0535 Documents required while working in a massage  
 269 establishment.—

270 (1) In order to provide the department and law enforcement  
 271 agencies the means to more effectively identify, investigate,  
 272 and arrest persons engaging in human trafficking, a person  
 273 employed by a massage establishment and any person performing  
 274 massage therapy therein must immediately present, upon the  
 275 request of an investigator of the department or a law  
 276 enforcement officer, valid government identification while in  
 277 the establishment. Any of the following is a valid government  
 278 identification for the purposes of this section ~~is~~:

279 (a) A valid, unexpired driver license issued by any state,  
 280 territory, or district of the United States.~~†~~

281 (b) A valid, unexpired identification card issued by any  
 282 state, territory, or district of the United States.~~†~~

283 (c) A valid, unexpired United States passport.~~†~~

284 (d) A naturalization certificate issued by the United  
 285 States Department of Homeland Security.~~†~~

286 (e) A valid, unexpired alien registration receipt card  
 287 (green card).~~†~~~~†~~

288 (f) A valid, unexpired employment authorization card issued  
 289 by the United States Department of Homeland Security.

290 (2) A person operating a massage establishment must:

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291 (a) Immediately present, upon the request of an  
 292 investigator of the department or a law enforcement officer:

293 1. Valid government identification while in the  
 294 establishment.

295 2. A copy of the documentation specified in paragraph  
 296 (1)(a) for each employee and any person performing massage  
 297 therapy in the establishment.

298 (b) Ensure that each employee and any person performing  
 299 massage therapy in the massage establishment is able to  
 300 immediately present, upon the request of an investigator of the  
 301 department or a law enforcement officer, valid government  
 302 identification while in the establishment.

303 Section 17. Section 627.6407, Florida Statutes, is amended  
 304 to read:

305 627.6407 Massage.—Any policy of health insurance that  
 306 provides coverage for massage shall also cover the services of  
 307 persons licensed to practice massage therapy pursuant to chapter  
 308 480, where the massage therapy, as defined in chapter 480, has  
 309 been prescribed by a physician licensed under chapter 458,  
 310 chapter 459, chapter 460, or chapter 461, as being medically  
 311 necessary and the prescription specifies the number of  
 312 treatments.

313 Section 18. Section 627.6619, Florida Statutes, is amended  
 314 to read:

315 627.6619 Massage.—Any policy of health insurance that  
 316 provides coverage for massage shall also cover the services of  
 317 persons licensed to practice massage therapy pursuant to chapter  
 318 480, where the massage therapy, as defined in chapter 480, has  
 319 been prescribed by a physician licensed under chapter 458,

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320 chapter 459, chapter 460, or chapter 461, as being medically  
 321 necessary and the prescription specifies the number of  
 322 treatments.

323 Section 19. Paragraph (a) of subsection (1) of section  
 324 627.736, Florida Statutes, is amended to read:

325 627.736 Required personal injury protection benefits;  
 326 exclusions; priority; claims.—

327 (1) REQUIRED BENEFITS.—An insurance policy complying with  
 328 the security requirements of s. 627.733 must provide personal  
 329 injury protection to the named insured, relatives residing in  
 330 the same household, persons operating the insured motor vehicle,  
 331 passengers in the motor vehicle, and other persons struck by the  
 332 motor vehicle and suffering bodily injury while not an occupant  
 333 of a self-propelled vehicle, subject to subsection (2) and  
 334 paragraph (4)(e), to a limit of \$10,000 in medical and  
 335 disability benefits and \$5,000 in death benefits resulting from  
 336 bodily injury, sickness, disease, or death arising out of the  
 337 ownership, maintenance, or use of a motor vehicle as follows:

338 (a) *Medical benefits*.—Eighty percent of all reasonable  
 339 expenses for medically necessary medical, surgical, X-ray,  
 340 dental, and rehabilitative services, including prosthetic  
 341 devices and medically necessary ambulance, hospital, and nursing  
 342 services if the individual receives initial services and care  
 343 pursuant to subparagraph 1. within 14 days after the motor  
 344 vehicle accident. The medical benefits provide reimbursement  
 345 only for:

346 1. Initial services and care that are lawfully provided,  
 347 supervised, ordered, or prescribed by a physician licensed under  
 348 chapter 458 or chapter 459, a dentist licensed under chapter

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349 466, a chiropractic physician licensed under chapter 460, or an  
 350 advanced practice registered nurse registered under s. 464.0123  
 351 or that are provided in a hospital or in a facility that owns,  
 352 or is wholly owned by, a hospital. Initial services and care may  
 353 also be provided by a person or entity licensed under part III  
 354 of chapter 401 which provides emergency transportation and  
 355 treatment.

356 2. Upon referral by a provider described in subparagraph  
 357 1., followup services and care consistent with the underlying  
 358 medical diagnosis rendered pursuant to subparagraph 1. which may  
 359 be provided, supervised, ordered, or prescribed only by a  
 360 physician licensed under chapter 458 or chapter 459, a  
 361 chiropractic physician licensed under chapter 460, a dentist  
 362 licensed under chapter 466, or an advanced practice registered  
 363 nurse registered under s. 464.0123, or, to the extent permitted  
 364 by applicable law and under the supervision of such physician,  
 365 osteopathic physician, chiropractic physician, or dentist, by a  
 366 physician assistant licensed under chapter 458 or chapter 459 or  
 367 an advanced practice registered nurse licensed under chapter  
 368 464. Followup services and care may also be provided by the  
 369 following persons or entities:

370 a. A hospital or ambulatory surgical center licensed under  
 371 chapter 395.

372 b. An entity wholly owned by one or more physicians  
 373 licensed under chapter 458 or chapter 459, chiropractic  
 374 physicians licensed under chapter 460, advanced practice  
 375 registered nurses registered under s. 464.0123, or dentists  
 376 licensed under chapter 466 or by such practitioners and the  
 377 spouse, parent, child, or sibling of such practitioners.

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378 c. An entity that owns or is wholly owned, directly or  
 379 indirectly, by a hospital or hospitals.

380 d. A physical therapist licensed under chapter 486, based  
 381 upon a referral by a provider described in this subparagraph.

382 e. A health care clinic licensed under part X of chapter  
 383 400 which is accredited by an accrediting organization whose  
 384 standards incorporate comparable regulations required by this  
 385 state, or

386 (I) Has a medical director licensed under chapter 458,  
 387 chapter 459, or chapter 460;

388 (II) Has been continuously licensed for more than 3 years  
 389 or is a publicly traded corporation that issues securities  
 390 traded on an exchange registered with the United States  
 391 Securities and Exchange Commission as a national securities  
 392 exchange; and

393 (III) Provides at least four of the following medical  
 394 specialties:

395 (A) General medicine.

396 (B) Radiography.

397 (C) Orthopedic medicine.

398 (D) Physical medicine.

399 (E) Physical therapy.

400 (F) Physical rehabilitation.

401 (G) Prescribing or dispensing outpatient prescription  
 402 medication.

403 (H) Laboratory services.

404 3. Reimbursement for services and care provided in  
 405 subparagraph 1. or subparagraph 2. up to \$10,000 if a physician  
 406 licensed under chapter 458 or chapter 459, a dentist licensed

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407 under chapter 466, a physician assistant licensed under chapter  
408 458 or chapter 459, or an advanced practice registered nurse  
409 licensed under chapter 464 has determined that the injured  
410 person had an emergency medical condition.

411 4. Reimbursement for services and care provided in  
412 subparagraph 1. or subparagraph 2. is limited to \$2,500 if a  
413 provider listed in subparagraph 1. or subparagraph 2. determines  
414 that the injured person did not have an emergency medical  
415 condition.

416 5. Medical benefits do not include massage therapy as  
417 defined in s. 480.033 or acupuncture as defined in s. 457.102,  
418 regardless of the person, entity, or licensee providing massage  
419 therapy or acupuncture, and a licensed massage therapist or  
420 licensed acupuncturist may not be reimbursed for medical  
421 benefits under this section.

422 6. The Financial Services Commission shall adopt by rule  
423 the form that must be used by an insurer and a health care  
424 provider specified in sub-subparagraph 2.b., sub-subparagraph  
425 2.c., or sub-subparagraph 2.e. to document that the health care  
426 provider meets the criteria of this paragraph. Such rule must  
427 include a requirement for a sworn statement or affidavit.

428  
429 Only insurers writing motor vehicle liability insurance in this  
430 state may provide the required benefits of this section, and  
431 such insurer may not require the purchase of any other motor  
432 vehicle coverage other than the purchase of property damage  
433 liability coverage as required by s. 627.7275 as a condition for  
434 providing such benefits. Insurers may not require that property  
435 damage liability insurance in an amount greater than \$10,000 be

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436 purchased in conjunction with personal injury protection. Such  
437 insurers shall make benefits and required property damage  
438 liability insurance coverage available through normal marketing  
439 channels. An insurer writing motor vehicle liability insurance  
440 in this state who fails to comply with such availability  
441 requirement as a general business practice violates part IX of  
442 chapter 626, and such violation constitutes an unfair method of  
443 competition or an unfair or deceptive act or practice involving  
444 the business of insurance. An insurer committing such violation  
445 is subject to the penalties provided under that part, as well as  
446 those provided elsewhere in the insurance code.

447 Section 20. Subsection (37) of section 641.31, Florida  
448 Statutes, is amended to read:

449 641.31 Health maintenance contracts.—

450 (37) All health maintenance contracts that provide coverage  
451 for massage must also cover the services of persons licensed to  
452 practice massage therapy pursuant to chapter 480 if the massage  
453 is prescribed by a contracted physician licensed under chapter  
454 458, chapter 459, chapter 460, or chapter 461 as medically  
455 necessary and the prescription specifies the number of  
456 treatments. Such massage services are subject to the same terms,  
457 conditions, and limitations as those of other covered services.

