

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

HEALTH POLICY
Senator Diaz, Chair
Senator Brodeur, Vice Chair

MEETING DATE: Wednesday, March 3, 2021

TIME: 12:00 noon—2:00 p.m.

PLACE: Pat Thomas Committee Room, 412 Knott Building

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

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
PUBLIC TESTIMONY WILL BE RECEIVED FROM ROOM A3 AT THE DONALD L. TUCKER CIVIC CENTER, 505 W. PENSACOLA STREET, TALLAHASSEE, FL. 32301			
1	SB 404 Rouson (Identical H 183)	Office of Minority Health and Health Equity; Requiring the Office of Minority Health and Health Equity to develop and promote the statewide implementation of certain policies, programs, and practices; requiring one representative from each county health department to serve as a minority health liaison for a specified purpose; requiring the office to maintain on its website specified information; requiring the office to serve as a liaison to and assist certain federal offices, etc. HP 03/03/2021 Fav/CS AHS AP	Fav/CS Yeas 8 Nays 0
2	SB 74 Brandes (Compare H 7005)	COVID-19-related Claims Against Health Care Providers; Providing preliminary procedures for civil actions based on COVID-19-related claims; providing the standard of proof required at trial for such claims; providing immunity from liability for COVID-19-related claims under certain circumstances; requiring COVID-19-related claims to commence within a specified timeframe, etc. JU 02/10/2021 Favorable HP 03/03/2021 Favorable RC	Favorable Yeas 5 Nays 4

COMMITTEE MEETING EXPANDED AGENDA

Health Policy

Wednesday, March 3, 2021, 12:00 noon—2:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	SB 1154 Bean (Identical H 925)	Hormonal Long-acting Reversible Contraception Program; Establishing the Hormonal Long-acting Reversible Contraception (HLARC) Program within the Department of Health for specified purposes; requiring the department to contract with family planning providers to implement the program and provide HLARC services throughout the state; providing for an annual appropriation; requiring the department to apply for grants for additional funding, etc. HP 03/03/2021 Temporarily Postponed AHS AP	Temporarily Postponed
4	SB 876 Diaz (Identical H 631)	Optometry; Revising the member composition requirements for the Board of Optometry; revising circumstances under which a certified optometrist may administer or prescribe ocular pharmaceutical agents; requiring the board to adopt a negative formulary of ocular pharmaceutical agents certified optometrists are prohibited from administering or prescribing; authorizing certain certified optometrists to perform laser and non-laser ophthalmic procedures and therapies under certain circumstances; requiring the board to determine the required content, grading criteria, and passing score for the licensure examination for certified optometrists; authorizing certified optometrists to remove superficial foreign bodies, etc. HP 03/03/2021 Temporarily Postponed AHS AP	Temporarily Postponed

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 404

INTRODUCER: Health Policy Committee and Senator Rouson

SUBJECT: Office of Minority Health and Health Equity

DATE: March 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

I. Summary:

CS/SB 404 creates s. 381.735, F.S., to assign duties and responsibilities to the Office of Minority Health and Health Equity (office) within the Department of Health (DOH), which currently administers the Closing the Gap grant program. The bill requires the office to develop and promote the statewide implementation of policies, programs, and practices that increase health equity in this state, including increased access to and quality of health care services for racial and ethnic minority populations. The bill also requires the office to coordinate with agencies, organizations, and providers across the state to perform certain tasks, including gathering and analyzing data relating to health disparities.

The bill establishes that a representative from each county health department will serve as a liaison to the office and that the office will serve as a liaison to the federal Offices of Minority Health and Regional Health Operations. The bill requires the DOH to update information on its website at least annually and authorizes the DOH to adopt rules to implement the provisions of the bill.

The bill requires the office to use all available resources and pursue opportunities for increased funding to implement its duties and responsibilities.

The bill may have a negative fiscal impact on the DOH. *See* Section V of this analysis.

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

II. Present Situation:

History of the Office of Minority Health and Health Equity

In 1993, Florida's Minority Health Improvement Act authorized the Minority Health Commission. In 1995, the Commission was sunset.¹ In 1998, the DOH established the Office of Equal Opportunity and Minority Health.² In 2004, the Legislature established the Office of Minority Health within the DOH, pursuant to s. 20.43(9), F.S.³ In 2016, the Legislature renamed it as the Office of Minority Health and Health Equity (office).⁴

Currently, under s. 20.43, F.S., the office must be headed by a senior health equity officer who administers the Closing the Gap grant program in a manner that maximizes the impact of the grants in achieving health equity. The senior health equity officer must evaluate the grants awarded by the program and assess the effectiveness and efficiency of the use of funds to determine best practices. The senior health equity officer is also responsible for disseminating information on best practices to stakeholders and for ensuring that the assessments inform future grant award decisions.

The office currently has five full time equivalent (FTE) staff positions: one senior health equity officer, one grants administrator, two Florida-certified contract managers, and one administrative assistant. The office also has four other personal services (OPS) staff positions: one program evaluator, two program analysts, and one senior clerk.

Closing the Gap Grant Program

In 2000, the Florida Legislature created the Reducing the Racial and Ethnic Health Disparities: "Closing the Gap" (CTG) grant program.⁵ The program is administered through the office and its implementation is subject to a specific appropriation in the General Appropriations Act.⁶ The purposes of the grant program is to improve health outcomes of racial and ethnic populations and promote disease prevention activities in the following priority areas:

- Maternal and infant mortality;
- Cancer;
- HIV/AIDS;
- Cardiovascular disease;
- Diabetes;
- Adult and child immunization;
- Oral health care;
- Sickle cell disease;
- Lupus; and

¹ Florida Department of Health, History of the Office of Minority Health and Health Equity, *available at* <http://www.floridahealth.gov/programs-and-services/minority-health/about-us.html> (last visited Feb. 2, 2021).

² *Id.*

³ Chapter 2004-350, s. 2, Laws of Fla.

⁴ Chapter 2016-230, Laws of Fla.

⁵ Chapter 2000-256, ss. 31-32, Laws of Fla.

⁶ Section 381.7356(7), F.S.

- Alzheimer's disease and dementia.⁷

Closing the Gap grants are intended to stimulate the development of community and neighborhood-based projects that impact health outcomes of racial and ethnic populations and stimulate partnerships between state and local governments, faith-based organizations, private sector organizations, and other non-traditional partners.⁸ Priority is given to grant proposals that:

- Represent areas with the greatest documented ethnic and racial health status disparities;
- Exceeded the statutory local match requirement;⁹
- Demonstrate broad-based local community support from entities representing racial and ethnic populations;
- Demonstrate high levels of participation by the health care community in clinical preventive services and health promotion activities;
- Have been submitted by counties with high levels of residents living in poverty and with poor health status indicators;
- Demonstrate a coordinated community approach to addressing racial and ethnic health disparities within existing publicly financed health care programs;
- Incorporate intervention mechanisms that have a high probability of improving the targeted populations health status;
- Demonstrate a commitment to quality management in all aspects of project administration and implementation; and
- Incorporate policy approaches that will lead to long-term sustainability and improvement.¹⁰

The office is responsible for:

- Publicizing the availability of funds and establishing an application process for submitting a grant proposal;
- Providing technical assistance and training, including a statewide meeting promoting best practice programs, as requested, to grant recipients;
- Developing uniform data reporting requirements for the purpose of evaluating the performance of the grant recipients and demonstrating improved health outcomes;
- Developing a monitoring process to evaluate progress toward meeting grant objectives; and
- Coordinating with existing community-based programs, such as chronic disease community intervention programs, cancer prevention and control programs, diabetes control programs, the Healthy Start program, the Florida Kidcare Program, the HIV/AIDS program, immunization programs, and other related programs at the state and local levels, to avoid duplication of effort and promote consistency.¹¹

III. Effect of Proposed Changes:

Section 1 of the CS creates s. 381.735, F.S., which assigns duties and responsibilities to the Office of Minority Health and Health Equity (office) within the DOH. The bill specifies that one

⁷ Section 381.7355(2)(a), F.S.

⁸ Section 381.7352, F.S.

⁹ Section 381.7356, F.S.

¹⁰ Section 381.7355(3), F.S.

¹¹ Department of Health, *Senate Bill 404 Fiscal Analysis* (Jan. 25, 2021) (on file with the Senate Committee on Health Policy).

representative from each county health department will serve as a minority health liaison to assist the office. The bill tasks the office with:

- Developing and promoting the statewide implementation of policies, programs, and practices that increase health equity in this state, including increased access to and quality of health care services for racial and ethnic minority populations.
- Coordinating with agencies, organizations, and providers across the state to:
 - Gather and analyze data regarding disparities in health status, health outcomes, quality of care, and access to services;
 - Develop mechanisms to improve information dissemination and education;
 - Support minority health liaisons in their outreach endeavors;
 - Develop and promote synergistic initiatives between programs, including, but not limited to, programs related to maternal and child health and human immunodeficiency virus (HIV) and acquired immune deficiency program (AIDS) to mitigate health disparities for racial and ethnic minority populations;
 - Promote evaluations of demonstration projects and disseminate the evaluation findings to enhance the success and sustainability of policies, programs, and practices that increase health equity in this state; and
 - Promote the use of community health workers.
- Serving as a liaison to and assist the federal Offices of Minority Health and Regional Health Operations, as appropriate. There is an Office of Regional Operations within the Health Resources and Services Administration.¹² Offices of Minority Health are established within six federal Department of Health and Human Services agencies and the National Institutes of Health¹³:
 - Agency for Healthcare Research and Quality (AHRQ);
 - Centers for Disease Control and Prevention (CDC);
 - Centers for Medicare & Medicaid Services (CMS);
 - Food and Drug Administration (FDA);
 - Health Resources and Services Administration (HRSA);
 - Substance Abuse and Mental Health Services Administration (SAMHSA); and
 - NIH National Institute on Minority Health and Health Disparities (NIH NIMHD).
- Using all available resources and pursuing opportunities for funding.

The CS tasks the DOH with maintaining and annually updating all of the following on its website:

- Data on health disparities and issues affecting racial and ethnic minority populations in Florida;
- Information about racial and ethnic minority populations in Florida and links to resources;
- Resources for health care providers to improve cultural competency, understand health disparities, and increase access to and the quality of care provided to racial and ethnic minority populations in Florida. These resources must include literature, research, referrals, capacity-building and technical assistance services, and training materials for implementing

¹² Health Resources and Services Administration, Office of Regional Operations, *available at* <https://www.hrsa.gov/about/organization/bureaus/oro/index.html> (last visited Feb. 25, 2021).

¹³ U.S. Department of Health and Human Services Office of Minority Health, Offices of Minority Health at HHS, *available at* <https://www.minorityhealth.hhs.gov/omh/browse.aspx?lvl=2&lvlid=7> (last visited Feb. 25, 2021).

nationally recognized evidence-based best practices for culturally and linguistically appropriate health care services; and

- Contact information for local minority health liaisons.

The CS authorizes the DOH to adopt rules to implement s. 381.735, F.S.

Section 2 of 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:

CS/SB 404 may increase the DOH's workload and operational costs, but the DOH has not estimated those specific fiscal impacts as of this writing.¹⁴ The bill requires the office to "use *all available resources* and pursue opportunities for increased funding to achieve

¹⁴ The DOH estimated the cost of implementing the underlying bill to be \$6,079,202 in general revenue, \$351,078 of which was nonrecurring. *Supra*, note 11. The DOH is likely to need less funding to implement the CS because the CS does not require the office to perform as many tasks as the underlying bill would have required.

the purpose of’ s. 381.735, F.S., as created by the bill and described in Section III of this analysis.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 381.735 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 March 3, 2021:

The CS requires the office to coordinate with agencies, organizations, and providers across the state to gather and analyze specified data, as did the underlying bill. The CS further requires that the data and its analysis must include disparities in health outcomes.

The CS deletes provisions in the underlying bill that would have required the office to coordinate with agencies, organizations, and providers across the state to:

- Conduct demonstration projects or evaluations to ensure the success and sustainability of policies, programs, and practices that increase health equity;
- Gather and analyze data regarding the prevalence of racial and ethnic minority populations at risk of involvement with the criminal justice system, the juvenile justice system, and the foster care system or at risk for homelessness, and any disparities in such involvement or access to appropriate behavioral health services by those populations when compared to other populations in this state;
- Promote the creation of or participation in programs that divert individuals with mental health and substance use disorders from the criminal justice system and ensure the availability of quality behavioral health services; and
- Develop and implement programs for specified purposes improve access to health care services for individuals with limited proficiency in the English language by providing access to bilingual providers or interpretive services.