458 Section 21. Subsection (3) of section 823.05, Florida  
459 Statutes, is amended to read:

460 823.05 Places and groups engaged in certain activities  
461 declared a nuisance; abatement and enjoinder.—

462 (3) A massage establishment as defined in s. 480.033 ~~or~~  
463 ~~480.033(7)~~ which operates in violation of s. 480.0475 or s.  
464 480.0535(2) is declared a nuisance and may be abated or enjoined

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465 as provided in ss. 60.05 and 60.06.

466 Section 22. This act shall take effect July 1, 2021.



The Florida Senate

## Committee Agenda Request

**To:** Senator Manny Diaz, Jr., Chair  
Committee on Health Policy

**Subject:** Committee Agenda Request

**Date:** January 22, 2021

---

I respectfully request that **Senate Bill #352**, relating to Massage Therapy, be placed on the:

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

A handwritten signature in cursive script, appearing to read "Ana Maria Rodriguez".

---

Senator Ana Maria Rodriguez  
Florida Senate, District 39



## **Rossitto-Vanwinkle, Tari**

---

**From:** Monroe, Kama <Kama.Monroe@flhealth.gov>  
**Sent:** Wednesday, January 27, 2021 9:21 AM  
**To:** Rossitto-Vanwinkle, Tari  
**Cc:** Love, Andrew; Wenhold, Jennifer  
**Subject:** Massage therapy - ten-hour Florida Laws and Rules course required for licensure

Good Morning!

The ten hour laws and rules requirement was one that caused confusion for applicants, so we broke it out as a separate item in our checklist so that applicants would clearly understand what is required. The requirement in that check list reads:

Complete a ten-hour Florida Laws and Rules course with an approved CE provider, or as part of a course of study at a board approved massage school in Florida. Approved courses and providers can be found by visiting [www.cebroke.com](http://www.cebroke.com).

The short version of why we have this requirement is that in state programs are required to have 10 hours of Florida laws and rules as a part of their curriculum. Graduates from out of state must show that they met the same course requirements as students attending Florida schools. Out of state programs do not typically teach Florida laws and rules. By including that course as a separate requirement in our checklist, we have reduced confusion by out of state applicants and given them notice that if they did not take this class during their schooling they will need to take it before they are licensed.

The legal grounds for the requirement are based on a number of rules and statutes.

Section 480.041(b), F.S., requires that an applicant by examination must have “completed a course of study at a board approved massage school that meets the standards approved by the board.”

Section 480.033(9), F.S., reads:

“Board-approved Massage School” means a facility that meets minimum standards for training and curriculum as determined by rule of the board and that is licensed by the Department of Education pursuant to chapter 1005 or the equivalent licensing authority of another state or is within the public school system of this state or a college or university that is eligible to participate in the William L. Boyd, IV, Effective Access to Student Education Grant Program.

Rule 64B7-25.001, F.A.C. contains the requirements for an application by examination and requires that the applicant provide “proof of graduation per Rule 64B7-32.002, F.A.C., from a Board approved massage school as defined in Section 480.033(9), F.A.C.”

Rule 64B7-32.002, F.A.C. defines proof of graduation as a graduate list identifying the applicant (which can only be submitted by a Florida approved school) or an official transcript from the school which must “contain a list of courses which satisfy the course of study requirements in paragraph 64B7-32.003(1)(b), F.A.C., and indicate completion of the courses by the applicant.”

Rule 64B7-32.003(1)(b), F.A.C., contains the Minimum Requirements for Board Approved Massage Schools, which requires that the course of study include ten hours of Florida laws and rules. Graduates of Florida programs do not have to take a separate ten hour Florida laws and rules class because it was already included in their course of study. Out of

State students have to take a separate ten hour Florida laws and rules class to make sure that the minimum course of study requirements are met.

Please let me know if you need any further information.

Sincerely,

**Kama Monroe**

**Executive Director**

*Department of Health | Division of Medical Quality Assurance | Bureau of Health Care Practitioner Regulation*  
Boards of Osteopathic Medicine, Massage Therapy, Acupuncture, Speech Language Pathology and Audiology, and  
Council of Licensed Midwifery  
4052 Bald Cypress Way Bin C-06  
Tallahassee, FL 32399-1708



**Mission:** To protect, promote & improve the health of all people in Florida through integrated state, county, & community efforts.

Please note: Florida has a very broad public records law. Most written communications to or from state officials regarding state business are public records available to the public and media upon request. Your email communications may therefore be subject to public disclosure.

Please consider the environment before printing this email.

**From:** Rossitto-Vanwinkle, Tari <[ROSSITTO-VANWINKLE.TARI@flsenate.gov](mailto:ROSSITTO-VANWINKLE.TARI@flsenate.gov)>

**Sent:** Tuesday, January 26, 2021 4:21 PM

**To:** Monroe, Kama <[Kama.Monroe@flhealth.gov](mailto:Kama.Monroe@flhealth.gov)>

**Subject:** Massage therapy - ten-hour Florida Laws and Rules course required for licensure

Kama,

I saw on the Board of Massage therapy web site that a person seeking licensure by examination is required to Complete a ten-hour Florida Laws and Rules course, but I can't find this requirement in rule or statute. I'm sure I'm just missing it, but can you point me in the right direction please. Thanks.

**Tari Rossitto-Van Winkle, R.N., J.D.**

**Senior Attorney**

**The Florida Senate Committee on Health Policy**

530 Knott Building

404 South Monroe Street

Tallahassee, Florida 32399-1100

(850) 487-5824

(850) 410-0081 Fax

e-mail: [rossitto-vanwinkle.tari@flsenate.gov](mailto:rossitto-vanwinkle.tari@flsenate.gov)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

February 4, 2021

Meeting Date

SB 352

Bill Number (if applicable)

Topic SB 352 - Massage Therapy

Amendment Barcode (if applicable)

Name Anita Berry

Job Title Associate

Address 101 East College Avenue, Suite 502

Phone (301) 524-0172

Street

Tallahassee

FL

32301

Email anita@johnstonstewart.com

City

State

Zip

Speaking:  For  Against  Information

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

Representing Florida State Massage Therapy Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

---

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

---

BILL: CS/SB 348

INTRODUCER: Health Policy Committee and Senator Rodriguez

SUBJECT: Medicaid

DATE: February 4, 2021      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Smith	Brown	HP	Fav/CS
2.			AHS	
3.			AP	

---

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 348 requires Florida Medicaid to reimburse for Medicare crossover claims for non-emergency ambulance services. Currently, Medicaid pays for emergency transportation crossover claims but not for non-emergency transportation crossover claims.

The bill requires Florida Medicaid to pay all deductibles and coinsurance for Medicare-covered services provided to Medicare-eligible recipients by ambulances licensed pursuant to ch. 401, F.S., according to the corresponding procedure codes for such services. Currently, Medicaid must pay all deductibles and coinsurance for Medicare emergency transportation services provided by ambulances licensed pursuant to ch. 401, F.S.

The bill is estimated to have a negative fiscal impact on state government which, at this time, is indeterminate. *See* Section V of this analysis.

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

**II. Present Situation:**

**Florida Medicaid Program**

Florida Medicaid is the health care safety net for low-income Floridians. The national Medicaid program is a partnership of federal and state governments established to provide coverage for

health services for eligible persons. Florida's program is administered by the Agency for Health Care Administration (AHCA) and financed through state and federal funds.<sup>1</sup>

A Medicaid state plan is an agreement between a state and the federal government describing how the state administers its Medicaid programs. The state plan establishes groups of individuals covered under the Medicaid program, services that are provided, payment methodologies, and other administrative and organizational requirements.

In order to participate in Medicaid, federal law requires states to cover certain population groups (mandatory eligibility groups) and gives states the flexibility to cover other population groups (optional eligibility groups).<sup>2</sup> States set individual eligibility criteria within federal minimum standards. The AHCA may seek an amendment to the state plan as necessary to comply with federal or state laws or to implement program changes.

In Florida, the majority of Medicaid recipients receive their services through a managed care plan contracted with the AHCA under the Statewide Medicaid Managed Care (SMMC) program.<sup>3</sup> The SMMC program has two components, the Managed Medical Assistance (MMA) program and the Long-term Care program. Florida's SMMC offers a health care package covering both acute and long-term care.<sup>4</sup> The SMMC benefits are authorized by federal authority and are specifically required in ss. 409.973 and 409.98, F.S.

The AHCA contracts with managed care plans on a regional basis to provide services to eligible recipients. The MMA program, which covers most medical and acute care services for managed care plan enrollees, was fully implemented in August 2014 and was re-procured for a period beginning December 2018 and ending in 2023.<sup>5</sup>

### **Florida Medicaid Dual-Eligible Recipients**

Medicare is the federally administered and federally funded health insurance program for people who are 65 or older, certain younger people with disabilities, and people with end-stage renal disease.<sup>6</sup> Individuals who are enrolled in both Medicare and Medicaid are referred to as dual-eligible recipients.

For dual-eligible recipients, Medicare is the primary payer for medical services and Medicaid is the payer of last resort. Medicaid may cover medical costs that Medicare does not cover or only partially covers, such as nursing home care, personal care, and home and community-based services.

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<sup>1</sup> Section 20.42, F.S.

<sup>2</sup> Agency for Health Care Administration, *Senate Bill 348 Fiscal Analysis* (Feb. 1, 2021) (on file with Senate Committee on Health Policy).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

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

<sup>6</sup> Medicare.gov, *What's Medicare*, available at <https://www.medicare.gov/what-medicare-covers/your-medicare-coverage-choices/whats-medicare> (last visited Feb. 2, 2021).

When Medicare does not pay the full amount billed for a service rendered to a dual-eligible recipient, the claim is transferred to the state Medicaid program to determine if Medicaid can pay the difference. This is often referred to as a crossover claim. This process also facilitates Medicaid programs in covering the costs of the recipient's Medicare Part A or Part B coinsurance or deductible amounts.

Various state statutes and rules govern whether or how much of a crossover Medicaid will pay. In the case of Medicare emergency ambulance services, s. 409.908(13), F.S., specifies that Medicaid must pay the entire crossover amount for dual-eligible recipients.

### ***Regulation of Emergency Medical Transportation***

Part III of ch. 401, F.S., governs the provision of medical transportation services in Florida and establishes the licensure and operational requirements for emergency medical services.<sup>7</sup>

Florida Medicaid currently covers emergency and non-emergency ambulance services as a mandatory state plan benefit.<sup>8</sup> This includes both ground and air ambulances. In the fee-for-service delivery system, the Medicaid reimbursement rate for ambulance transportation varies based on the mode of transportation (air or ground) and the needs of the recipient during transport (basic life support, advanced life support, or specialty care).

### **Medicare Ambulance Services**

Medicare covers emergency and non-emergency ambulance services under its Part B services category. Medicare enrollees who receive these services are responsible for a 20-percent coinsurance or deductible payment.<sup>9</sup>

Unlike Florida Medicaid, Medicare does not reimburse flat rates for ambulance transportation. Medicare pays providers a base rate plus an additional amount based on mileage traveled. These rates are based on multiple factors, including geography and regional costs of living, and can range from as low as \$400 to \$1,500 depending on the level of care and miles traveled.<sup>10</sup>

## **III. Effect of Proposed Changes:**

**Section 1** amends s. 409.908(13)(c)4., F.S., to require Medicaid to pay deductibles and coinsurance for Medicare-covered services provided to Medicare-eligible recipients by ambulances licensed pursuant to ch. 401, F.S., according to the corresponding procedure codes for such services. This authorizes the reimbursement of those costs for non-emergency transportation.

Section 401.23, F.S., defines the term “ambulance,” which is interchangeable with the term “emergency medical services vehicle,” to mean any privately or publicly owned land or water vehicle that is designed, constructed, reconstructed, maintained, equipped, or operated for, and is

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<sup>7</sup> Section 401.251, F.S.

<sup>8</sup> *Supra*, note 2.

<sup>9</sup> Medicare.gov, *Ambulance Services*, available at <https://www.medicare.gov/coverage/ambulance-services> (last visited Feb. 2, 2021).

<sup>10</sup> *Supra*, note 2.

used for, or intended to be used for, land or water transportation of sick or injured persons requiring or likely to require medical attention during transport. An ambulance or emergency medical services vehicle can be used for both emergency and non-emergency transportation.

**Section 2** 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:

The bill will increase reimbursements paid to ambulance providers that provide non-emergency transportation to dually-eligible individuals.

C. Government Sector Impact:

The AHCA estimates the bill to have a negative fiscal impact on the Medicaid program. At this time, that fiscal impact is indeterminate.<sup>11</sup>

**VI. Technical Deficiencies:**

None.

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<sup>11</sup> *Supra*, note 2.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 409.908 of the Florida Statutes.

**IX. Additional Information:**

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

**CS by Health Policy on February 3, 2021:**

The CS clarifies that the services required to be reimbursed must be services covered by Medicare and that they will be reimbursed according to their corresponding procedure codes. The CS reinstates the requirement in current law that such reimbursed services be provided by ambulances licensed under ch. 401, F.S.

- B. **Amendments:**

None.





212110

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/04/2021	.	
	.	
	.	
	.	

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

**Senate Amendment (with title amendment)**

Delete lines 67 - 71

and insert:

4. Medicaid shall pay all deductibles and coinsurance for Medicare-covered Medicare emergency transportation services provided to Medicare-eligible recipients by ambulances licensed pursuant to chapter 401 according to the corresponding procedure codes for such services.



212110

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

12 And the title is amended as follows:

13       Delete line 6

14 and insert:

15       coinsurance; specifying that such payments must be  
16       made according to certain procedure codes; providing  
17       an effective date.

By Senator Rodriguez

39-00678-21

2021348\_\_

1 A bill to be entitled  
 2 An act relating to Medicaid; amending s. 409.908,  
 3 F.S.; revising the types of emergency transportation  
 4 vehicle services provided to Medicare-eligible persons  
 5 for which Medicaid shall pay deductibles and  
 6 coinsurance; providing an effective date.  
 7  
 8 Be It Enacted by the Legislature of the State of Florida:  
 9  
 10 Section 1. Paragraph (c) of subsection (13) of section  
 11 409.908, Florida Statutes, is amended to read:  
 12 409.908 Reimbursement of Medicaid providers.—Subject to  
 13 specific appropriations, the agency shall reimburse Medicaid  
 14 providers, in accordance with state and federal law, according  
 15 to methodologies set forth in the rules of the agency and in  
 16 policy manuals and handbooks incorporated by reference therein.  
 17 These methodologies may include fee schedules, reimbursement  
 18 methods based on cost reporting, negotiated fees, competitive  
 19 bidding pursuant to s. 287.057, and other mechanisms the agency  
 20 considers efficient and effective for purchasing services or  
 21 goods on behalf of recipients. If a provider is reimbursed based  
 22 on cost reporting and submits a cost report late and that cost  
 23 report would have been used to set a lower reimbursement rate  
 24 for a rate semester, then the provider's rate for that semester  
 25 shall be retroactively calculated using the new cost report, and  
 26 full payment at the recalculated rate shall be effected  
 27 retroactively. Medicare-granted extensions for filing cost  
 28 reports, if applicable, shall also apply to Medicaid cost  
 29 reports. Payment for Medicaid compensable services made on

Page 1 of 3

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

39-00678-21

2021348\_\_

30 behalf of Medicaid eligible persons is subject to the  
 31 availability of moneys and any limitations or directions  
 32 provided for in the General Appropriations Act or chapter 216.  
 33 Further, nothing in this section shall be construed to prevent  
 34 or limit the agency from adjusting fees, reimbursement rates,  
 35 lengths of stay, number of visits, or number of services, or  
 36 making any other adjustments necessary to comply with the  
 37 availability of moneys and any limitations or directions  
 38 provided for in the General Appropriations Act, provided the  
 39 adjustment is consistent with legislative intent.  
 40 (13) Medicare premiums for persons eligible for both  
 41 Medicare and Medicaid coverage shall be paid at the rates  
 42 established by Title XVIII of the Social Security Act. For  
 43 Medicare services rendered to Medicaid-eligible persons,  
 44 Medicaid shall pay Medicare deductibles and coinsurance as  
 45 follows:  
 46 (c) Notwithstanding paragraphs (a) and (b):  
 47 1. Medicaid payments for Nursing Home Medicare part A  
 48 coinsurance are limited to the Medicaid nursing home per diem  
 49 rate less any amounts paid by Medicare, but only up to the  
 50 amount of Medicare coinsurance. The Medicaid per diem rate shall  
 51 be the rate in effect for the dates of service of the crossover  
 52 claims and may not be subsequently adjusted due to subsequent  
 53 per diem rate adjustments.  
 54 2. Medicaid shall pay all deductibles and coinsurance for  
 55 Medicare-eligible recipients receiving freestanding end stage  
 56 renal dialysis center services.  
 57 3. Medicaid payments for general and specialty hospital  
 58 inpatient services are limited to the Medicare deductible and

Page 2 of 3

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

39-00678-21

2021348\_\_

59 coinsurance per spell of illness. Medicaid payments for hospital  
60 Medicare Part A coinsurance shall be limited to the Medicaid  
61 hospital per diem rate less any amounts paid by Medicare, but  
62 only up to the amount of Medicare coinsurance. Medicaid payments  
63 for coinsurance shall be limited to the Medicaid per diem rate  
64 in effect for the dates of service of the crossover claims and  
65 may not be subsequently adjusted due to subsequent per diem  
66 adjustments.

67 4. Medicaid shall pay all deductibles and coinsurance for  
68 Medicare-eligible recipients receiving Medicare emergency  
69 transportation services provided by ambulances or emergency  
70 medical services vehicles as defined by s. 401.23(5) licensed  
71 pursuant to chapter 401.

72 5. Medicaid shall pay all deductibles and coinsurance for  
73 portable X-ray Medicare Part B services provided in a nursing  
74 home, in an assisted living facility, or in the patient's home.

75 Section 2. This act shall take effect July 1, 2021.



The Florida Senate

## Committee Agenda Request

**To:** Senator Manny Diaz, Jr., Chair  
Committee on Health Policy

**Subject:** Committee Agenda Request

**Date:** January 14, 2021

---

I respectfully request that **Senate Bill #348**, relating to Medicaid, be placed on the:

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

A handwritten signature in black ink, appearing to read "Ana Maria Rodriguez".

---

Senator Ana Maria Rodriguez  
Florida Senate, District 39



# 2021 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Agency for Health Care Administration

## BILL INFORMATION

<b>BILL NUMBER:</b>	SB 348
<b>BILL TITLE:</b>	Medicaid
<b>BILL SPONSOR:</b>	Sen. Ana Maria Rodriguez
<b>EFFECTIVE DATE:</b>	July 1, 2021

## COMMITTEES OF REFERENCE

1) Health Policy
2) Appropriations Subcommittee on Health and Human Services
3) Appropriations
4)
5)

## CURRENT COMMITTEE

Health Policy
---------------

## SIMILAR BILLS

<b>BILL NUMBER:</b>	HB 461
<b>SPONSOR:</b>	

## PREVIOUS LEGISLATION

<b>BILL NUMBER:</b>	N/A
<b>SPONSOR:</b>	
<b>YEAR:</b>	
<b>LAST ACTION:</b>	

## IDENTICAL BILLS

<b>BILL NUMBER:</b>	N/A
<b>SPONSOR:</b>	

Is this bill part of an agency package?