Instead, the CS requires the office to coordinate with agencies, organizations, and providers across the state to develop and promote synergistic initiatives between programs and to promote the evaluations of demonstration projects (developed and implemented by other organizations).

The CS requires the DOH, rather than the office, to maintain and annually update specified information on its website.

B. Amendments:

None.

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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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/03/2021	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 38 - 71
and insert:
status, health outcomes, quality of health care, and access to
health care services for racial and ethnic minority populations
in this state.

(b) Develop mechanisms that support better information
dissemination and education about health disparities which lead
to improved access to and delivery of health care services for



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racial and ethnic minority populations in this state.

(c) Support minority health liaisons by facilitating access to and the exchange of information related to health promotion, preventive health services, and education in the appropriate use of care.

(d) Develop and promote synergistic initiatives between programs, including, but not limited to, programs related to maternal and child health and human immunodeficiency virus and acquired immune deficiency syndrome, to mitigate health disparities for racial and ethnic minority populations in this state.

(e) Promote evaluations of demonstration projects and disseminate the evaluation findings to enhance the success and sustainability of policies, programs, and practices that increase health equity in this state.

(f) Promote the use of community health workers to improve the cultural competency of services and build individual and community self-sufficiency.

(g) Promote the development of programs that improve access to health care services for individuals with limited proficiency in the English language, including persons with disabilities.

(3) The department shall maintain all of the following on its

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

And the title is amended as follows:

Delete lines 12 - 15

and insert:

requiring the Department of Health to maintain



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40 specified information on its website; requiring the
41 office to serve as a liaison to and assist certain
42 federal offices; authorizing the department to adopt
43 rules;

By Senator Rouson

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A bill to be entitled

An act relating to the Office of Minority Health and Health Equity; creating s. 381.735, F.S.; requiring the Office of Minority Health and Health Equity to develop and promote the statewide implementation of certain policies, programs, and practices; requiring one representative from each county health department to serve as a minority health liaison for a specified purpose; requiring the office to use all available resources and pursue funding opportunities to achieve this purpose; specifying duties for the office; requiring the office to maintain on its website specified information; requiring the office to serve as a liaison to and assist certain federal offices; authorizing the Department of Health to adopt rules; providing an effective date.

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

Section 1. Section 381.735, Florida Statutes, is created to read:

381.735 Office of Minority Health and Health Equity.—

(1) The Office of Minority Health and Health Equity established under s. 20.43(9) shall develop and promote the statewide implementation of policies, programs, and practices that increase health equity in this state, including, but not limited to, increased access to and quality of health care services for racial and ethnic minority populations. One representative from each county health department shall serve as

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a minority health liaison to assist the office in implementing this section. The office shall use all available resources and pursue opportunities for increased funding to achieve the purpose of this section.

(2) The office shall coordinate with agencies, organizations, and providers across this state to do all of the following:

(a) Gather and analyze data regarding disparities in health status, quality of health care, and access to health care services for racial and ethnic minority populations in this state.

(b) Develop mechanisms that support better information dissemination and education about health disparities and improve access to and delivery of health care services to racial and ethnic minority populations in this state.

(c) Support minority health liaisons by facilitating access to and the exchange of information related to health promotion, preventive health services, and education in the appropriate use of care.

(d) Conduct demonstration projects and evaluations to ensure the success and sustainability of policies, programs, and practices that increase health equity in this state.

(e) Promote the use of community health workers to improve the cultural competency of services and build individual and community self-sufficiency.

(f) Gather and analyze data regarding the prevalence of racial and ethnic minority populations at risk of involvement with the criminal justice system, the juvenile justice system, and the foster care system or at risk for homelessness, and any

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disparities in such involvement or access to appropriate behavioral health services by those populations when compared to other populations in this state.

(g) Promote the creation of or participation in programs that divert individuals with mental health and substance use disorders from the criminal justice system and ensure the availability of quality behavioral health services to the populations specified in paragraph (f).

(h) Develop and implement programs that improve access to health care services for individuals with limited proficiency in the English language by providing access to bilingual providers or interpretive services.

(3) The office shall maintain all of the following on its website, updated at least annually:

(a) Current data on health disparities and issues affecting racial and ethnic minority populations in this state.

(b) Information about and links to resources available to racial and ethnic minority populations in this state.

(c) Resources for providers who wish to improve cultural competency, understand health disparities, and increase the quality of and access to health care services for racial and ethnic minority populations in this state. These resources must include, but need not be limited to, minority health literature, research, and referrals; capacity-building and technical assistance services; and training materials for implementing nationally recognized evidence-based practices for culturally and linguistically appropriate health care services.

(d) Contact information for local minority health liaisons.

(4) The office shall serve as a liaison to and assist the

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federal Offices of Minority Health and Regional Health Operations, as appropriate.

(5) The department may adopt rules to implement this section.

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 # 404**, relating to Office of Minority Health and Health Equity, be placed on the:

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

A handwritten signature in cursive script that reads "Darryl Ervin Rouson".

Senator Darryl Ervin Rouson
Florida Senate, District 19



2021 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Florida Department of Health

BILL INFORMATION

BILL NUMBER:	404
BILL TITLE:	Office of Minority Health and Health Equity
BILL SPONSOR:	Brown
EFFECTIVE DATE:	7/1/2021

COMMITTEES OF REFERENCE

1) Health Policy
2) Appropriations Subcommittee on Health & Human Services
3) Appropriations
4) Click or tap here to enter text.
5) Click or tap here to enter text.

PREVIOUS LEGISLATION

BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.
YEAR:	Click or tap here to enter text.
LAST ACTION:	Click or tap here to enter text.

CURRENT COMMITTEE

Health Policy

SIMILAR BILLS

BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.

IDENTICAL BILLS

BILL NUMBER:	183
SPONSOR:	Brown

Is this bill part of an agency package?

No

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	February 3, 2021
LEAD AGENCY ANALYST:	Walter Niles
ADDITIONAL ANALYST(S):	Click or tap here to enter text.
LEGAL ANALYST:	Louise St. Laurent
FISCAL ANALYST:	Janet Burns, Ashley Freidin, Ann Courtney, Ty Gentle

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

This bill:

- Creates section 381.735, Florida Statutes.
- Requires the Office of Minority Health and Health Equity (OMHHE) to develop and promote statewide implementation of policies, programs, and practices that increase health equity in Florida.
- Requires one representative from each county health department to serve as a minority health liaison for a specified purpose.
- Requires the OMHHE to use all available resources and pursue funding opportunities to achieve a specified purpose.
- Specifies duties for the OMHHE that must be done in coordination with agencies, organizations, and providers.
- Requires the OMHHE to maintain and update at least annually its website with specified information.
- Requires the OMHHE to serve as a liaison to and assist the federal Offices of Minority Health and Regional Health Operations.
- Authorizes the Florida Department of Health (FDOH) to adopt rules.
The FDOH will experience an increase in workload and operational costs to implement this bill. The FDOH will incur indeterminate expenses that may have significant technology and fiscal impacts.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

The Office of Minority Health and Health Equity (OMHHE)

The OMHHE is headed by a Senior Health Equity Officer who administers the Reducing Racial and Ethnic Health Disparities: Closing the Gap (CTG) grant program in a manner that maximizes the impact of the grants in achieving health equity. The Senior Health Equity Officer evaluates awarded grants to assess the effectiveness and efficiency of the use of funds and to determine best practices. The Senior Health Equity Officer disseminates information on best practices to stakeholders and ensures that the assessments inform future grant award decisions.

Current OMHHE staffing:

- 5 Full Time Equivalent (FTE) Positions: 1 Senior Health Equity Officer, 1 Grants Administrator, 2 Florida Certified Contract Managers, and 1 Administrative Assistant.
- 4 Other Personal Services (OPS) Positions: 1 OPS Program Evaluator, 2 OPS Program Analysts, and 1 OPS Senior Clerk.

Reducing Racial and Ethnic Health Disparities: Closing the Gap (CTG) Grant Program

The CTG grant program awards funds to grantees to stimulate the development of community-based and neighborhood-based projects to improve health outcomes of racial and ethnic minority populations. Projects funded through the CTG grant program must address racial and ethnic disparities associated with one or more of the following 11 statutorily designated priority areas:

1. Maternal and Infant Mortality
2. Cancer
3. HIV/AIDS
4. Cardiovascular Disease
5. Diabetes
6. Adult and Child Immunizations
7. Oral Health Care
8. Sickle Cell Disease
9. Lupus
10. Alzheimer's Disease and Related Dementia

11. Social Determinants of Health

OMHHE CTG grant program responsibilities include:

- Publicizing the availability of funds and establishing an application process for submitting a grant proposal.
- Providing technical assistance and training, including a statewide meeting promoting best practice programs, as requested, to grant recipients.
- Developing uniform data reporting requirements for the purpose of evaluating the performance of the grant recipients and demonstrating improved health outcomes.
- Developing a monitoring process to evaluate progress toward meeting grant objectives.
- Coordinating with existing community-based programs, such as chronic disease community intervention programs, cancer prevention and control programs, diabetes control programs, the Healthy Start program, the Florida Kidcare Program, the HIV/AIDS program, immunization programs, and other related programs at the state and local levels, to avoid duplication of effort and promote consistency.

CTG grant program funding:

- Implementation of the CTG grant program is subject to a specific appropriation provided in the General Appropriations Act.

2. EFFECT OF THE BILL:

The bill requires the OMHHE to develop and promote statewide implementation of policies, programs, and practices that increase health equity in Florida, including, but not limited to, increased access to and quality of health care services for racial and ethnic minority populations.

The bill also requires one representative from each county health department to serve as a minority health liaison to assist the OMHHE in implementing this section.

The bill further requires the OMHHE to use all available resources and pursue funding opportunities to achieve the purpose of this section, and the bill requires the OMHHE to coordinate with agencies, organizations, and providers to:

- Collect and analyze data regarding disparities in health status, access to health care services, and quality of health care for racial and ethnic minority populations in Florida.
- Develop mechanisms that support better information dissemination and education regarding health disparities.
- Develop mechanisms that improve access to and delivery of health care services to racial and ethnic minority populations in Florida.
- Support county health department minority health liaisons by facilitating access to and exchange of information related to health promotion, preventive health services, and education in the appropriate use of care.
- Conduct demonstration projects and evaluations to ensure the success and sustainability of policies, programs, and practices that increase health equity in Florida.
- Promote the use of community health workers.
- Collect and analyze data regarding the prevalence of racial and ethnic minority populations at risk of involvement with the criminal justice system, the juvenile justice system, and the foster care system or at risk for homelessness, and any disparities in such involvement or access to appropriate behavioral health services by those populations when compared to other populations in Florida.
- Promote the creation of or participation in programs that divert individuals with mental health and substance use disorders from the criminal justice system.
- Ensure the availability of quality behavioral health services to racial and ethnic minority populations at risk of involvement with the criminal justice system, the juvenile justice system, and the foster care system or at risk for homelessness.
- Develop and implement programs that provide access to bilingual providers or interpretive services for individuals with limited proficiency in the English language.

The bill requires the OMHHE to maintain and update at least annually the following on its website:

- Current data on health disparities and issues affecting racial and ethnic minority populations in Florida.
- Information about and links to available resources for racial and ethnic minority populations in Florida.
- Resources for providers regarding improving cultural competency, understanding health disparities, and increasing the quality of and access to health care services for racial and ethnic minority populations in Florida. Resources must include, but are not limited to, minority health literature, research, and referrals; capacity-building and technical assistance services; and training materials for implementing nationally recognized evidence-based practices for culturally and linguistically appropriate health care services.
- Contact information for county health department minority health liaisons.

The bill requires the OMHHE to serve as a liaison to and assist the federal Offices of Minority Health and Regional Health Operations, and it authorizes the FDOH to adopt rules to implement this section.

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

If yes, explain:	The bill authorizes FDOH to adopt rules.
Is the change consistent with the agency's core mission?	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	None.

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

Proponents and summary of position:	Unknown.
Opponents and summary of position:	Unknown.

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?

Y ☐ N ☒

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

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL?

Y ☐ N ☒

Board:	N/A
Board Purpose:	N/A
Who Appoints:	N/A
Changes:	N/A

Bill Section Number(s):	N/A
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FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?

Y ☐ N ☒

Revenues:	N/A
Expenditures:	N/A
Does the legislation increase local taxes or fees? If yes, explain.	N/A
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?	N/A

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?

Y ☒ N ☐

Revenues:	Unknown.
Expenditures:	<p>The FDOH will experience an increase in workload and operational costs to implement this bill. The anticipated fiscal impact to implement the activities within this bill is \$6,079,202.</p> <p>These funds will facilitate development of mechanisms that improve access to and delivery of health care services; conducting demonstration projects and evaluations; increased data collection and analyses activities; ensuring the availability of quality behavioral health services; the provision of bilingual providers or interpretive services for individuals with limited proficiency in English; and updating and maintaining new website requirements..</p>
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	N/A

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?

Y ☐ N ☒

Revenues:	None.
Expenditures:	None.
Other:	N/A

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?Y ☐ N ☒

If yes, explain impact.	N/A
Bill Section Number:	N/A

TECHNOLOGY IMPACT

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

<p>If yes, describe the anticipated impact to the agency including any fiscal impact.</p>	<p>The bill has an insignificant impact on the FDOH's technology systems and staff as it relates to the annual update and maintenance of the OMHHE's website.</p> <p>The bill requires the FDOH to "gather and analyze comprehensive data regarding disparities in health status, quality of health care, and access to health care services for racial and ethnic minority populations in this state." The FDOH currently gathers, analyzes, and publishes data regarding disparities in health status and access to health care services on FDOH's Florida Health Community Health Assessment Resource Tool Set (FLHealthCHARTS) website.</p> <p>However, the FDOH does not currently gather, analyze, and publish data on quality of health care. Adding this element may have technology and fiscal impacts. However, it should be noted that the federal Agency for Healthcare Research and Quality does publish these data that can be viewed at the state-level and provides a list of measures and supporting data that can be viewed by race and ethnicity.</p> <p>The bill requires the FDOH to "gather and analyze data regarding the prevalence of racial and ethnic minority populations at risk of involvement with the criminal justice system, the juvenile justice system, and the foster care system or at risk for homelessness, and any disparities in such involvement or access to appropriate behavioral health services by those populations when compared to other populations in this state."</p> <p>This may have significant technology and fiscal impacts to the FDOH's technology systems and staff. Further, this may require interagency agreements with the Florida Department of Children and Families (DCF), the Florida Department of Corrections (FDC), and the Florida Department of Juvenile Justice (DJJ). If DCF, FDC, and/or DJJ do not already collect and/or electronically store these data, existing FDOH data systems may have to be modified and/or new data systems created to accommodate this activity.</p>
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FEDERAL IMPACT

1. **DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)?** Y ☒ N ☐

<p>If yes, describe the anticipated impact including any fiscal impact.</p>	<p>The bill requires the OMHHE to serve as a liaison to and assist the federal Offices of Minority Health and Regional Health Operations.</p> <p>The FDOH may experience an insignificant increase in workload associated with this activity, but no fiscal impacts are anticipated.</p>
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ADDITIONAL COMMENTS

This bill will have financial impacts to the Department of Health, Office of Minority Health and Health Equity in the amount of \$6,079,202. Of this amount, the recurring portion is \$5,728,124 and non-recurring portion is \$351,078.

Section 1:

Section 381.735(g) of the bill requires the FDOH to:

- Promote the creation of or participation in programs that divert individuals with mental health and substance use disorders from the criminal justice system.
- Ensure the availability of quality behavioral health services to racial and ethnic minority populations at risk of involvement with the criminal justice system, the juvenile justice system, and the foster care system or at risk for homelessness.

The FDOH can promote the creation of or participation in programs that divert individuals with mental health and substance use disorders from the criminal justice system with no anticipated fiscal impacts. However, ensuring the availability of quality behavioral health services may fall outside the scope and statutory authority of the FDOH.[1]

Statutorily, the DCF is the designated “Mental Health Authority” for Florida. The DCF and the Agency for Health Care Administration have executive and administrative supervision over all mental health facilities, programs, and services.[2]

[1]Section 20.43, Florida Statutes.

[2]Section 394.457, Florida Statutes.

[3]Section 20.43, Florida Statutes.

LEGAL - GENERAL COUNSEL’S OFFICE REVIEW

Issues/concerns/comments:	<p>Line 62 requires the department to ensure quality behavioral health services to specified individuals, however, behavioral health programs are under the jurisdiction and control of the Department of Children and Families pursuant to Chapter 394, Florida Statutes.</p> <p>Line 67 requires the department to develop and implement programs to improve access to English language interpreters which is provided for in the nondiscrimination provisions of three federal laws (Title VI of the Civil Rights Act of 1964, The Americans with Disabilities Act and the Affordable Care Act) to protect Limited English Proficiency (LEP) patients, and therefore, is duplicative of the federal law.</p>
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THE FLORIDA SENATE
APPEARANCE RECORD

3/3/21
Meeting Date

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

404
Bill Number (if applicable)

Topic Office of Minority Health & Equity
Name Ida V. Eskamani

Amendment Barcode (if applicable)

Job Title _____

Address _____
Street

Phone _____

City _____ State _____ Zip _____

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Rising & Florida Immigrant Coalition

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-3-21

Meeting Date

404

Bill Number (if applicable)

Topic Office of Minority Health & Health Equity

Amendment Barcode (if applicable)

Name Barbara Delbene

Job Title _____

Address 625 E. Brevard St

Phone 251-4280

Street

Tallahassee

City

FL

State

32308

Zip

Email barbaradelbene1@yahoo.com

Speaking: ☒ For ☒ Against ☐ Information

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

Representing FL NOW & FL Alliance for Retired Americans

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)

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

Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

03/03/2021

Meeting Date

404

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name David Mica, Jr.

Job Title Executive Vice President of Public Affairs

Address _____
Street

Phone _____

City _____ State _____ Zip _____

Email davidm@fha.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Hospital Association

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 74

INTRODUCER: Senator Brandes

SUBJECT: COVID-19-related Claims Against Health Care Providers

DATE: March 2, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bond	Cibula	JU	Favorable
2.	Smith	Brown	HP	Favorable
3.			RC	

I. Summary:

SB 74 limits civil claims against health care providers related to the COVID-19 pandemic. The bill requires that the initial complaint in a COVID-19-related lawsuit be pled with particularity. The trial court must dismiss a case if not pled with particularity. The bill requires the claimant to prove that the health care provider was grossly negligent or engaged in intentional misconduct in failing to substantially comply with government health standards or guidance, in interpreting or applying the standards or guidance, or in the provision of a novel or experimental treatment. Additionally, a health care provider is immune from civil liability under the bill if supplies or personnel were not readily available to comply with the standards or guidance. The bill requires that a COVID-19-related claim against a health care provider must be commenced within one year.

The bill is effective upon becoming law and applies retroactively.

II. Present Situation:

In general, the purpose of the tort law is to compensate a person injured by the fault of another. It reflects society's general and common moral belief that we all should take reasonable steps not to harm our fellow humans and their property. The tort law is mostly common law, found by the judiciary and slowly developed and changed over centuries of practice to reflect the changing mores of the times. In modern times, tort law has been tweaked, modified, defined, and changed by statutory law but remains based, in large part, on the common law.

COVID-19

The COVID-19 pandemic has drastically affected the state of Florida since the outbreak began affecting the United States in early 2020. The toll on individuals, businesses, and the economy has been catastrophic. According to the Department of Health, 1,744,619 positive COVID-19

cases have been diagnosed in the state, 73,266 residents have been hospitalized, and 27,019 Florida residents have died of the virus.¹

As the pandemic forced businesses to close, millions of Americans lost their jobs. The U.S. economy contracted at the greatest rate since World War II. In Florida, general revenue collections for Fiscal Year 2019-2020 were down nearly \$1.9 billion from the forecast projections made in January 2020. The vast majority of the loss, 84.7 percent, came from a loss of sales tax revenues, the largest component and category most affected by the pandemic.

Florida's Revenue Estimating Conference adopted a forecast for sales tax revenues in December 2020, as compared to the January 2020 forecast, that anticipates a loss to general revenue of approximately \$2.0 billion in Fiscal Year 2020-2021 and \$1 billion in Fiscal Year 2021-2022. The sales tax losses are attributable to a substantial loss in the tourism and recreation areas, often driven by out-of-state tourism, and also by reduced sales to local residents at restaurants and venues, including leisure activities impacted by the pandemic.²

Governor DeSantis issued Executive Order No. 20-52 on March 9, 2020, declaring a state of emergency and issuing guidelines to halt, mitigate, or reduce the spread of the outbreak. The order has been extended six times,³ most recently by Executive Order No. 21-45, issued on February 26, 2021.

During the pandemic, government-issued health standards and guidance, detailing how to best combat the virus, have been issued at the federal, state, and local levels. As scientists have learned more about COVID-19, government-issued health standards and guidance have changed accordingly. Health care providers may have struggled to provide appropriate responses to those standards and guidance as they continue to change.

Due to the costs of litigation, including the attention that litigation would divert from other matters, it is possible that an unfounded or opportunistic lawsuit for a COVID-19-related claim could threaten the financial survival of a health care provider. One course of action that has been suggested is the provision of some degree of legal immunity from COVID-19 claims to fend off such lawsuits, preserve scant resources, and encourage health care providers to continue to provide vital health care services.

COVID-19-Related Lawsuits

According to the Congressional Research Service,⁴ a growing number of plaintiffs have filed tort lawsuits in hopes of being compensated for personal injuries that resulted from alleged exposure

¹ Florida Department of Health, Division of Disease Control and Health Protection, *available at* [Florida's COVID-19 Data and Surveillance Dashboard \(arcgis.com\)](https://www.floridahealth.gov/disease-control-and-health-protection/COVID-19/Florida's_COVID-19_Data_and_Surveillance_Dashboard_(arcgis.com).html) (last visited Feb. 3, 2021).

² *Executive Summary, Revenue Estimating Conference for the General Revenue Fund & Financial Outlook Statement*, (August 14, 2020) and subsequently updated, *available at* <http://edr.state.fl.us/Content/conferences/generalrevenue/archives/200814gr.pdf> (last visited March 1, 2021).

³ A state of emergency declared under the State Emergency Management Act may not last for more than 60 days unless it is renewed by the Governor. Section 252.36(2), F.S.

⁴ The Congressional Research Service works solely for the U.S. Congress and provides policy and legal analysis to both members and committees of the House and Senate. It is a legislative branch agency housed within the Library of Congress and *available at* <https://www.loc.gov/crsinfo/> (last visited March 1, 2021).

to COVID-19 or from the failure of a defendant to properly treat the virus. Some examples of the lawsuits include:

- The relatives of deceased family members, who allegedly contracted the virus in their workplaces, have filed cases stating that the employers caused the decedents' deaths because they failed to implement workplace safety measures.
- Many cruise ship passengers have filed lawsuits against cruise lines alleging that the cruise line exposed them to the virus or caused them to contract the virus while on a cruise.
- Plaintiffs have sued assisted living facilities and nursing homes. They allege that their relatives died because these entities negligently exposed their relatives to the virus or failed to diagnose them in a timely or appropriate manner and then treat the symptoms.
- Businesses that have dissolved have sued their insurance companies challenging the denial of their coverage for claims of business interruptions.
- Consumers have filed suits seeking financial reimbursement for travel, events, and season passes at recreational venues which were cancelled or closed because of the pandemic.
- Employees have sued their employers alleging that the employer unlawfully terminated them because they contracted the virus.
- Stockholders have sued public companies alleging that the companies violated federal securities laws when they did not accurately state the pandemic's toll on the companies' finances as required in mandatory disclosure statements.⁵

The Congressional Research Service states that proponents of COVID-19 liability protections assert that litigation and the cost of legal fees will cripple businesses, individuals, schools, and non-profit organizations and will deter the organizations from reopening. Proponents are concerned that these entities will shape their business decision-making to avoid liability and that this unwillingness to continue or reopen businesses will delay the national economic recovery. Others believe that many COVID-19-related claims "are generally meritless, and therefore serve primarily to benefit plaintiffs' lawyers rather than vindicate injured person's legal rights."⁶

In contrast, opponents of liability protections maintain that organizations would encounter only minimal legal exposure for COVID-19 liability. The opponents also contend that providing a shield for defendants would harm the public by permitting defendants to commit negligent acts with legal protections. It would also remove any incentives for businesses to take precautions against the spread of the virus.⁷

Lawsuits Filed

It is difficult to determine how many COVID-19-related lawsuits have been filed in Florida. Staff of the Senate Judiciary Committee contacted the Office of the State Courts Administrator (OSCA) to ask if the OSCA could determine how many claims have been filed in the state courts. The OSCA did not have such data available. Some number of claims have been filed in the federal district courts located in Florida. Many of those federal claims are suits against cruise ship lines where passengers allege that they contracted the virus while on a cruise.