Y \_\_\_ N \_X\_

## BILL ANALYSIS INFORMATION

<b>DATE OF ANALYSIS:</b>	January 29, 2021
<b>LEAD AGENCY ANALYST:</b>	Matt Brackett, Bureau of Medicaid Policy
<b>ADDITIONAL ANALYST(S):</b>	
<b>LEGAL ANALYST:</b>	
<b>FISCAL ANALYST:</b>	

# POLICY ANALYSIS

## **1. EXECUTIVE SUMMARY**

Senate Bill (SB) 348 (Medicaid) amends section 409.908, Florida Statutes (F.S.) to require Florida Medicaid to reimburse for Medicare crossover claims for non-emergency ambulance services. Currently, Medicaid only pays for emergency transportation crossover claims. The bill makes changes to subsection 409.908(13), F.S., revising the types of Medicare ambulance transportation that are eligible for reimbursement by Florida Medicaid. In addition, SB 348 amends the statutory language to align it with current definitions listed in section 401.23, F.S.

This bill takes effect July 1, 2021.

## **2. Substantive bill analysis**

### **1. PRESENT SITUATION:**

#### **Florida Medicaid Program**

The Agency for Health Care Administration (Agency) is the single state agency responsible for the administration of the Florida Medicaid program, authorized under Title XIX of the Social Security Act. This authority includes establishing and maintaining a Medicaid state plan, approved by the Centers for Medicare and Medicaid Services (CMS).

A Medicaid state plan is an agreement between a state and the federal government describing how a state administers its Medicaid program. It establishes groups of individuals covered, services that are provided, payment methodologies, and other administrative and organizational requirements. In order to participate in Medicaid, federal law requires states to cover certain population groups (mandatory eligibility groups) and gives them the flexibility to cover other population groups (optional eligibility groups). States set individual eligibility criteria within federal minimum standards.

In Florida, the majority of Medicaid recipients receive their services through a managed care plan contracted with the Agency under the Statewide Medicaid Managed Care (SMMC) program. The SMMC program has two components, the Managed Medical Assistance (MMA) program and the Long-term Care (LTC) program. Florida's SMMC program benefits are authorized by federal authority and are specifically required by the Florida Legislature in sections 409.973 and 409.98, F.S. These SMMC benefits are a robust health care package covering both acute and long-term care services.

The Agency contracted with managed care plans on a regional basis to provide services to eligible recipients. The MMA program, which covers most medical and acute care services for managed care plan enrollees, was fully implemented in August 2014 and then were re-procured for a period beginning December 2018 and ending in 2023.

#### **Florida Medicaid Ambulance Services**

Florida Medicaid currently covers emergency and non-emergency ambulance services as a mandatory state plan benefit, meaning that they are available to all Medicaid recipients. This includes both ground and air ambulances. In the fee-for service delivery system, the Medicaid reimbursement rate for ambulance transportation varies based on the mode (air or ground) and the needs of the recipient during transport (i.e., basic life support, advanced life support, or specialty care).

#### **Florida Medicaid Dual-Eligible Recipients**

Individuals who are enrolled in both Medicare and Medicaid are referred to as dual-eligible recipients. For dual-eligible recipients, Medicare is the primary payor for medical services because Medicaid is generally the payer of last resort. Medicaid may cover medical costs Medicare does not cover or partially covers (such as nursing home care, personal care, and home and community-based services). When Medicare does not pay the full amount billed for a service rendered to a dual-eligible recipient, the claim is transferred to the state Medicaid program to determine if Medicaid can pay the difference. This is often

referred to as a crossover claim. This process also facilitates Medicaid programs in covering the costs of the recipient's Medicare Part A or B coinsurance or deductible amounts.

Various state-level rules govern whether or how much of a crossover Medicaid will pay. In the case of Medicare emergency ambulance services, section 409.908(13), F.S. specifies that Medicaid must pay all of the crossover amount. This requirement, however, does not cover non-emergency transportation services, including non-emergency transport via ambulances for dual-eligible recipients

**Medicare Ambulance Services**

Medicare covers emergency and non-emergency ambulance services under its Part B services category. Medicare enrollees who receive these services are responsible for a 20% coinsurance or deductible payment. Unlike Florida Medicaid, Medicare does not reimburse flat rates for ambulance transportation and pays providers a base rate plus an additional amount based on mileage traveled. These rates are based on multiple factors including geography and regional costs of living and can range from as low as \$400.00 to \$1,500.00 depending on the level of care and miles traveled.

**2. EFFECT OF THE BILL:**

Senate Bill (SB) 348 (Medicaid) appears to amend section 409.908, Florida Statutes (F.S.) to require Florida Medicaid to reimburse for Medicare crossover claims for non-emergency ambulance services. These changes pose operational and fiscal impacts to the Agency.

Currently law specifies that "Medicaid shall pay all deductibles and coinsurance for Medicare emergency transportation services provided by ambulances." The bill changes this by removing "emergency" and stating that "Medicaid shall pay all deductibles and coinsurance for Medicare-eligible recipients receiving services provided by ambulances."

If the intent of SB 348 is to no longer differentiate between emergency and non-emergency trips, that would require Florida Medicaid and the health plans participating in the Statewide Medicaid Managed Care (SMMC) program to reimburse Medicare crossover claims for non-emergency ambulance services to dually eligible recipients.

If that is the intent, implementing SB 348's required operational changes would be part of the Agency's routine business practices. However, reimbursing for this service would result in increased costs for Florida Medicaid program. The costs are indeterminate at this time.

The bill also makes changes by adding the term "emergency medical services vehicles." Because this term is already included in the definition for ambulance listed under section 401.23(5), F.S., this does not require new vehicle types or operational changes for Florida Medicaid.

This bill takes effect on July 1, 2021.

**3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y \_\_\_ N \_\_\_X\_\_**

If yes, explain:	
Is the change consistent with the agency's core mission?	Y ___ N ___
Rule(s) impacted (provide references to F.A.C., etc.):	

**4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?**

Proponents and summary of position:	N/A
Opponents and summary of position:	N/A



**5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?** Y \_\_\_ N X \_\_\_

If yes, provide a description:	
Date Due:	
Bill Section Number(s):	

**6. ARE THERE ANY GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSION, ETC.? REQUIRED BY THIS BILL?** Y \_\_\_ N X \_\_\_

Board:	
Board Purpose:	
Who Appointments:	
Appointee Term:	
Changes:	
Bill Section Number(s):	

---

## FISCAL ANALYSIS

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**1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?** Y \_\_\_ N X \_\_\_

Revenues:	
Expenditures:	
Does the legislation increase local taxes or fees? If yes, explain.	
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	

**2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?** Y X \_\_\_ N \_\_\_

Revenues:	
Expenditures:	The fiscal impact is indeterminate at this time.
Does the legislation contain a State Government appropriation?	HB 201 does not contain State Government appropriation.
If yes, was this appropriated last year?	

**3. DOES THE BILL HAVE A THE FISCAL IMPACT TO THE PRIVATE SECTOR?** Y X \_\_\_ N \_\_\_

Revenues:	This would increase reimbursement for ambulance providers that provide non-emergency transport to dually eligible individuals.
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Expenditures:	
Other:	

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? Y \_\_\_ N X

If yes, explain impact.	
Bill Section Number:	

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### TECHNOLOGY IMPACT

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1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)? Y \_\_\_ N X

If yes, describe the anticipated impact to the agency including any fiscal impact.	
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### FEDERAL IMPACT

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1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y \_\_\_ N X

If yes, describe the anticipated impact including any fiscal impact.	
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### ADDITIONAL COMMENTS

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N/A	
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### LEGAL – GENERAL COUNSEL'S OFFICE REVIEW

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Issues/concerns/comments:

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/4/21

Meeting Date

348

Bill Number (if applicable)

Topic Support the bill

Amendment Barcode (if applicable)

Name Jennifer Ungru

Job Title Dean Mead & Dunbar

Address \_\_\_\_\_

Street

Phone (850) 999-4100

City

State

Zip

Email jungru@deanmead.com

Speaking:  For  Against  Information

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

Representing Florida Ambulance Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

---

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

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**BILL:** CS/SB 272

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

**SUBJECT:** Rare Disease Advisory Council

**DATE:** February 4, 2021      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Brown	HP	<b>Fav/CS</b>
2.			AHS	
3.			AP	

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

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 272 creates s. 381.99, F.S., to establish the Rare Disease Advisory Council (Council) adjunct to the Department of Health (DOH). The Council is tasked with providing recommendations to improve the health outcomes of Floridians who have a rare disease, defined as a disease that affects fewer than 200,000 people in the United States. The bill establishes the membership of the Council as well as the length of the members' terms, requires that the Council first meet on October 1, 2021, and that the Council provide its recommendations to the Governor and the State Surgeon General by July 1 of each year beginning in 2022.

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

**II. Present Situation:**

**Advisory Councils**

Section 20.03, F.S., defines an advisory council as an advisory body created by specific statutory enactment and appointed to function on a continuing basis for the study of the problems arising in a specified functional or program area of state government and to provide recommendations and policy alternatives. Section 20.052, F.S., requires that each advisory council established may be created only when it is found to be necessary and beneficial to the furtherance of a public

purpose, and such a council must be terminated by the Legislature when it is no longer necessary.<sup>1</sup> An advisory body may not be created unless:

- It meets a statutorily defined purpose;
- Its powers and responsibilities conform with the definitions for governmental units in s. 20.03, F.S.;
- Its members, unless expressly provided otherwise in the State Constitution, are appointed for four-year staggered terms; and
- Its members, unless expressly provided otherwise by specific statutory enactment, serve without additional compensation or honorarium, and are authorized to receive only per diem and reimbursement for travel expenses as provided in s. 112.061, F.S.

The section also requires that:

- The private citizen members of an advisory body that is adjunct to an executive agency must be appointed by the Governor, the head of the department, the executive director of the department, or a Cabinet officer.
- Unless an exemption is otherwise specifically provided by law, all meetings of an advisory body, commission, board of trustees, or other collegial body adjunct to an executive agency are public meetings under s. 286.011, F.S. Minutes, including a record of all votes cast, must be maintained for all meetings.
- If an advisory body, commission, board of trustees, or other collegial body that is adjunct to an executive agency is abolished, its records must be appropriately stored, within 30 days after the effective date of its abolition, by the executive agency to which it was adjunct, and any property assigned to it must be reclaimed by the executive agency. The advisory body, commission, board of trustees, or other collegial body may not perform any activities after the effective date of its abolition.

### **Rare Disease Research**

In the United States, a rare disease is defined as a condition that affects fewer than 200,000 people nationally. This definition was created by Congress in the Orphan Drug Act of 1983. Rare diseases became known as “orphan diseases” because drug companies were not interested in adopting them to develop treatments. The Orphan Drug Act created financial incentives to encourage companies to develop new drugs for rare diseases. The rare disease definition was needed to establish which conditions would qualify for the new incentive programs.<sup>2</sup>

There may be as many as 7,000 rare diseases. The total number of Americans living with a rare disease is estimated at between 25-30 million. This estimate has been used by the rare disease community for several decades to highlight that while individual diseases may be rare, the total number of people with a rare disease is large.<sup>3</sup>

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<sup>1</sup> The agency to which an advisory body is adjunct must advise the Legislature at the time the advisory body ceases to be essential to the furtherance of a public purpose.

<sup>2</sup> FAQs About Rare Diseases, U.S. Department of Health and Human Services, National Institutes of Health, *available at* <https://rarediseases.info.nih.gov/diseases/pages/31/faqs-about-rare-diseases>. (last visited Jan. 27, 2021).

<sup>3</sup> *Id.*

In the United States, only a few types of rare diseases are tracked when a person is diagnosed. These include certain infectious diseases, birth defects, and cancers. It also includes the diseases on state newborn screening tests. Because most rare diseases are not tracked, it is difficult to determine the exact number of rare diseases or how many people are affected.<sup>4</sup>

Researchers have made progress in learning how to diagnose, treat, and even prevent a variety of rare diseases. However, most rare diseases have no treatments. The National Institutes of Health (NIH) supports research to improve the health of people with rare diseases. Many of the 27 Institutes and Centers at the NIH fund medical research for rare diseases. One of these Centers, the National Center for Advancing Translational Sciences (NCATS), focuses on getting new cures and treatments to all patients more quickly. NCATS supports research through collaborative projects to study common themes and causes of related diseases. This approach aims to speed the development of treatments that will eventually serve both rare and common diseases.<sup>5</sup>

The NCATS Office of Rare Diseases Research (ORDR) guides and coordinates NIH-wide activities involving research for rare diseases. Some of the NCATS programs for rare diseases include:

- Rare Diseases Clinical Research Network (RDCRN)
- Therapeutics for Rare and Neglected Diseases (TRND)
- Rare Diseases Registry Program (RaDaR)
- Genetic and Rare Diseases Information Center (GARD)

Efforts to improve and bring to market treatments for rare diseases are coordinated by the Food and Drug Administration. The Office of Orphan Products Development (OOPD) provides incentives for drug companies to develop treatments for rare diseases. Between 1973 and 1983, fewer than 10 treatments for rare diseases were approved. Since 1983, the OOPD program has helped develop and bring to market more than 400 drugs and biologic products for rare diseases.<sup>6</sup>

### III. Effect of Proposed Changes:

CS/SB 272 creates s. 381.99, F.S., to establish the Rare Disease Advisory Council. The Council is created adjunct to the DOH for the purpose of providing recommendations on ways to improve health outcomes for individuals with rare diseases. The bill defines a rare disease as a disease that affects fewer than 200,000 people in the United States.

The bill requires the Governor to appoint members to the Council as follows:

- A representative of the Department of Health.
- A representative of the Agency for Health Care Administration.
- A representative of the Office of Insurance Regulation.
- A representative of the Department of Education.
- Two representatives from academic research institutions in this state which receive any grant funding for research regarding rare diseases.

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<sup>4</sup> *Id.*

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

<sup>6</sup> *Id.*

- One geneticist practicing in this state.
- One registered nurse or advanced practice registered nurse who is licensed and practicing in this state with experience treating rare diseases.
- Two physicians who are licensed and practicing in this state with experience treating rare diseases.
- One hospital administrator from a hospital in this state which provides care to individuals diagnosed with rare diseases.
- Two individuals who are 18 years of age or older who have a rare disease.
- Two individuals who are caregivers of an individual with a rare disease.
- Two representatives of organizations operating in this state which provide care or other support for individuals with rare diseases.
- A pharmacist who is licensed and practicing in this state who has experience with drugs that are used to treat rare diseases.
- A representative of the biotechnology industry.
- A representative of health insurance companies.

Members of the Council must be appointed by September 1, 2021, and are appointed for four-year terms except that half the Council is initially appointed to a two-year term to stagger the appointments. The Council is required to hold its initial meeting by October 1, 2021, and may meet upon the call of the chair or upon the request of the majority of its members thereafter. The Council is authorized to meet electronically.

The bill requires the Council to:

- Consult with experts on rare diseases and solicit public comment to assist in developing recommendations on improving the treatment of rare diseases in this state.
- Develop recommended strategies for academic research institutions in this state to facilitate continued research on rare diseases.
- Develop recommended strategies for health care providers to be informed on how to more efficiently recognize and diagnose rare diseases in order to effectively treat patients. The advisory council shall provide such strategies to the DOH for publication on the department's website.
- Provide input and feedback in writing to the DOH, the Medicaid program, and other state agencies on matters that affect people who have been diagnosed with rare diseases, including, but not limited to, pandemic or natural disaster preparedness and response.

The DOH must provide staff and administrative support to the Council. The Council is required to submit a report to the DOH and the State Surgeon General, by July 1 of each year beginning in 2022, which describes the activities of the Council in the most recent year and its findings and recommendations regarding rare disease research and care.

The bill 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:

None.

## C. Government Sector Impact:

The DOH may experience an indeterminate negative fiscal impact from CS/SB 272 due to the requirement that the DOH provide staff and administrative support to the Council.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 381.99 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.)

**CS by Health Policy on February 4, 2021:**

The CS replaces the underlying bill's requirement that the Rare Disease Advisory Council establish a method to securely hold and distribute funds for certain uses with the requirement that the Council provide written input and feedback to state agencies on matters that affect people who have been diagnosed with a rare disease, including, but not limited to, pandemic or natural disaster preparedness and response.

- B. **Amendments:**

None.



893338

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/04/2021	.	
	.	
	.	
	.	

---

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

**Senate Amendment**

Delete lines 93 - 97

and insert:

(d) Provide input and feedback in writing to the department, the Medicaid program, and other state agencies on matters that affect people who have been diagnosed with rare diseases, including, but not limited to, pandemic or natural disaster preparedness and response.

By Senator Baxley

12-00121B-21

2021272\_\_

1 A bill to be entitled  
 2 An act relating to the Rare Disease Advisory Council;  
 3 creating s. 381.99, F.S.; creating the advisory  
 4 council adjunct to the Department of Health;  
 5 specifying the purpose of the advisory council;  
 6 providing for staff and administrative support;  
 7 defining the term "rare disease"; specifying  
 8 application of state law governing the establishment  
 9 of advisory councils; prescribing the composition of  
 10 the advisory council; providing for initial  
 11 appointments to the advisory council by a specified  
 12 date; providing organizational and other meeting  
 13 requirements for the advisory council; prescribing  
 14 duties and responsibilities of the advisory council;  
 15 providing an effective date.  
 16  
 17 Be It Enacted by the Legislature of the State of Florida:  
 18  
 19 Section 1. Section 381.99, Florida Statutes, is created to  
 20 read:  
 21 381.99 Rare Disease Advisory Council.—  
 22 (1) The Rare Disease Advisory Council, an advisory council  
 23 as defined in s. 20.03(7), is created adjunct to the Department  
 24 of Health for the purpose of providing recommendations on ways  
 25 to improve health outcomes for individuals residing in this  
 26 state who have a rare disease. The department shall provide  
 27 staff and administrative support for the advisory council in the  
 28 carrying out of its duties and responsibilities. For purposes of  
 29 this section, the term "rare disease" means a condition that

Page 1 of 4

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

12-00121B-21

2021272\_\_

30 affects fewer than 200,000 people in the United States. Except  
 31 as otherwise provided in this section, the advisory council  
 32 shall operate in a manner consistent with s. 20.052.  
 33 (2) The advisory council is composed of the following  
 34 members appointed by the Governor:  
 35 (a) A representative of the Department of Health.  
 36 (b) A representative of the Agency for Health Care  
 37 Administration.  
 38 (c) A representative of the Office of Insurance Regulation.  
 39 (d) A representative of the Department of Education.  
 40 (e) Two representatives from academic research institutions  
 41 in this state which receive any grant funding for research  
 42 regarding rare diseases.  
 43 (f) One geneticist practicing in this state.  
 44 (g) One registered nurse or advanced practice registered  
 45 nurse who is licensed and practicing in this state with  
 46 experience treating rare diseases.  
 47 (h) Two physicians who are licensed and practicing in this  
 48 state with experience treating rare diseases.  
 49 (i) One hospital administrator from a hospital in this  
 50 state which provides care to individuals diagnosed with rare  
 51 diseases.  
 52 (j) Two individuals who are 18 years of age or older who  
 53 have a rare disease.  
 54 (k) Two individuals who are caregivers of an individual  
 55 with a rare disease.  
 56 (l) Two representatives of organizations operating in this  
 57 state which provide care or other support for individuals with  
 58 rare diseases.