⁵ Congressional Research Service, *COVID-19 Liability: Tort, Workplace Safety, and Securities Law* (Sept. 24, 2020) available at <https://crsreports.congress.gov/product/pdf/R/R46540> (last visited March 1, 2021).

⁶ *Id.* at 2.

⁷ *Id.* at 3.

Legislative and Executive Responses of Other States

Currently, 34 states are known to have in place or have recently enacted some form of liability protection for health care entities and/or professionals related to the pandemic, through legislation, executive order, or application of existing law.⁸

Tort Law - In General

A tort is a civil legal action to recover damages for a loss, injury, or death due to the conduct of another. Some have characterized a tort as a civil wrong, other than a claim for breach of contract, in which a remedy is provided through damages.⁹

When a plaintiff files a tort claim, he or she alleges that the defendant's "negligence" caused the injury. Negligence is defined as the failure to use reasonable care, i.e. the care that a reasonably careful person would use under similar circumstances. According to the Florida Standard Jury Instructions, negligence means "doing something that a reasonably careful person would not do" in a similar situation or "failing to do something that a reasonably careful person would do" in a similar situation.¹⁰

When a plaintiff seeks to recover damages for a personal injury and alleges that the injury was caused by the defendant's negligence, the plaintiff bears the legal burden of proving that the defendant's alleged action was a breach of the duty that the defendant owed to the plaintiff.¹¹

Negligence Pleadings

To establish a claim for relief and initiate a negligence lawsuit, a plaintiff must file a "complaint." The complaint must state a cause of action and contain: a short and plain statement establishing the court's jurisdiction, a short and plain statement of the facts showing why the plaintiff is entitled to relief, and a demand for judgment for relief that the plaintiff deems himself or herself entitled. The defendant responds with an "answer" and provides in short and plain terms the defenses to each claim asserted, admitting or denying the averments in response.¹²

Particularity

Under the Florida Rules of Civil Procedure, there is a limited group of allegations that must be pled with "particularity." These allegations include allegations of fraud, mistake, and a denial of performance or occurrence.¹³ Pleading with particularity means that the complaint must clearly and concisely set out the essential facts of the claim, and not just legal conclusions. The elements of the claim are required to be alleged with sufficient particularity so that the trial judge, in

⁸ American Tort Reform Assn., *Summary of COVID-19 Executive Orders and Enacted Legislation*, available at <https://www.atra.org/wp-content/uploads/2020/10/Summary-of-COVID-19-Executive-Orders-and-Enacted-Legislation-2.pdf> (last visited March 1, 2021). Data through December 17, 2020.

⁹ BLACK'S LAW DICTIONARY (11th ed. 2019).

¹⁰ Fla. Std. Jury Instr. Civil 401.3, *Negligence*.

¹¹ Florida is a comparative negligence jurisdiction as provided in s. 768.81(2), F.S. In lay terms, if a plaintiff and defendant are both at fault, a plaintiff may still recover damages, but those damages are reduced proportionately by the degree that the plaintiff's negligence caused the injury.

¹² Fla. R. Civ. P. 1.110.

¹³ Fla. R. Civ. P. 1.120(b) and (c).

reviewing the ultimate facts alleged, may rule as a matter of law whether or not the facts alleged are sufficient as the factual basis for the inferences the pleader seeks to draw and are sufficient to state a cause of action.¹⁴

Amended Complaints

Errors in the initial complaint are common. A defendant discovering such error will file a motion to dismiss in lieu of an answer. Where the trial court agrees with the defendant's motion to dismiss based on a defective complaint, the court must typically give the plaintiff the opportunity to file an amended complaint.¹⁵ An amended complaint does not require personal service and relates back in time to the filing of the original complaint for purposes of calculating a limitations period.¹⁶ A court-ordered dismissal of a lawsuit does not bar refiling of the case unless the court specifies that the dismissal is "with prejudice."

Four Elements of a Negligence Claim

To establish liability, the plaintiff must prove four elements:

- Duty – That the defendant owed a duty, or obligation, of care to the plaintiff;
- Breach – That the defendant breached that duty by not conforming to the standard required;
- Causation – That the breach of the duty was the legal cause of the plaintiff's injury; and
- Damages – That the plaintiff suffered actual harm or loss.

Burden or Standard of Proof

A "burden of proof" is the obligation a party bears to prove a material fact. The "standard of proof" is the level or degree to which an issue must be proved.¹⁷ As mentioned above, the plaintiff carries the burden of proving, by a specific legal standard, that the defendant breached the duty that was owed to the plaintiff that resulted in the injury. In civil cases, two standards of proof generally apply:

- The "greater weight of the evidence" standard, which applies most often in civil cases, or
- The "clear and convincing evidence" standard, which applies less often and is a higher standard of proof.¹⁸

However, both of these standards are lower than the "reasonable doubt" standard which is used in criminal prosecutions.¹⁹ Whether the greater weight standard or clear and convincing standard applies is determined by case law or the statutes that govern the underlying substantive issues.²⁰

The greater weight of the evidence standard of proof means "the more persuasive and convincing force and effect of the entire evidence in the case."²¹ Some people explain the "greater weight of the evidence" concept to mean that, if each party's evidence is placed on a balance scale, the side that dips down, even by the smallest amount, has met the burden of proof by the greater weight

¹⁴ *Cedars Healthcare Grp., Ltd. v. Mehta*, 16 So. 3d 914, 917 (Fla. 3rd DCA 2009).

¹⁵ "Leave of court [to amend a pleading] shall be given freely when justice so requires." Fla. R. Civ. P. 1.190(a).

¹⁶ Fla. R. Civ. P. 1.190(c).

¹⁷ 5 Fla. Prac. Civil Practice s. 16.1, (2020 ed.).

¹⁸ *Id.*

¹⁹ Thomas D. Sawaya, *Florida Personal Injury Law and Practice with Wrongful Death Actions*, s. 24.4 (2020).

²⁰ 5 Fla. Prac. Civil Practice s. 16.1 (2020 ed.).

²¹ Fla. Std. Jury Instr. 401.3, *Greater Weight of the Evidence*.

of the evidence. The greater weight of the evidence standard was formerly known as the preponderance of the evidence standard.

The clear and convincing standard, a higher standard of proof than the greater weight of the evidence standard, requires that the evidence be credible and the facts to which the witness testifies must be remembered distinctly. The witness's testimony "must be precise and explicit and the witnesses must be lacking in confusion as to the facts in issue." The evidence must be so strong that it guides the trier of fact to a firm conviction, to which there is no hesitation, that the allegations are true.²²

Standards of Care and Degrees of Negligence

Courts have developed general definitions for the degrees of negligence, as follows.

Slight negligence is generally defined to mean the failure to exercise a great amount of care.²³

Ordinary negligence, which is also referred to as simple negligence, is the standard of care applied to the vast majority of negligence cases. It is characterized as the conduct that a reasonable and prudent person would know could possibly cause injury to a person or property.²⁴

Gross negligence means the failure of a person to exercise slight care. Florida courts have defined gross negligence as the type of conduct that a "reasonably prudent person knows will probably and most likely result in injury to another" person.²⁵ In order for a plaintiff to succeed on a claim involving gross negligence, he or she must prove:

- Circumstances that, when taken together, create a clear and present danger;
- Awareness that the danger exists; and
- A conscious, voluntary act or omission to act that will likely result in an injury.^{26,27}

Intentional misconduct means that the defendant had actual knowledge of the wrongfulness of the conduct, that there was a high probability of injury or damage to the claimant, and, despite that knowledge, the defendant intentionally pursued that course of conduct, resulting in injury or damage.²⁸

Tort Laws Applicable to COVID-19 Lawsuits against Health Care Providers and Professionals

There is no established tort law specific to claims related to the COVID-19 pandemic. Absent legislative action, it will take years before the appellate courts hear and resolve the outstanding cases related to COVID-19 in order to develop common law principals applicable to COVID-19. In a case involving tuberculosis, an airborne disease, one federal trial court has found that

²² *Slomowitz v. Walker*, 429 So. 2d 797, 800 (Fla. 4th DCA 1983); Sawaya, *supra* note 19.

²³ Sawaya, *supra* note 19, at s. 2:12.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ Culpable negligence is a fourth degree of negligence but is not discussed in this analysis.

²⁸ Fla. Std. Jury Instr. 503.1, *Punitive Damages - Bifurcated Procedure*.

“negligent transmission of a contagious disease is not actionable under Florida common law.”²⁹ Absent current clear directions from the courts, there are two likely theories of common law negligence that are likely to be used by plaintiffs seeking damages from health care providers: premises liability and medical malpractice. It is also possible that a claim could be made on contract theory.

Premises Liability

Premises liability refers to the duty of an individual or entity that owns or controls real property to reasonably operate and maintain such property for the safety of those who enter or remain on the property. There are different standards of negligence for premises liability based on the legal status of the injured party. However, in most cases related to health care providers, the patient or client or supplier is a legal invitee, so that standard is appropriate for consideration. As to an invitee, a landowner or possessor is liable if he/she/it:

- Negligently failed to maintain the premises in a reasonably safe condition, or
- Negligently failed to correct a dangerous condition about which the defendant either knew or should have known, by the use of reasonable care, or
- Negligently failed to warn the claimant of a dangerous condition about which the defendant had, or should have had, knowledge greater than that of claimant, and, if so, such negligence was a legal cause of loss, injury, or damage.³⁰

Medical Negligence

Negligence of a medical provider is the failure to use reasonable care. Reasonable care on the part of a physician, hospital, or health care provider is that level of care, skill, and treatment which, in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by similar and reasonably careful physicians, hospitals, or health care providers. Negligence on the part of a physician, hospital, or health care provider is doing something that a reasonably careful physician, hospital, or health care provider would not do under like circumstances or failing to do something that a reasonably careful physician, hospital, or health care provider would do under like circumstances.³¹

Procedures for the filing and prosecution of a medical negligence claim are found in ch. 766, F.S. One such requirement is that the plaintiff’s attorney certify that he or she has investigated the claim and found a good faith belief that grounds exist for an action against each named defendant. A lawyer may support the good faith finding by way of a reviewing physician affidavit. The affidavit is not attached to the complaint or available in discovery.³²

Breach of Contract

Breach of contract is not a tort claim. The cause of action is similar, in that the injured party must show duty, breach, and damages. In contract law, the parties have a relationship defined by a contract. The contract spells out the duties owed to one another and the potential damages

²⁹ *Quezada v. Circle K Stores, Inc.*, No. 204CV190FTM33DNF, 2005 WL 1633717, at 2 (M.D. Fla. July 7, 2005) (convenience store patron contracted tuberculosis because store employee known to have tuberculosis was allowed to work).

³⁰ Fla. Std. Jury Instr. 401.20 *Issues On Plaintiff’s Claim — Premises Liability*.

³¹ Fla. Std. Jury Instr. 402.4 *Medical Negligence*.

³² Section 766.104, F.S.

recoverable. However, duties beyond those specifically listed in the contract may be implied based on industry custom, regulation, or mutual understanding of the parties. So, for instance, it is unlikely that a nursing home contract would say how the nursing home would deal with the unique challenges of COVID-19. Still, courts would likely find that a nursing home has the implied contractual duty to undertake commercially reasonable measures for infection control consistent with applicable laws and regulations, and a nursing home may be found to be in breach of contract for failing to do so.

Employee Tort Claims Against Employers

When an employee suffers a personal injury or death at work, it is sometimes due to the negligence of his or her employer or co-worker, or most commonly, the employee's own negligence. Worker's compensation laws give no weight to who is at fault. Under worker's compensation law, an injured employee's medical bills and (a portion of) lost wages are covered, regardless of fault but with a caveat: the employee may not file a traditional tort lawsuit against the employer or fellow employee except under very limited circumstances.