Page 2 of 4

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

12-00121B-21

2021272\_\_

59 (m) A pharmacist who is licensed and practicing in this  
 60 state who has experience with drugs that are used to treat rare  
 61 diseases.

62 (n) A representative of the biotechnology industry.

63 (o) A representative of health insurance companies.

64  
 65 Any vacancy on the advisory council shall be filled in the same  
 66 manner as the original appointment.

67 (3) The initial members of the advisory council shall be  
 68 appointed by September 1, 2021. Each member shall be appointed  
 69 to a 4-year term of office. However, in order to achieve  
 70 staggered terms, the initial members appointed pursuant to  
 71 paragraphs (2)(a)-(i) shall be appointed to a 2-year term. The  
 72 Governor shall designate a chair and vice chair of the advisory  
 73 council from among its membership. The advisory council shall  
 74 meet for its initial meeting by October 1, 2021. Thereafter, the  
 75 advisory council may meet upon the call of the chair or upon the  
 76 request of a majority of its members. The advisory council may  
 77 meet via teleconferencing or other electronic means. Notices for  
 78 any scheduled meetings of the advisory council must be published  
 79 in advance on the department's website.

80 (4) The advisory council shall:

81 (a) Consult with experts on rare diseases and solicit  
 82 public comment to assist in developing recommendations on  
 83 improving the treatment of rare diseases in this state.

84 (b) Develop recommended strategies for academic research  
 85 institutions in this state to facilitate continued research on  
 86 rare diseases.

87 (c) Develop recommended strategies for health care

12-00121B-21

2021272\_\_

88 providers to be informed on how to more efficiently recognize  
 89 and diagnose rare diseases in order to effectively treat  
 90 patients. The advisory council shall provide such strategies to  
 91 the Department of Health for publication on the department's  
 92 website.

93 (d) Establish a method to securely hold and distribute  
 94 funds solicited by the advisory council's chair and vice chair  
 95 to be used solely for purposes related to the advisory council's  
 96 mission, including, but not limited to, advancing awareness and  
 97 the treatment of rare diseases.

98 (e) By July 1 of each year, beginning in 2022, submit a  
 99 report to the Governor and the State Surgeon General which  
 100 describes the activities of the advisory council in the past  
 101 year and its findings and recommendations regarding rare disease  
 102 research and care. Additionally, the report must be made  
 103 available on the department's website.

104 Section 2. This act shall take effect July 1, 2021.



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

## COMMITTEES:

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

## JOINT COMMITTEE:

Joint Legislative Auditing Committee, *Alternating Chair*

**SENATOR DENNIS BAXLEY**

12th District

January 12, 2021

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

Dear Chairman Diaz,

I would like to request that SB 272 Rare Disease Advisory Council be heard in the next Health Policy Committee meeting.

This bill creates the Rare Disease Advisory Council adjunct to the Florida Department of Health for the purpose of providing recommendations on ways to improve health outcomes for individuals residing in this state who have a rare disease.

The Council will be made up of 20 members from various state agencies, subject matter experts and other stakeholders as recommended by the National Organization for Rare Disorders (NORD). Members are appointed by the Governor to a four year term and the Governor will designate the Chair and Vice Chair.

The Council shall consult with experts on rare diseases and solicit public comment to develop recommendations and strategies to improve the treatment, facilitate continued research at our academic institutions and help healthcare providers be more informed on how to effectively recognize, diagnose and provide treatment for the patients.

Thank you for your favorable consideration.

Onward & Upward,

A handwritten signature in cursive script that reads "Dennis K. Baxley".

Senator Dennis K. Baxley  
Senate District 12

DKB/dd

## REPLY TO:

- 206 South Hwy 27/441, Lady Lake, Florida 32159 (352) 750-3133
- 315 SE 25th Avenue, Ocala, Florida 34471 (352) 789-6720
- 320 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5012

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**Wilton Simpson**  
President of the Senate

**Aaron Bean**  
President Pro Tempore

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

2/4/2021

Meeting Date

SB 272

Bill Number (if applicable)

Topic Rare Disease Advisory Council

Amendment Barcode (if applicable)

Name Marnie George

Job Title Sr. Advisor - Buchanan Ingersoll & Rooney

Address 101 N. Monroe Street Suite 1090

Phone (850) 510-8866

Street

Tallahassee

FL

32301

Email marnie.george@bipc.com

City

State

Zip

Speaking:  For  Against  Information

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

Representing Vertex Pharmaceuticals

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: SJR 340

INTRODUCER: Senator Diaz

SUBJECT: Supermajority Vote Required to Enact a Single-payor Healthcare System

DATE: February 3, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Smith	Brown	HP	<b>Favorable</b>
2.			AHS	
3.			AP	
4.			RC	

---

**I. Summary:**

SJR 340 proposes an amendment to the Florida Constitution to prohibit the Legislature from enacting a single-payor health care system for providing comprehensive health care services, except through legislation approved by two-thirds of the membership of each house of the Legislature and presented to the Governor for approval.

The amendment proposed in the joint resolution will take effect on January 3, 2023, if approved by sixty percent of voters during the 2022 general election or an earlier special election specifically authorized by law for that purpose.

The Revenue Estimating Conference has not reviewed this proposed amendment. No impact on state revenues is anticipated if the amendment is enacted. There are indeterminate general publication costs associated with amendments appearing on the ballot.

**II. Present Situation:**

The Florida Constitution grants the Legislature authority (with some specific exceptions) to enact legislation by a majority vote in each house.<sup>1</sup> A bill to enact general law passed by the Legislature must be presented to the Governor for approval, and the bill becomes law if the Governor signs it or fails to veto it.<sup>2</sup> Vetoes can be overcome by a two-thirds vote of each house of the Legislature.<sup>3</sup>

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<sup>1</sup> FLA. CONST. art. III, s. 7.

<sup>2</sup> FLA. CONST. art. III, s. 8(a).

<sup>3</sup> FLA. CONST. art. III, s. 8(c).



## Similar Initiatives in Other States

In a single-payor health care system, only one entity bears the financial responsibility of health care – the government. Since the Affordable Care Act was passed in 2010 through 2019, sixty-six different single-payor bills have been proposed by legislators in twenty-one states.<sup>4</sup> Vermont is the first and only U.S. state that has passed such legislation.<sup>5</sup>

## The Demise of Vermont's Green Mountain Care

On December 17, 2014, Vermont Governor Peter Shumlin publicly ended his administration's four-year initiative to develop, enact, and implement a single-payor health care system in Vermont.<sup>6</sup> Shumlin was first elected in 2010, promising a government-financed system, called Green Mountain Care, to provide universal coverage, replacing most private health insurance in Vermont. In 2011, a law was enacted to establish Green Mountain Care by 2017.<sup>7</sup>

Vermont's per capita income was rising and was projected to continue to rise,<sup>8</sup> meaning the federal matching rate for state dollars spent on Medicaid was decreasing.<sup>9</sup> Projected federal revenues from an anticipated State Innovation Waiver (under Section 1332 of the Affordable Care Act) dropped from \$420 million in 2011 to \$106 million in 2014.<sup>10</sup> To bankroll the \$4.3 billion dollar cost of Green Mountain Care and substitute for the loss of private health insurance premiums, the Vermont Legislature would have had to approve an 11.5-percent payroll tax and an income taxes on households as high as 9.5 percent.<sup>11</sup> These new taxes would have been glaringly evident on every Vermonter's tax bill, unlike employer-based health insurance premiums, which sometimes go unnoticed.<sup>12</sup> The funding challenges were met with a decline in public support for the program<sup>13</sup> and the Governor ended his attempt to enact Green Mountain Care.

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<sup>4</sup> Erin C. Fuse Brown and Elizabeth Y. McCuskey, *Federalism, ERISA, and State Single-Payer Health Care*, University of Pennsylvania Law Review, Vol. 168 (Mar. 31, 2020) available at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3395462](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3395462) (last visited Jan. 29, 2021).

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

<sup>6</sup> Sarah Wheaton, *Vermont Bails on single-payer health care*, Politico (Dec. 17, 2014) available at <https://www.politico.com/story/2014/12/vermont-peter-shumlin-single-payer-health-care-113653> (last visited Jan. 29, 2021).

<sup>7</sup> *Id.*

<sup>8</sup> Audio Interview with John E. McDonough, Dr.P.H., M.P.A., on Vermont's attempt to implement a single-payer health system – and why it failed, Supplement to the N Engl J Med 2015; 372:1584-1585 available at <https://www.nejm.org/doi/full/10.1056/NEJMp1501050> (last visited Jan. 29, 2021).

<sup>9</sup> For every dollar a state spends on Medicaid, the federal government matches a rate that varies year to year. The Federal Medical Assistance Percentage (FMAP) is the percentage at which the federal government matches each state dollar spent on Medicaid. When a state's per capita income increases, it causes the FMAP to decrease.

<sup>10</sup> John E. McDonough, Dr.P.H., M.P.A., *The Demise of Vermont's Single-Payer Plan*, N Engl J Med 2015; 372:1584-1585 available at <https://www.nejm.org/doi/full/10.1056/NEJMp1501050> (last visited Jan. 29, 2021).

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* See also Morgan True, *Special Report: What went wrong with the state's health care exchange (website), and why*, VTDigger (Mar. 16, 2014) available at <https://vtdigger.org/2014/03/16/special-report-went-wrong-states-health-care-exchange/> (last visited Jan. 29, 2021).

**III. Effect of Proposed Changes:**

SJR 340 prohibits the Legislature from enacting a single-payor health care system for providing comprehensive health care services, except through legislation approved by two-thirds of the membership of each house of the Legislature and presented to the Governor for approval pursuant to Article III, Section 8 of the Florida Constitution.

It defines the term “comprehensive health care services” to mean the full range of personal health services for diagnosis, treatment, follow-up, and rehabilitation of patients.

It defines the term “single-payor” to mean an entity that has been designated by the Legislature as the sole administrator, collector, and payor of funds for comprehensive health care services.

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

Not applicable to joint resolutions.

**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:**

The Revenue Estimating Conference has not reviewed this proposed amendment. No impact on state revenues is anticipated if the amendment is enacted because the

amendment does not impact baseline revenue forecasts, which are based on current law and do not contain assumptions regarding future legislative changes.

Article XI, Section 5(d) of the Florida Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published in the 10th week and again in the sixth week immediately preceding the week the election is held.

The Division of Elections paid approximately \$351,834.45 to advertise six constitutional amendments in 2020.<sup>14</sup> Full publication costs for advertising a single constitutional amendment, on average, was approximately \$58,639.08. Accurate cost estimates for the next constitutional amendment advertising cannot be determined until the total number of amendments to be advertised is known and updated quotes are obtained from newspapers.<sup>15</sup> The statewide average cost to the Division of Elections to advertise constitutional amendments, in English and Spanish,<sup>16</sup> in newspapers for the 2020 election cycle was \$86.85 per English word of the originating document.<sup>17</sup>

There is an unknown additional cost for the printing and distributing of the constitutional amendments, in poster or booklet form, in English and Spanish, for each of the 67 Supervisors of Elections to post or make available at each polling room or each voting site, as required by s. 101.171, F.S. Historically, the Department of State has printed and distributed booklets that include the ballot title, ballot summary, text of the constitutional amendment, and, if applicable, the financial impact statement. Beginning in 2020, the summary of such financial information statements was also included as part of the booklets.<sup>18</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This resolution creates section 22, Article III of the Florida Constitution.

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<sup>14</sup> E-mail from Legislative Affairs Director, Department of State, to staff of Senate Committee on Health Policy (Feb. 1, 2021) (on file with Senate Committee on Health Policy).

<sup>15</sup> *Id.*

<sup>16</sup> Pursuant to Section 203 of the Voting Rights Act (52 U.S.C.A. § 10503).

<sup>17</sup> *Supra*, note 14.

<sup>18</sup> Section 100.371(13)(e)4., F.S. *See also* Chapter 2019-64, s. 3, Laws of Fla.

**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.

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

---

By Senator Diaz

36-00558-21

2021340\_\_

## Senate Joint Resolution

A joint resolution proposing the creation of Section 22 of Article III of the State Constitution to provide that a single-payor health care system may not be enacted by the legislature except through legislation approved by two-thirds of the membership of each house of the legislature and presented to the Governor for approval; providing definitions.

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

That the following creation of Section 22 of Article III of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

## ARTICLE III

## LEGISLATURE

SECTION 22. Supermajority vote required to enact a single-payor health care system.

(a) SUPERMAJORITY VOTE REQUIRED TO ENACT SINGLE-PAYOR HEALTH CARE SYSTEM. The legislature may not enact a single-payor health care system for providing comprehensive health care services except through legislation approved by two-thirds of the membership of each house of the legislature and presented to the Governor for approval pursuant to Article III, Section 8.

(b) DEFINITIONS. As used in this section, the following terms shall have the following meanings:

(1) "Comprehensive health care services" means the full

Page 1 of 2

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

36-00558-21

2021340\_\_

range of personal health services for diagnosis, treatment, followup, and rehabilitation of patients.

(2) "Single-payor" means an entity that has been designated by the Legislature as the sole administrator, collector, and payor of funds for comprehensive health care services.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

## CONSTITUTIONAL AMENDMENT

## ARTICLE III, SECTION 22

SUPERMAJORITY VOTE REQUIRED TO ENACT A SINGLE-PAYOR HEALTH CARE SYSTEM.—Proposing an amendment to the State Constitution to prohibit the legislature from enacting a single-payor health care system for providing comprehensive health care services except through legislation approved by two-thirds of the membership of each house of the legislature.

Page 2 of 2

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

## Wells, Lynn

---

**From:** Dover, Brittany N. <Brittany.Dover@dos.myflorida.com>  
**Sent:** Monday, February 1, 2021 5:05 PM  
**To:** Smith, Kelly  
**Subject:** RE: SJR 340

Kelly,

Our cost to advertise Constitutional Amendments in 2020 was right around \$351,834.45 (we still have a few outstanding balances we are working with vendors on).

**From:** Smith, Kelly <Smith.Kelly@flsenate.gov>  
**Sent:** Monday, February 1, 2021 5:02 PM  
**To:** Dover, Brittany N. <Brittany.Dover@dos.myflorida.com>  
**Subject:** RE: SJR 340

### EMAIL RECEIVED FROM EXTERNAL SOURCE

Hi, Brittany. Could you clarify for me –

When you say “The cost to the Division of Elections to advertise constitutional amendment in 2020 was approximately \$351,834.45.” – Does that reflect the cost of advertising for one single amendment or for all of the amendments?

Thanks for your help!

*Kelly Kibbey Smith* | Senior Attorney  
**Senate Committee on Health Policy**  
Room 530, Knott Building  
850-487-5334

**From:** Smith, Kelly  
**Sent:** Monday, January 25, 2021 10:20 AM  
**To:** 'Dover, Brittany N.' <Brittany.Dover@dos.myflorida.com>  
**Subject:** RE: SJR 340

Thank you for that info! I would love to see a full analysis if you're able to put it together this week. Thanks for helping us out with this.

*Kelly Kibbey Smith* | Senior Attorney  
**Senate Committee on Health Policy**  
Room 530, Knott Building  
850-487-5334

**From:** Dover, Brittany N. <[Brittany.Dover@dos.myflorida.com](mailto:Brittany.Dover@dos.myflorida.com)>  
**Sent:** Monday, January 25, 2021 10:06 AM  
**To:** Smith, Kelly <[Smith.Kelly@flsenate.gov](mailto:Smith.Kelly@flsenate.gov)>  
**Subject:** RE: SJR 340

Absolutely! I missed that part about looking at SJR 340- I am sorry!

The statewide average cost to the Division of Elections to advertise constitutional amendments, in English and Spanish, in newspapers for the 2020 election cycle was \$86.85 per English word of the originating document. This cost does not reflect the cost of the initial Spanish translation. This cost also does not include the cost of printing and distributing required by s. 101.71, F.S., to provide a sufficient number of copies in poster or booklet form of the constitutional amendments for each of the 67 Supervisors of Elections to post or make available at each polling room or each voting site.

The state law requirement has historically been implemented to print and distribute booklets which include the ballot title, ballot summary, the full text of the constitutional amendment, and if applicable the financial impact statement. With the 2019 legislative change in section 100.371(13)(e)4., F.S., the summary of the initiative financial information statement (distinct from the financial impact statement) was also included as part of the booklets but not the newspaper advertising for 2020 and thereafter. This increased the costs of printing/distributing the booklets and the cost of Spanish translation, as required by law, including the Voting Rights Act.

The cost to the Division of Elections to advertise constitutional amendment in 2020 was approximately \$351,834.45.

Accurate cost estimates for the next constitutional amendment advertising cannot be determined until the total number of amendments to be advertised is known and updated quotes are obtained from the newspapers.

In the meantime, I can have my team start working on a full analysis for 340 if you need additional information relating to the Constitutional Amendments.

Thank you,

Brittany N. Dover  
Legislative Affairs Director  
Department of State  
850.245.6509 (office)  
850.274.3105 (cell)

**From:** Smith, Kelly <[Smith.Kelly@flsenate.gov](mailto:Smith.Kelly@flsenate.gov)>  
**Sent:** Monday, January 25, 2021 9:35 AM  
**To:** Dover, Brittany N. <[Brittany.Dover@dos.myflorida.com](mailto:Brittany.Dover@dos.myflorida.com)>  
**Subject:** RE: SJR 340

#### EMAIL RECEIVED FROM EXTERNAL SOURCE

Good morning, Brittany! SJR 340 proposes the creation of a constitutional amendment. On my end, ABAR is showing that the selected agencies are AHCA, DOH, and DOS.

I was looking at an analysis for 2018 SJR 1742 and it seems that information like, "Based on 2016 advertising costs, staff estimates full publication costs for advertising the proposed constitutional amendment to be approximately \$43,732,

which will likely be funded by appropriations from the General Revenue Fund.” Was provided to the Senate through the DOS analysis.

Would it be possible for you to get us an analysis to help us out with information pertaining to constitutional amendments, rather than the health care aspects of the SJR? It would be so appreciated.

*Kelly Kibbey Smith* | Senior Attorney  
**Senate Committee on Health Policy**  
530 Knott Building  
404 S. Monroe Street  
Tallahassee, FL 32399-1100  
850-487-5334

**From:** Dover, Brittany N. <[Brittany.Dover@dos.myflorida.com](mailto:Brittany.Dover@dos.myflorida.com)>  
**Sent:** Monday, January 25, 2021 9:27 AM  
**To:** Smith, Kelly <[Smith.Kelly@flsenate.gov](mailto:Smith.Kelly@flsenate.gov)>  
**Subject:** RE: SJR 340

Good Morning Kelly,

I currently do not have that on our request list from ABAR for SJR 340...I looked it up to see it's a healthcare bill. Are you sure you are referring to the correct one? If so, I will get my team on it to provide feedback but quick glance, I don't think there will be much impact at the Department of State.