An employee may sue his or her employer in a traditional tort action only if one of these situations apply:

- The employer failed to have required worker's compensation coverage.³³
- The employer commits an intentional tort that causes the injury or death of the employee. An intentional tort is where:
 - The employer deliberately intended to injure the employee; or
 - The employer engaged in conduct that the employer knew, based on prior similar accidents or on explicit warnings specifically identifying a known danger, was virtually certain to result in injury or death to the employee, and the employee was not aware of the risk because the danger was not apparent and the employer deliberately concealed or misrepresented the danger so as to prevent the employee from exercising informed judgment about whether to perform the work.³⁴

An employee may sue a fellow employee only if one of these situations apply:

- The fellow employee acted with willful and wanton disregard, unprovoked physical aggression, or with gross negligence, and such act or acts resulted in injury or death; or
- The fellow employee is an employee of the same employer but each was assigned primarily to unrelated works within private or public employment.³⁵

Limitations Periods

A limitations period is a limit upon the time that a plaintiff or petitioner has to file a complaint. Expiration of a limitations period is an absolute defense to the action. There are two forms of limitation periods, known as a statute of limitations and a statute of repose.

³³ Section 440.11(1)(a), F.S.

³⁴ Section 440.11(1)(b), F.S.

³⁵ *Id.*

A statute of limitations is a “law that bars claims after a specified period; . . . a statute establishing a time limit for suing in a civil case, based on the date when the claim accrued (as when the injury occurred or was discovered).”³⁶ A statute of limitations may be tolled, such tolling being commonly available to minors and incompetents.

By contrast, a statute of repose is a “statute barring any suit that is brought after a specified time since the defendant acted (such as by designing or manufacturing a product), even if this period ends before the plaintiff has suffered a resulting injury.”³⁷

The expiration of either form of limitations is a bar to the case. The purpose of limitations periods is to require diligent prosecution of known claims, thereby providing finality and predictability in legal affairs and ensuring that claims will be resolved while evidence is reasonably available and fresh.

The statute of limitations for a general tort claim is four years from when the cause of action accrued.³⁸ There is no statute of repose applicable to general tort claims. The statute of limitations for a medical negligence action is two years from the time the incident giving rise to the action occurred or within two years from the time the incident is discovered, or should have been discovered with the exercise of due diligence. The statute of repose for medical negligence is four years from the date of the incident or occurrence out of which the cause of action accrued, except that this four-year period does not bar an action brought on behalf of a minor on or before the child’s 18th birthday. However, where fraud, concealment, or intentional misrepresentation of a medical provider can be shown, the statute of limitations is two years from discovery, and the statute of repose is seven years from the date of the incident.³⁹

III. Effect of Proposed Changes:

SB 74 creates s. 768.381, F.S., to govern COVID-19-related tort claims against health care providers.

WHEREAS Clauses

According to the “Whereas Clauses,” the state is suffering from the outbreak of the novel coronavirus identified as COVID-19, a potentially deadly virus. A national emergency was declared on January 3, 2020, and a corresponding state emergency declared March 1, 2020. In that same month, federal guidelines first recommended the deferral of nonessential medical procedures to, in part, conserve critical health care resources. On March 20, 2020, the Governor in turn issued an executive order prohibiting certain non-urgent or non-emergency medical procedures. This order was modified on April 29, 2020, to allow such procedures but only if the medical provider had adequate supplies of personal protective equipment. While still learning how to slow the spread of the virus and how to treat the afflicted, various measures have been taken by governments to regulate individuals, businesses, and health care providers. Health care providers have struggled to acquire adequate personal protective equipment and sufficient

³⁶ BLACK’S LAW DICTIONARY (11th ed. 2019).

³⁷ *Id.*

³⁸ Section 95.11(3)(a), F.S.

³⁹ Section 95.11(4)(b), F.S.

staffing levels. Health care providers are essential to the state's survival. Health care providers have continued to provide services despite the risks. Actions that seem reasonable during an emergency may be construed differently in hindsight. Health care providers facing the continuation of this pandemic should focus on patient care and not on the fear of unfounded lawsuits. The Legislature finds that there is an overpowering public necessity to enact legislation to deter unfounded lawsuits against health care providers, considering the extraordinary circumstances of this public health emergency.

Legislative findings are given great weight by the courts in determining the constitutionality of a law. The Florida Supreme Court ruled that "legislative determinations of public purpose and facts are presumed correct and entitled to deference, unless clearly erroneous."⁴⁰

Definitions

The term "COVID-19" is defined to mean the novel coronavirus identified as SARS-CoV-2; any disease caused by SARS-CoV-2, its viral fragments, or a virus mutating therefrom; and all conditions associated with the disease which are caused by SARS-CoV-2, its viral fragments, or a virus mutating therefrom.

The term "COVID-19-related claim" is defined to mean a civil liability claim, whether pled as negligence, breach of contract, or otherwise, against a health care provider which directly, indirectly, or in effect alleges that:

- The health care provider failed to follow clinical authoritative or government-issued health standards or guidance relating to COVID-19;
- The health care provider failed to properly interpret or apply the standards or guidance with respect to the provision of health care or related services, or lack thereof, or the allocation of scarce resources, or assistance with daily living;
- The health care provider was negligent in the provision of a novel or experimental COVID-19 treatment; or
- In the absence of applicable standards and guidance specific to COVID-19, the health care provider failed to follow clinical authoritative or government-issued health standards or guidance relating to infectious diseases in preventing the transmission of COVID-19 or in diagnosing or treating a person for COVID-19.

The term "government-issued health standards or guidance" means any of the following that are related to COVID-19 or other infectious diseases and that describe the manner in which a health care provider must operate at the time of the alleged act or omission:

- A federal, state, or local law, regulation, or ordinance;
- A written order or other document published by a federal, state, or local government or regulatory body;
- Standards or guidance issued by the Agency for Health Care Administration or the United States Centers for Disease Control and Prevention, the National Institutes of Health, the United States Food and Drug Administration, or the federal Centers for Medicare and Medicaid Services; or

⁴⁰ *University of Miami v. Echarte*, 618 So. 2d 189, 196 (Fla. 1993) (finding a medical malpractice tort reform constitutional).

- Guidance issued by a clinical professional organization which was used by the government in developing a response to COVID-19.

The term “health care provider” includes the following entities and individuals:

- The following regulated entities:
 - Laboratories authorized to perform testing under the Drug-Free Workplace Act
 - Birth centers
 - Abortion clinics
 - Crisis stabilization units
 - Short-term residential treatment facilities
 - Residential treatment facilities
 - Residential treatment centers for children and adolescents
 - Hospitals
 - Ambulatory surgical centers
 - Nursing homes
 - Assisted living facilities
 - Home health agencies
 - Nurse registries
 - Companion services or homemaker services providers
 - Adult day care centers
 - Hospices
 - Adult family-care homes
 - Homes for special services
 - Transitional living facilities
 - Prescribed pediatric extended care centers
 - Home medical equipment providers
 - Intermediate care facilities for persons with developmental disabilities
 - Health care services pools
 - Health care clinics
 - Organ, tissue, and eye procurement organizations
- A federally-certified clinical laboratory providing services in this state or services to health care providers in this state
- A federally qualified health center
- Any site providing health care services which was established for the purpose of responding to the COVID-19 pandemic pursuant to any federal or state order, declaration, or waiver
- A health care practitioner, which means individuals practicing in the following professions:
 - Acupuncture
 - Medicine
 - Osteopathy
 - Chiropractic
 - Podiatry
 - Naturopathy
 - Optometry
 - Nursing
 - Pharmacy
 - Dentistry, including dental hygienists and dental labs
 - Midwifery

- Speech-language pathology and audiology
- Nursing home administration
- Occupational therapy
- Respiratory therapy
- Dietetics and nutrition practice
- Athletic training
- Orthotics, prosthetics and pedorthics
- Electrolysis
- Massage
- Clinical laboratory personnel
- Medical physics
- Dispensing of optical devices
- Dispensing of hearing aids
- Physical therapy
- Psychological services
- Clinical, counseling and psychotherapy services
- Radiology
- A home health aide

Procedural Requirements

The bill requires that a complaint in a civil action against a health care provider based on a COVID-19-related claim be pled with particularity. The complaint must allege facts supporting the claim in sufficient detail to support each element of the claim. Where the complaint does not meet this standard, the case must be dismissed.

The bill does not specify how the courts should treat this dismissal. If the courts treat this like a dismissal for failure to state a cause of action upon which relief may be granted, the dismissal would ordinarily be with leave to amend.⁴¹ However, while there is no magic number of attempts at crafting an amended complaint, a trial court may find that dismissal with prejudice is warranted where the plaintiff has made repeated failing attempts at properly crafting a complaint and the complaint clearly cannot be fixed.⁴²

The bill specifies that a physician's affidavit (a provision in the mandatory pre-suit investigation in a medical negligence action) is not required for a claim under this section.

Standard of Proof Required for Claim

The bill requires a plaintiff to prove negligence "by the greater weight of the evidence." This is the standard of proof required in most civil actions.

⁴¹ Fla. R. Civ. P. 1.190(a) (Leave of court to amend shall be given freely when justice so requires).

⁴² *Kohn v. City of Miami Beach*, 611 So. 2d 538, 539 (Fla. Dist. Ct. App. 1992) ("as an action progresses, the privilege of amendment progressively decreases to the point that the trial judge does not abuse his [or her] discretion in dismissing with prejudice.")

Liability Standard and Limited Absolute Defense

The bill requires a plaintiff to prove that the health care provider was grossly negligent or engaged in intentional misconduct:

- By failing to substantially follow authoritative or applicable government-issued health standards or guidance relating to COVID-19;
- In interpreting or applying the standards or guidance with respect to the provision of health care or related services, or lack thereof, or the allocation of scarce resources or assistance with daily living; or
- In the provision of a novel or experimental COVID-19 treatment.

This liability standard is more stringent than that applicable to an ordinary negligence case.

Additionally, a health care provider is fully immune from liability for a COVID-19-related claim if supplies, materials, equipment, or personnel necessary to comply with the applicable government-issued health standards or guidance at issue were not readily available or were not available at a reasonable cost. The bill does not define the standards for readily available or reasonable cost.

Limitations Period

The bill creates a statute of repose requiring that a case be filed the later of one year after:

- The death of the injured individual due to COVID-19;
- Hospitalization due to COVID-19;
- First diagnosis of COVID-19; or
- The effective date of this bill.

Relationship to Other Laws

The bill provides that s. 768.381, F.S., created by this bill, prevails over any conflicting provision of law but only to the extent of such conflict. This provision does not apply to conflicts related to claims under the worker's compensation law, thus preserving worker's compensation benefits together with the worker's compensation liability shield protecting employers and fellow employees from tort claims.

Applicability

The bill applies to COVID-19-related causes of action that accrue before the later of one year after the termination or expiration of:

- The state public health emergency relating to COVID-19 which was declared by the State Surgeon General; or
- Any nationwide emergency declaration by the federal government.

The bill provides for severability.

The bill is retroactive except that it does not apply in a civil action against a particular named health care provider filed before the effective date of the bill.

The bill is effective upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

As to tort law in general: In 1973, the Florida Supreme Court found that:

where a right of access to the courts for redress for a particular injury has been provided by statutory law predating the adoption of the Declaration of Rights of the 1968 Constitution of the State of Florida, or where such right has become a part of the common law of the State pursuant to Fla. Stat. s 2.01, F.S.A., the Legislature is without power to abolish such a right without providing a reasonable alternative to protect the rights of the people of the State to redress for injuries, unless the Legislature can show an overpowering public necessity for the abolishment of such right, and no alternative method of meeting such public necessity can be shown.⁴³

A law that merely alters the standards of care in a tort action does not abolish the right and thus does not impair access to courts.⁴⁴ The bill contains findings of fact that may be evidence of an overwhelming public necessity for the passage of this bill.

As to a shortened limitations period: This bill reduces the amount of time that a plaintiff has to bring an action. If, however, the cause of action accrues before the effective date of the bill, which is the date it becomes law, the plaintiff has one year from the effective date of the bill to bring a claim. While this could be a reduction in the amount of time that a plaintiff has to bring a COVID-19-related claim, there is precedent for this. Court

⁴³ *Kluger v. White*, 281 So. 2d 1, 4 (Fla. 1973).

⁴⁴ *Abdin v. Fischer*, 374 So. 2d 1379, 1381 (Fla. 1979). See also, *Eller v. Shova*, 630 So. 2d 537 (Fla. 1994) (increasing fellow worker exception in worker's compensation law from gross negligence to culpable negligence is constitutional).

opinions have held that a reduction in the statute of limitations is not unconstitutional if the claimant is given a reasonable amount of time to file the action.⁴⁵

As to retroactivity: Most bills apply prospectively to actions occurring after their effective date; however, the Legislature may pass a retroactive law unless prohibited. Section 3 of the bill states:

This act applies retroactively. However, this act does not apply in a civil action against a particular named health care provider which is commenced before the effective date of this act.

Legislation may not be applied retroactively if it “impairs vested rights, creates new obligations, or imposes new penalties.”⁴⁶ Therefore, if a court found that the bill did any of these prohibited things, the court would have to reject any retroactive application of the bill. However, a mere change to procedure such as requiring certain pleadings or changing the burden of proof may be applied retroactively to existing causes of action.⁴⁷

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The private sector fiscal impacts of this bill are indeterminate. If the effect of the bill is to codify what the courts would have found to be the common law of the state, then the bill will have a significant positive impact on the private sector in general through the avoidance of needless litigation and its attendant costs. If the effect of the bill is to limit lawsuits that otherwise would have yielded recoveries for injured parties, the bill will have a positive fiscal impact on the healthcare industry and a corresponding negative fiscal impact on injured individuals.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

⁴⁵ *Foley v. Morris*, 339 So. 2d 215 (Fla. 1976).

⁴⁶ *State Farm Mut. Auto. Ins. Co. v. Laforet*, 658 So. 2d 55, 61 (Fla. 1955).

⁴⁷ *Litvin v. St. Lucie County Sheriff's Department*, 599 So. 2d 1353 (Fla. 1st DCA 1992) (changing the burden of proof).

VIII. Statutes Affected:

This bill creates section 768.381 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.

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



978528

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
03/03/2021	.	
	.	
	.	
	.	

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

Senate Amendment

Delete line 180
and insert:
or assistance with daily living, except for an emergency medical
condition that arises during the course or as a result of the
health care provider's provision of nonessential elective
medical or surgical care; or



579524

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
03/03/2021	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 183 - 188.

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

And the title is amended as follows:

Delete lines 7 - 8

and insert:

such claims;



157912

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
03/03/2021	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 190 - 196
and insert:
claim against a health care provider must commence within 2
years after the later of the date of death due to COVID-19,
hospitalization related to COVID-19, or the first diagnosis of
COVID-19 which forms the basis of the action.



693446

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
03/03/2021	.	
	.	
	.	
	.	

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

Senate Amendment

Delete line 205
and insert:
whichever is later. This section does not apply to causes of
action brought against health care providers that have been
cited by a state or federal agency for more than one infection
prevention and control deficiency during any of the 3 years
preceding the date of the State Surgeon General's declaration of
the state public health emergency relating to COVID-19.

By Senator Brandes

24-01546B-21

202174__

A bill to be entitled

An act relating to COVID-19-related claims against health care providers; creating s. 768.381, F.S.; defining terms; providing preliminary procedures for civil actions based on COVID-19-related claims; providing the standard of proof required at trial for such claims; providing immunity from liability for COVID-19-related claims under certain circumstances; requiring COVID-19-related claims to commence within a specified timeframe; providing construction; providing applicability; providing severability; providing for retroactive application; providing an effective date.

WHEREAS, an outbreak of the disease known as COVID-19, which is caused by a novel coronavirus that was not previously found in humans, occurred in Hubei province, China, in late 2019, and has currently been detected in more than 89 countries, including the United States, and

WHEREAS, COVID-19 is a severe respiratory disease that can result in illness or death and is caused by the person-to-person spread of the novel coronavirus, and

WHEREAS, COVID-19, as a viral agent capable of causing extensive loss of life or serious disability, is deadly, and

WHEREAS, the transmission of COVID-19 is a threat to human health in this state, and

WHEREAS, the Secretary of the United States Department of Health and Human Services declared on January 31, 2020, that a public health emergency exists in the United States due to confirmed cases of COVID-19 in this country, and

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

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WHEREAS, on March 1, 2020, the State of Florida Department of Health, in coordination with Governor Ron DeSantis, first declared a public health emergency based on the spread of COVID-19, and

WHEREAS, the United States Centers for Disease Control and Prevention has issued health guidance to all state and local governments and all citizens, and

WHEREAS, in March 2020, the Centers for Medicare and Medicaid Services recommended the deferral of nonessential surgeries and other procedures, and

WHEREAS, the guidance from the Centers for Medicare and Medicaid Services to defer medical procedures was based in part on its recognition that the conservation of critical health care resources is essential, and

WHEREAS, on March 20, 2020, the Governor issued Executive Order 20-72, which prohibited health care providers "from providing any medically unnecessary, non-urgent or non-emergency procedure or surgery which, if delayed, does not place a patient's immediate health, safety, or well-being at risk, or will, if delayed, not contribute to the worsening of a serious or life-threatening medical condition," and

WHEREAS, on April 29, 2020, the Governor issued Executive Order 20-112, which allowed health care providers to perform procedures prohibited by the earlier order if the health care provider had adequate supplies of personal protective equipment and satisfied other conditions, and

WHEREAS, medical experts have been racing to develop vaccines and to learn how COVID-19 is transmitted and how best to treat those infected with the disease, and

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

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WHEREAS, the Federal Government, along with state and local governments, has sought to slow the spread of COVID-19 through travel bans and restrictions, quarantines, lockdowns, social distancing, and the closure of businesses or limitations on business activities, including limitations on the provision of medical services, and

WHEREAS, health care providers, including hospitals, doctors, nurses, and other health care facilities and workers, have struggled to acquire personal protective equipment and other supplies to protect against the risk of COVID-19 transmission and medications used in the treatment of the disease, and

WHEREAS, the circumstances of the COVID-19 pandemic have made it difficult or impossible for health care providers to maintain ideal levels of staffing, and

WHEREAS, health care providers are essential to the residents of this state's survival of the pandemic, and health care providers have continued to treat patients despite the potential, and still not fully known, risks of exposure to COVID-19, and

WHEREAS, while many actions may seem reasonable during the pandemic, some may attempt to construe these actions differently in hindsight when calm is restored, and

WHEREAS, as the pandemic continues and recovery begins, health care providers must be able to remain focused on serving the health care needs of their respective communities and not on the potential for unfounded lawsuits, and

WHEREAS, the Legislature finds that it is an overpowering public necessity to enact legislation that will deter unfounded

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lawsuits against health care providers based on COVID-19-related claims, while allowing meritorious claims to proceed, and

WHEREAS, the Legislature finds that it is necessary to require those filing lawsuits against health care providers to consider the extraordinary circumstances arising out of the public health emergency caused by the pandemic, NOW, THEREFORE,

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

Section 1. Section 768.381, Florida Statutes, is created to read:

768.381 COVID-19-related claims against health care providers.-

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

(a) "COVID-19" means the novel coronavirus identified as SARS-CoV-2; any disease caused by SARS-CoV-2, its viral fragments, or a virus mutating therefrom; and all conditions associated with the disease which are caused by SARS-CoV-2, its viral fragments, or a virus mutating therefrom.

(b) "COVID-19-related claim" means a civil liability claim, whether pled as negligence, breach of contract, or otherwise, against a health care provider which directly, indirectly, or in effect alleges that:

1. The health care provider failed to follow clinical authoritative or government-issued health standards or guidance relating to COVID-19;

2. The health care provider failed to properly interpret or apply the standards or guidance with respect to the provision of health care or related services, or lack thereof, or the

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 117 allocation of scarce resources, or assistance with daily living;

118 3. The health care provider was negligent in the provision
 119 of a novel or experimental COVID-19 treatment; or

120 4. In the absence of applicable standards and guidance
 121 specific to COVID-19, the health care provider failed to follow
 122 clinical authoritative or government-issued health standards or
 123 guidance relating to infectious diseases in preventing the
 124 transmission of COVID-19 or in diagnosing or treating a person
 125 for COVID-19.

126 (c) "Government-issued health standards or guidance" means
 127 any of the following that are related to COVID-19 or other
 128 infectious diseases and that describe the manner in which a
 129 health care provider must operate at the time of the alleged act
 130 or omission:

131 1. A federal, state, or local law, regulation, or
 132 ordinance;

133 2. A written order or other document published by a
 134 federal, state, or local government or regulatory body;

135 3. Standards or guidance issued by the Agency for Health
 136 Care Administration or the United States Centers for Disease
 137 Control and Prevention, the National Institutes of Health, the
 138 United States Food and Drug Administration, or the Centers for
 139 Medicare and Medicaid Services; or

140 4. Guidance issued by a clinical professional organization
 141 which was used by the Federal Government in developing a
 142 response to COVID-19.

143 (d) "Health care provider" means any of the following:

144 1. A provider as defined in s. 408.803.

145 2. A clinical laboratory providing services in this state

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 146 or services to health care providers in this state, if the
 147 clinical laboratory is certified by the Centers for Medicare and
 148 Medicaid Services under the federal Clinical Laboratory
 149 Improvement Amendments and the federal rules adopted thereunder.

150 3. A federally qualified health center as defined in 42
 151 U.S.C. s. 1396d(1)(2)(B), as that definition exists on the
 152 effective date of this act.

153 4. Any site providing health care services which was
 154 established for the purpose of responding to the COVID-19
 155 pandemic pursuant to any federal or state order, declaration, or
 156 waiver.

157 5. A health care practitioner as defined in s. 456.001.

158 6. A health care professional licensed under part IV of
 159 chapter 468.

160 7. A home health aide as defined in s. 400.462(15).

161 (2) PRELIMINARY PROCEDURES.—

162 (a) In any civil action against a health care provider
 163 based on a COVID-19-related claim, the complaint must be pled
 164 with particularity by alleging facts in sufficient detail to
 165 support each element of the claim. An affidavit of a physician
 166 is not required as part of the pleading.

167 (b) If the complaint is not pled with particularity, the
 168 court must dismiss the action.

169 (3) STANDARD OF PROOF.—A plaintiff who brings an action for
 170 a COVID-19-related claim against a health care provider must
 171 prove by the greater weight of the evidence that the health care
 172 provider was grossly negligent or engaged in intentional
 173 misconduct:

174 (a) By failing to substantially follow authoritative or

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175 applicable government-issued health standards or guidance
 176 relating to COVID-19;

177 (b) In interpreting or applying the standards or guidance
 178 with respect to the provision of health care or related
 179 services, or lack thereof, or the allocation of scarce resources
 180 or assistance with daily living; or

181 (c) In the provision of a novel or experimental COVID-19
 182 treatment.

183

184 A health care provider is immune from liability for a COVID-19-
 185 related claim if supplies, materials, equipment, or personnel
 186 necessary to comply with the applicable government-issued health
 187 standards or guidance at issue were not readily available or
 188 were not available at a reasonable cost.

189 (4) LIMITATIONS PERIOD.—An action for a COVID-19-related
 190 claim against a health care provider must commence within 1 year
 191 after the later of the date of death due to COVID-19,
 192 hospitalization related to COVID-19, or the first diagnosis of
 193 COVID-19 which forms the basis of the action. However, a
 194 claimant whose cause of action for a COVID-19-related claim
 195 accrued before the effective date of this act must commence such
 196 action within 1 year after the effective date of this act.

197 (5) CONFLICTING LAWS.—This section shall prevail over any
 198 conflicting provisions of law to the extent of the conflict,
 199 except for claims brought under chapter 440.

200 (6) APPLICABILITY.—This section applies to causes of action
 201 that accrue no later than 1 year after the termination or
 202 expiration of the state public health emergency relating to
 203 COVID-19 which was declared by the State Surgeon General or any

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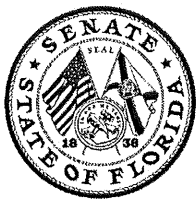
202174__

204 nationwide emergency declaration by the Federal Government,
 205 whichever is later.

206 Section 2. If any provision of this act or its application
 207 to any person or circumstance is held invalid, the invalidity
 208 does not affect other provisions or applications of the act
 209 which can be given effect without the invalid provision or
 210 application, and to this end the provisions of this act are
 211 severable.

212 Section 3. This act applies retroactively. However, this
 213 act does not apply in a civil action against a particular named
 214 health care provider which is commenced before the effective
 215 date of this act.

216 Section 4. This act shall take effect upon becoming a law.



The Florida Senate

Committee Agenda Request

To: Senator Manny Diaz, Chair
Committee on Health Policy

Subject: Committee Agenda Request

Date: February 18, 2021

I respectfully request that **Senate Bill # 74**, relating to COVID-19-related Claims against Health Care Providers, be placed on the:

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

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

Senator Jeff Brandes
Florida Senate, District 24

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

Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

3-3-21

Meeting Date

74

Bill Number (if applicable)

978528

Amendment Barcode (if applicable)

Topic COVID-19 Claims Immunity Amendment 978528

Name Susan McGrath

Job Title Executive Director

Address 740 4th St N Suite 236

Street

St. Petersburg

City

FL

State

33701

Zip

Phone 727-327-2400

Email susan@fcan.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Consumer Action Network

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

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

THE FLORIDA SENATE

APPEARANCE RECORD

March 3, 2021

Meeting Date

SB 74

Bill Number (if applicable)

978528

Amendment Barcode (if applicable)

Topic COVID-19-related Claims Against Health Care Providers

Name Stephen Cain

Job Title Attorney

Address One Southeast Third Avenue, Suite 3000

Phone 305-358-6644

Street

Miami

FL

33131

Email scain@stfbllaw.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Justice 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 not to be used for the purpose of recording testimony.