Thank you,

Brittany N. Dover  
Legislative Affairs Director  
Department of State  
850.245.6509 (office)  
850.274.3105 (cell)

**From:** Smith, Kelly <[Smith.Kelly@flsenate.gov](mailto:Smith.Kelly@flsenate.gov)>  
**Sent:** Friday, January 22, 2021 4:42 PM  
**To:** Dover, Brittany N. <[Brittany.Dover@dos.myflorida.com](mailto:Brittany.Dover@dos.myflorida.com)>  
**Subject:** SJR 340

**EMAIL RECEIVED FROM EXTERNAL SOURCE**

Hi, Brittany. We are planning to hear 2021 SJR 340 in an upcoming meeting. If it is at all possible for DOS to get me an analysis next week, or as soon as possible, I would greatly appreciate it.

*Kelly Kibbey Smith* | Senior Attorney  
**Senate Committee on Health Policy**  
530 Knott Building  
404 S. Monroe Street  
Tallahassee, FL 32399-1100  
850-487-5334



THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2-4-21

Meeting Date

340

Bill Number (if applicable)

Topic Snipe tag Healthcare for All

Amendment Barcode (if applicable)

Name Barbara DeVane

Job Title Lobbyist

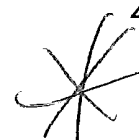
Address 625 E. Bremud St

Phone 251-4282

Tallahassee FL 32308  
City State Zip

Email barbunderane1@  
Yahoo.com

Speaking:  For  Against  Information

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

Representing FL NOW

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2-4-21

Meeting Date

340

Bill Number (if applicable)

Topic Single Payer Healthcare for All

Amendment Barcode (if applicable)

Name Barbara Devane

Job Title volunteer legislative director

Address 1225 E. Brevard ST

Phone 251-4280

Tallahassee FL 32308  
City State Zip

Email barbdevane7@  
yahoo.com

Speaking:  For  Against  Information

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

Representing FL Alliance for Retired Americans

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

Volunteer for FLARA

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-4-21

Meeting Date

340

Bill Number (if applicable)

Topic Single Payer Health Care

Amendment Barcode (if applicable)

Name Jaren Woodall

Job Title Executive Director

Address 579 E. Call ST

Phone 321-9386

Street

Tallahassee FL 32301

City

State

Zip

Email FCFEP@yahoo.com

Speaking:  For  Against  Information

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

Representing FL Center for Fiscal & Economic Policy

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/4/21

Meeting Date

340

Bill Number (if applicable)

Topic Supermajority Vote Required to ~~Pass~~ a Single-Payer Health System

Amendment Barcode (if applicable)

Name Phillip Suderman

Job Title Policy Director

Address \_\_\_\_\_ Phone \_\_\_\_\_

Street

City

State

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing Americans for Prosperity

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:**  
Appropriations  
Appropriations Subcommittee on Health and  
Human Services  
Health Policy  
Rules

**SENATOR GARY M. FARMER, JR.**

*Democratic Leader*  
34th District

February 3, 2021

Chair Diaz,

As you are likely aware I have recently tested positive for COVID-19. In accordance with the established Senate protocol and CDC guidelines I am currently in a state of isolation. In light of my current situation I ask that you please excuse my absence from the Health Policy Committee meeting scheduled for 8:30 am on Wednesday February 4th.

Thank you for your understanding,

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

State Senator Gary M. Farmer Jr.

**REPLY TO:**

- Broward College Campus, 111 East Las Olas Boulevard, Suite 913, Fort Lauderdale, Florida 33301 (954) 467-4227
- 228 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5034

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**WILTON SIMPSON**  
President of the Senate

**AARON BEAN**  
President Pro Tempore

# CourtSmart Tag Report

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

Type:  
Judge:

Started: 2/4/2021 8:30:43 AM  
Ends: 2/4/2021 9:11:31 AM Length: 00:40:49

8:30:42 AM Meeting called to order by Chair Diaz  
8:30:44 AM Roll call by CAA Lynn Wells  
8:31:02 AM Quorum present  
8:31:05 AM Comments from Chair Diaz  
8:31:26 AM Senator Farmer is excused  
8:31:51 AM Introduction of Tab 1, SB 530 by Chair Diaz  
8:32:06 AM Explanation of SB 530, Nonopioid Alternatives by Senator Perry  
8:32:20 AM Comments from Chair Diaz  
8:32:38 AM Closure waived  
8:32:42 AM Roll call by CAA  
8:32:46 AM SB 530 reported favorably  
8:32:55 AM Introduction of Tab 3, SB 388 by Chair Diaz  
8:33:12 AM Explanation of SB 388, Injured Police Canines by Senator Wright  
8:35:01 AM Comments from Chair Diaz  
8:35:29 AM Speaker Barney Bishop, Florida Smart Justice Alliance waives in support  
8:35:47 AM Senator Book in debate  
8:36:08 AM Closure waived  
8:36:16 AM Roll call by CAA  
8:36:20 AM SB 388 reported favorably  
8:36:35 AM Introduction of Tab 2, SB 494 by Chair Diaz  
8:36:54 AM Explanation of SB 494, Administration of Vaccines by Senator Burgess  
8:39:25 AM Introduction of Late-filed Amendment Barcode 165344 by Chair Diaz  
8:39:33 AM Explanation of Amendment by Senator Burgess  
8:40:46 AM Comments from Chair Diaz  
8:40:47 AM Amendment adopted  
8:41:04 AM Question from Senator Cruz  
8:41:27 AM Response from Senator Burgess  
8:42:09 AM Speaker Phillip Suderman, Policy Director, Americans for Prosperity  
8:43:21 AM Speaker Barney Bishop, Small Business Pharmacies in support  
8:44:43 AM Comments from Chair Diaz  
8:44:50 AM Senator Book in debate  
8:45:25 AM Senator Burgess in closure  
8:45:32 AM Roll call by CAA  
8:45:41 AM CS/SB 494 reported favorably  
8:45:51 AM Introduction of Tab 4, SB 352 by Chair Diaz  
8:46:17 AM Explanation of SB 352, Massage Therapy by Senator Rodriguez  
8:46:57 AM Introduction of Amendment Barcode 776914 by Chair Diaz  
8:47:11 AM Explanation of Amendment by Senator Rodriguez  
8:47:28 AM Comments from Chair Diaz  
8:48:04 AM Amendment adopted  
8:48:26 AM Anita Berry, Associate waives in support  
8:48:40 AM Senator Cruz in debate

8:49:37 AM Senator Baxley in debate  
8:50:51 AM Closure waived  
8:50:54 AM Roll call by CAA  
8:51:01 AM CS/SB 352 reported favorably  
8:51:18 AM Introduction of Tab 5, SB 348 by Chair Diaz  
8:51:32 AM Explanation of SB 348, Medicaid by Senator Rodriguez  
8:52:00 AM Introduction of Amendment Barcode 212110 by Chair Diaz  
8:52:21 AM Explanation of Amendment by Senator Rodriguez  
8:52:55 AM Comments from Chair Diaz  
8:53:04 AM Amendment adopted  
8:53:17 AM Jennifer Ungru, Florida Ambulance Association waives in support  
8:53:43 AM Senator Cruz in debate  
8:54:20 AM Senator Brodeur in debate  
8:55:05 AM Closure by Senator Rodriguez  
8:55:15 AM Roll call by CAA  
8:55:42 AM CS/SB 348 reported favorably  
8:56:04 AM Introduction of Tab 6, SB 272 by Chair Diaz  
8:56:19 AM Explanation of SB 272, Rare Disease Advisory Council by Senator Baxley  
8:56:45 AM Introduction of Amendment Barcode 893338 by Chair Diaz  
8:57:09 AM Explanation of Amendment by Senator Baxley  
8:57:48 AM Comments from Chair Diaz  
8:58:02 AM Amendment adopted  
8:58:15 AM Question from Senator Jones  
8:58:26 AM Response from Senator Baxley  
8:59:00 AM Marnie George, Vertex Pharmaceuticals waives in support  
8:59:31 AM Comments from Chair Diaz  
8:59:37 AM Closure by Senator Baxley  
8:59:46 AM Roll call by CAA  
9:00:04 AM CS/SB 272 reported favorably  
9:00:24 AM Chair passed to Senator Brodeur  
9:00:48 AM Recording Paused  
9:02:16 AM Recording Resumed  
9:02:20 AM Meeting continued  
9:02:25 AM Introduction of Tab 7, SJR 340 by Chair Brodeur  
9:02:38 AM Explanation of SJR 340, Supermajority Vote Required to Enact a Single-payor Healthcare System  
9:03:01 AM Comments from Chair Brodeur  
9:03:03 AM Question from Senator Cruz  
9:03:10 AM Response from Senator Diaz  
9:03:28 AM Follow-up question from Senator Cruz  
9:04:27 AM Response from Senator Diaz  
9:05:19 AM Follow-up question from Senator Cruz  
9:05:27 AM Response from Senator Diaz  
9:05:46 AM Question from Senator Jones  
9:05:57 AM Response from Senator Diaz  
9:06:40 AM Follow-up question from Senator Jones  
9:06:46 AM Response from Senator Diaz  
9:07:27 AM Comments from Chair Brodeur  
9:07:33 AM Barbara DeVane, FL NOW waives in opposition  
9:07:41 AM Barbara DeVane, Florida Alliance for Retired Americans waives in opposition  
9:07:48 AM Karen Woodall, Florida Center for Fiscal & Economic Policy  
9:08:08 AM Speaker Phillip Suderman, Policy Director, Americans for Prosperity in support

**9:09:41 AM** Comments from Chair Brodeur  
**9:09:59 AM** Closure waived  
**9:10:04 AM** Roll call by CAA  
**9:10:08 AM** SJR 340 reported favorably  
**9:10:27 AM** Chair returned to Senator Diaz  
**9:10:41 AM** Comments from Chair Diaz  
**9:10:58 AM** Senator Cruz moves to adjourn  
**9:11:18 AM** Meeting adjourned