CS-004 (4/01/14)

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

THE FLORIDA SENATE

APPEARANCE RECORD

March 3, 2021

Meeting Date

SB 74

Bill Number (if applicable)

978528

Amendment Barcode (if applicable)

Topic COVID-19-related Claims Against Health Care Providers

Name Steve Watrel

Job Title Attorney

Address 6129 Atlantic Boulevard

Street

Jacksonville

City

FL

State

32211

Zip

Phone 904-356-6071

Email sw@cokerlaw.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida nursing home residents

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)

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

THE FLORIDA SENATE

APPEARANCE RECORD

03/03/2021

Meeting Date

74

Bill Number (if applicable)

978528

Amendment Barcode (if applicable)

Topic _____

Name David Mica, Jr.

Job Title Executive Vice President of Public Affairs

Address _____

Street

Phone _____

City

State

Zip

Email davidm@fha.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Hospital 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)

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

THE FLORIDA SENATE

APPEARANCE RECORD

3/3/21

Meeting Date

SB 74

Bill Number (if applicable)

978528

Amendment Barcode (if applicable)

Topic SB 74 - COVID-19 Related Claims Against Health Care Providers

Name TOBY PHILPOT

Job Title Director Government Affairs

Address 307 W. Park Avenue

Street

Tallahassee

City

FL

State

32301

Zip

Phone 352-318-2008

Email tphilpot@fhca.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Health Care 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)

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

Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

03.03.21

Meeting Date

74

Bill Number (if applicable)

579524

Amendment Barcode (if applicable)

Topic COVID-19-related Claims Against Health Care Providers

Name Robin N. Khanal

Job Title

Address 255 South Orange Avenue - Suite 900

Street

Orlando

City

FL

State

32801

Zip

Phone (407) 872-6011

Email rkhanal@qpwbllaw.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

3-3-21

Meeting Date

74

Bill Number (if applicable)

579524

Amendment Barcode (if applicable)

Topic COVID-19 Claims Immunity Amendment 579524

Name Susan McGrath

Job Title Executive Director

Address 740 4th St N Suite 236

Street

St. Petersburg

City

FL

State

33701

Zip

Phone 727-327-2400

Email susan@fcan.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Consumer Action Network

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

Print name of person who will read this information into the record.

CS-001 (4/01/14) (14)

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

Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

3/3/21

Meeting Date

SB 74

Bill Number (if applicable)

579524

Amendment Barcode (if applicable)

Topic SB 74 - COVID-19 Related Claims Against Health Care Providers

Name TOBY PHILPOT

Job Title Director Government Affairs

Address 307 W. Park Avenue

Street

Tallahassee

City

FL

State

32301

Zip

Phone 352-318-2008

Email tphilpot@fhca.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Health Care Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

03/03/2021

Meeting Date

74

Bill Number (if applicable)

579524

Amendment Barcode (if applicable)

Topic _____

Name David Mica, Jr.

Job Title Executive Vice President of Public Affairs

Address _____

Street

Phone _____

City

State

Zip

Email davidm@fha.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Hospital Association

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

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

THE FLORIDA SENATE

APPEARANCE RECORD

March 3, 2021

Meeting Date

SB 74

Bill Number (if applicable)

579524

Amendment Barcode (if applicable)

Topic COVID-19-related Claims Against Health Care Providers

Name Steve Watrel

Job Title Attorney

Address 6129 Atlantic Boulevard

Street

Jacksonville

City

FL

State

32211

Zip

Phone 904-356-6071

Email sw@cokerlaw.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida nursing home residents

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)

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THE FLORIDA SENATE

APPEARANCE RECORD

March 3, 2021

Meeting Date

SB 74

Bill Number (if applicable)

579524

Topic COVID-19-related Claims Against Health Care Providers

Amendment Barcode (if applicable)

Name Stephen Cain

Job Title Attorney

Address One Southeast Third Avenue, Suite 3000

Phone 305-358-6644

Street

Miami

FL

33131

Email scain@stfblaw.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Justice 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)

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

THE FLORIDA SENATE

APPEARANCE RECORD

March 3, 2021

Meeting Date

SB 74

Bill Number (if applicable)

157912

Topic COVID-19-related Claims Against Health Care Providers

Amendment Barcode (if applicable)

Name Stephen Cain

Job Title Attorney

Address One Southeast Third Avenue, Suite 3000

Phone 305-358-6644

Street

Miami

FL

33131

Email scain@stfblaw.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Justice 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 to be filed for this meeting.

S-001 (10/14/14)

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

THE FLORIDA SENATE

APPEARANCE RECORD

3-3-21

Meeting Date

74

Bill Number (if applicable)

157912

Amendment Barcode (if applicable)

Topic COVID-19 Claims Immunity - Amendment 157912

Name Susan McGrath

Job Title Executive Director

Address 740 4th St N Suite 236

Street

St. Petersburg

City

FL

State

33701

Zip

Phone 727-327-2400

Email susan@fcan.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Consumer Action Network

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

SENATE / 10/14/11

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

THE FLORIDA SENATE

APPEARANCE RECORD

3/3/21

Meeting Date

SB 74

Bill Number (if applicable)

157912

Amendment Barcode (if applicable)

Topic SB 74 - COVID-19 Related Claims Against Health Care Providers

Name TOBY PHILPOT

Job Title Director Government Affairs

Address 307 W. Park Avenue

Street

Tallahassee

City

FL

State

32301

Zip

Phone 352-318-2008

Email tphilpot@fhca.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Health Care Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S 001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

03/03/2021

Meeting Date

74

Bill Number (if applicable)

157912

Amendment Barcode (if applicable)

Topic _____

Name David Mica, Jr.

Job Title Executive Vice President of Public Affairs

Address _____
Street

Phone _____

City

State

Zip

Email davidm@fha.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Hospital Association

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

March 3, 2021

Meeting Date

SB 74

Bill Number (if applicable)

157912

Amendment Barcode (if applicable)

Topic COVID-19-related Claims Against Health Care Providers

Name Steve Watrel

Job Title Attorney

Address 6129 Atlantic Boulevard

Street

Jacksonville

City

FL

State

32211

Zip

Phone 904-356-6071

Email sw@cokerlaw.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida nursing home residents

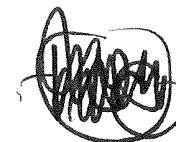
Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)



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THE FLORIDA SENATE

APPEARANCE RECORD

03.03.21

Meeting Date

74

Bill Number (if applicable)

157912

Amendment Barcode (if applicable)

Topic COVID-19-related Claims Against Health Care Providers

Name Robin N. Khanal

Job Title _____

Address 255 South Orange Avenue - Suite 900

Phone (407) 872-6011

Street

Orlando

FL

32801

Email rkhanal@qpwbllaw.com

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

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

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

March 3, 2021

Meeting Date

SB 74

Bill Number (if applicable)

693446

Amendment Barcode (if applicable)

Topic COVID-19-related Claims Against Health Care Providers

Name Steve Watrel

Job Title Attorney

Address 6129 Atlantic Boulevard

Street

Jacksonville

City

FL

State

32211

Zip

Phone 904-356-6071

Email sw@cokerlaw.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida nursing home residents

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

03.03.21

Meeting Date

74

Bill Number (if applicable)

693446

Amendment Barcode (if applicable)

Topic COVID-19-related Claims Against Health Care Providers

Name Robin N. Khanal

Job Title _____

Address 255 South Orange Avenue - Suite 900

Street

Orlando

City

FL

State

32801

Zip

Phone (407) 872-6011

Email rkhanal@qpwbllaw.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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SENATE (4/01/14)

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

THE FLORIDA SENATE

APPEARANCE RECORD

March 3, 2021

Meeting Date

SB 74

Bill Number (if applicable)

693446

Amendment Barcode (if applicable)

Topic COVID-19-related Claims Against Health Care Providers

Name Stephen Cain

Job Title Attorney

Address One Southeast Third Avenue, Suite 3000

Street

Miami

City

FL

State

33131

Zip

Phone 305-358-6644

Email scain@stfblaw.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Justice Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

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

Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

3/3/21

Meeting Date

SB 74

Bill Number (if applicable)

693446

Amendment Barcode (if applicable)

Topic SB 74 - COVID-19 Related Claims Against Health Care Providers

Name TOBY PHILPOT

Job Title Director Government Affairs

Address 307 W. Park Avenue

Street

Tallahassee

City

FL

State

32301

Zip

Phone 352-318-2008

Email tphilpot@fhca.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Health Care Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

03/03/2021

Meeting Date

74

Bill Number (if applicable)

693446

Amendment Barcode (if applicable)

Topic _____

Name David Mica, Jr.

Job Title Executive Vice President of Public Affairs

Address _____
Street

Phone _____

City *State* *Zip*

Email davidm@fha.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Hospital Association

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

3-3-21

Meeting Date

74

Bill Number (if applicable)

693466

Amendment Barcode (if applicable)

Topic COVID-19 Claims Immunity - Amendment 693466

Name Susan McGrath

Job Title Executive Director

Address 740 4th St N Suite 236

Street

St. Petersburg

City

FL

State

33701

Zip

Phone 727-327-2400

Email susan@fcan.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Consumer Action Network

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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Duplicate

THE FLORIDA SENATE
APPEARANCE RECORD

3/3/2021

Meeting Date

74

Bill Number (if applicable)

693446, 978528, 579524, 157912

Amendment Barcode (if applicable)

Topic Covid Related Claims Against Health Care Providers

Name Mark Delegal

Job Title Partner

Address 201 E Park Avenue, Suite 200B

Street

Tallahassee

FL

32301

City

State

Zip

Phone 850-508-7779

Email mark@dacfl.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing The Doctors Company; MAG Mutual, ProAssurance

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

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

Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

3/3/21

Meeting Date

SB 74

Bill Number (if applicable)

Topic SB 74 - COVID-19 Related Claims Against Health Care Providers

Amendment Barcode (if applicable)

Name TOBY PHILPOT

Job Title Director of Government Affairs

Address 307 W. Park Avenue

Street

Tallahassee

FL

32301

City

State

Zip

Phone 352-318-2008

Email tphilpot@fhca.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Health Care 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)

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

THE FLORIDA SENATE

APPEARANCE RECORD

3-3-21

Meeting Date

74

Bill Number (if applicable)

Topic COVID-19-related Claims Against Health Care Providers

Amendment Barcode (if applicable)

Name Susan McGrath

Job Title Executive Director

Address 740 4th St N Suite 236

Phone 727-327-2400

Street

St. Petersburg

FL

33701

Email susan@fcan.org

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Consumer Action Network

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/3/2021

Meeting Date

74

Bill Number (if applicable)

Topic COVID-19-related claims Against Health Care Providers

Amendment Barcode (if applicable)

Name Tim Parson

Job Title Director of Government Relations

Address 113 E. College Avenue

Street

Phone 850-910-2678

Tallahassee FL 32301

City

State

Zip

Email tim@libertypartnersfl.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Assisted Living Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/3/21
Meeting Date

74
Bill Number (if applicable)

Topic Covid Liability

Amendment Barcode (if applicable)

Name Ida V. Eskamani

Job Title _____

Address _____
Street

Phone _____

City

State

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Rising

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

Health Policy - 12pm

THE FLORIDA SENATE

APPEARANCE RECORD

March 3, 2021

Meeting Date

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

SB 74

Bill Number (if applicable)

Topic COVID-19 related claims against health care providers

Amendment Barcode (if applicable)

Name Paul Ledford

Job Title Executive Director, Pres. & CEO

Address 817 N. Gadsden Street

Phone 850-878-2632

Street

Tallahassee

FL

32303

City

State

Zip

Email paul@floridahospices.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Hospice & Palliative Care 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)

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

Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

3/3/21

Meeting Date

74

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name Tim Nungesser

Job Title Legislative Director

Address 110 East Jefferson Street

Phone 850-445-5367

Street

Tallahassee

FL

32301

Email Tim.nungesser@nfib.org

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing NFIB

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

03 Mar 2021
Meeting Date

74
Bill Number (if applicable)

Topic Health Care Civil Liability

—
Amendment Barcode (if applicable)

Name Matthew Holliday

Job Title Dir. Government Rel.

Address 350 2nd Street North
Street

Phone 239-826-7864

Naples
City

FL
State

34102
Zip

Email matthew.holliday@nchmd.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing NCH Healthcare System

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

3-3-21
Meeting Date

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

SB 74
Bill Number (if applicable)

Topic SB 74

Amendment Barcode (if applicable)

Name Michael Cusick

Job Title _____

Address 200 W College Avenue
Street

Phone (850) 222-5620

Tallahassee
City

FL
State

32301
Zip

Email mike@michaelsusick.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Society of Ambulatory Surgery Centers

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

SB 074
Bill Number (if applicable)

Topic Pandemic Liability

Amendment Barcode (if applicable) _____

Name Ken Kneppmann

Job Title Associate for Health

Address 201 W Park

Phone 850-510-0552

Street Tallahassee
City State Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Conference Catholic Bishops

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

3/3/21

Meeting Date

74

Bill Number (if applicable)

Topic COVID-19 Related Claims Against Health Care Facilities

Amendment Barcode (if applicable)

Name Carolyn Johnson

Job Title Senior Policy Director

Address 136 S Bronough St

Street

Phone 850-521-1200

Tallahassee

FL

32301

City

State

Zip

Email cjohnson@flchamber.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Chamber of Commerce

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

Wed. 12pm

THE FLORIDA SENATE

APPEARANCE RECORD

3/3/21

Meeting Date

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

74

Bill Number (if applicable)

Topic COVID-19 Liability for Healthcare Workers

Amendment Barcode (if applicable)

Name Steve Winn

Job Title Exec. Director

Address 2544 Blairstone Pines Dr.

Street

Phone 878-3056

Tallahassee

City

FL

State

32301

Zip

Email winnsr@earthlink.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Osteopathic Medical Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

3/3/21

Meeting Date

SB 74

Bill Number (if applicable)

Topic COVID-19-related Claims Against Health Care Providers Amendment Barcode (if applicable)

Name Joc Anne Hart

Job Title Chief Legislative Officer

Address 118 East Jefferson Street
Street

Phone 850.224.1089

Tallahassee FL 32301
City State Zip

Email johart@floridadental.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Dental Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

3/3/21

Meeting Date

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

74

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Jared Willis

Job Title Gov Affairs Mgr - Strategos

Address 200 W College Ave Ste 201

Street

Tallahassee

City

FL

State

32301

Zip

Phone 850-284-1996

Email jwillis@strategosgroup.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Nemours Foundation

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

03.03.21

Meeting Date

74

Bill Number (if applicable)

Topic COVID-19-related Claims Against Health Care Providers

Amendment Barcode (if applicable)

Name William Large

Job Title President

Address 210 South Monroe Street

Phone (850) 222-0170

Street

Tallahassee

FL

32301

Email William@fljustice.org

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Justice Reform Institute

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

3/3/21

Meeting Date

74

Bill Number (if applicable)

Topic Assisted Living Facilities

Amendment Barcode (if applicable)

Name Jason Hand

Job Title Vice President of Public Policy

Address 2292 Wednesday Street, Suite 1

Phone 850-443-0024

Street

Tallahassee

FL

32309

City

State

Zip

Email jhand@floridaseniorliving.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Senior Living Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

March 3, 2021

Meeting Date

SB 74

Bill Number (if applicable)

Topic COVID-19-related Claims Against Health Care Providers

Amendment Barcode (if applicable)

Name Stephen Cain

Job Title Attorney

Address One Southeast Third Avenue, Suite 3000

Phone 305-358-6644

Street

Miami

FL

33131

Email scain@stfbllaw.com

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Justice Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

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

Duplicate

THE FLORIDA SENATE
APPEARANCE RECORD

3/3/2021

Meeting Date

74

Bill Number (if applicable)

Topic Covid Related Claims Against Health Care Providers

Amendment Barcode (if applicable)

Name Mark Delegal

Job Title Partner

Address 201 E Park Avenue, Suite 200B

Phone 850-508-7779

Street

Tallahassee

FL

32301

Email mark@dacfl.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing The Doctors Company; MAG Mutual, ProAssurance

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-3-21
Meeting Date

74
Bill Number (if applicable)

Topic COVID Immunity

Amendment Barcode (if applicable)

Name Barbara DeVane

Job Title _____

Address 625 E. Brevard St
Street

Phone 251-4280

Tallahassee FL 32308
City State Zip

Email barbadevane1@yahoo.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing FL NOW and FL Alliance for Retired Americans

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

3/3/21

Meeting Date

SB 74

Bill Number (if applicable)

Topic SB 74 - COVID-19 Related Claims Against Health Care Providers

Amendment Barcode (if applicable)

Name Kim Biegasiewicz

Job Title Chief Nursing Officer

Address 5900 Lake Ellenor Drive - Suite 700A

Phone 954-319-7778

Street

Orlando

FL

32809

City

State

Zip

Email kbiegasiewicz@avantegroup.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Health Care Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/3
Meeting Date

SB 74
Bill Number (if applicable)

Topic Liability

Amendment Barcode (if applicable)

Name Dr. Rick Templin

Job Title _____

Address 135 S. Monroe

Phone 224 - 6926

Street

Tallahassee

FL

32303

City

State

Zip

Email _____

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida AFL-CIO

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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THE FLORIDA SENATE

APPEARANCE RECORD

3/3/21

Meeting Date

74

Bill Number (if applicable)

Topic COVID-19-related Claims Against Health Care Providers

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior Vice President

Address 516 N Adams St

Phone 221-7173

Street

Tallahassee

FL

32312

Email bbevis@aif.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Associated Industries of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

March 3, 2021

Meeting Date

SB 74

Bill Number (if applicable)

Topic COVID-19-related Claims Against Health Care Providers

Amendment Barcode (if applicable)

Name Steve Watrel

Job Title Attorney

Address 6129 Atlantic Boulevard

Street

Phone 904-356-6071

Jacksonville

FL

32211

City

State

Zip

Email sw@cokerlaw.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida nursing home residents

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

03/03/2021

Meeting Date

74

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name David Mica, Jr.

Job Title Executive Vice President of Public Affairs

Address _____
Street

Phone _____

City

State

Zip

Email davidm@fha.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Hospital Association

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

3-3-21

Meeting Date

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

SB 74

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name

Charles J. Chase, D.O.

Job Title

Physician Anesthesiologist

Address

2065 Venetian Way

Street

Phone 407-947-1954

Winter Park FL 32789

City

State

Zip

Email zzzchase@yahoo.com

Speaking:



For



Against



Information

Waive Speaking:



In Support



Against

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

Representing

Florida Medical Association

Appearing at request of Chair:



Yes



No

Lobbyist registered with Legislature:



Yes



No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

03.03.21

Meeting Date

74

Bill Number (if applicable)

Topic COVID-19-related Claims Against Health Care Providers

Amendment Barcode (if applicable)

Name Robin N. Khanal

Job Title

Address 255 South Orange Avenue - Suite 900

Phone (407) 872-6011

Street

Orlando

FL

32801

Email rkhanal@qpwbllaw.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/3/21

Meeting Date

74

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Chris Nuland

Job Title 4427 Herschel St

Address _____

Phone 904-233-3051

Street

Jacksonville, FL 32210

City

State

Zip

Email nulandlaw@aol.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Chapter, American College of Physicians

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

March 3, 2021

Meeting Date

Bill Number (if applicable)

Topic SB 74

Amendment Barcode (if applicable)

Name Andrew Shirvell

Job Title Executive Director

Address PO Box 12152

Street

Tallahassee FL 32317

City

State

Zip

Phone (386) 569-0563

Email andrew@floridavoice.com
For the unborn.com

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Florida Voice For the Unborn

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

3/3/21

Meeting Date

SB 74

Bill Number (if applicable)

Topic COVID-19-related Claims Against Health Care Providers

Amendment Barcode (if applicable)

Name Steve Bahmer

Job Title President/CEO

Address 1812 Riggins Road

Street

Tallahassee

City

FL

State

32308

Zip

Phone 850/671-3700

Email sbahmer@leadingageflorida.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing LeadingAgeFlorida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

March 3 2021

Meeting Date

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

SB74

Bill Number (if applicable)

Topic

Covid19 Claims Against Health

Amendment Barcode (if applicable)

Name

David Sendak

Core France

Job Title

Retired Citizen of FL

Address

66 Wintergreen Dr

Phone

352 805 6597

Street

Fruitland Park FL

State

Zip

34731

Email

golferdave1955@gmail.com

City

Speaking: ☐ For ☐ Against ☒ Information

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

Representing

Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

SB 74
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Cliff Bauer

Job Title VP

Address 5200 NE 2nd

Phone 954-465-7431

Street

Miami
City

FL
State

33137
Zip

Email cbauer@miami

Jewish health org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Miami Jewish health

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

This form is part of the public record for this meeting

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1154

INTRODUCER: Senator Bean

SUBJECT: Hormonal Long-acting Reversible Contraception Program

DATE: March 2, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Brown	HP	Pre-meeting
2.			AHS	
3.			AP	

I. Summary:

SB 1154 creates the Hormonal Long-acting Reversible Contraception (HLARC) Program within the Department of Health (DOH). The bill directs the DOH to contract with eligible family planning providers to implement the program statewide, and it provides requirements that must be followed during implementation.

The bill directs the Legislature to make annual appropriations from the General Revenue Fund to the DOH for operation of the program, and it provides that funds appropriated under the bill may not supplant or reduce any other appropriation of state funds to family planning providers or to the DOH for family planning services. The bill also directs the DOH to seek grants from federal agencies and other sources to supplement state funds for the program.

The bill requires that by January 1, 2022, and annually thereafter, the DOH must submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the effectiveness of the program and directs the DOH to publish the report on its website.

The bill provides that the Legislature finds enactment of the bill to be necessary to protect the public health, safety, and welfare.

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:

Unintended Pregnancy Rates

After a long period of little to no change in the unintended pregnancy rate, a study published in *The New England Journal of Medicine* in 2016 showed that the rate changed significantly in the United States in the time period between 2008 and 2011.¹ In 2008, the rate of unintended pregnancy was 54 per 1,000 women and girls aged 15 to 44. By 2011, this rate had declined by 18 percent to 45 unintended pregnancies for 1,000 women and girls aged 15 to 44.² The study's authors noted that this was the first substantial decline in the unintended pregnancy rate since at least 1981, and declines were recorded in all racial and ethnic groups.³ The authors attributed the likely cause for the decline predominantly to the change in the type and frequency of contraception used over time, noting that use of long-acting methods, such as intrauterine devices (IUD), had grown in popularity during that span from 4 percent to 12 percent across almost all demographic groups.⁴

In the United States for 2011, approximately 45 percent of all pregnancies were unintended.⁵ Adolescents especially use contraceptive methods with relatively higher failure rates, such as condoms, withdrawal, or oral contraceptive pills.⁶

In 2010, nearly 9 million women received family planning services from publicly supported providers nationwide.⁷ A study by the *Guttmacher Institute* determined that such services resulted in net savings to the public of \$10.5 billion in 2010.⁸ Averted costs included unintended pregnancies prevented, sexually transmitted diseases treated early or averted, HIV testing costs and preventive care, and cervical cancer testing and prevention screenings. For every public dollar spent, it was estimated that \$7.09 was saved.⁹

¹ Lawrence B. Finer, Ph.D., and Mia R. Zolna, M.P.H., *Declines in Unintended Pregnancy in the United States, 2008-2011*, *NEW ENG. J. MED.* 2016; 374; 843-852, available at <https://www.nejm.org/doi/full/10.1056/NEJMsa1506575> (last visited March 1, 2021).

² *Id.*, at 843.

³ *Id.*, at 847.

⁴ *Id.*, at 851.

⁵ *Id.*, at 843.

⁶ American College of Obstetricians and Gynecologists, *Committee Opinion: Adolescents and Long-Acting Reversible Contraception: Implants and Intrauterine Devices*, (October 2012), available at <https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2018/05/adolescents-and-long-acting-reversible-contraception-implants-and-intrauterine-devices> (last visited March 1, 2021).

⁷ Jennifer J. Frost, et al, *Return on Investment: A Fuller Assessment of the Benefits and Cost Savings of the U.S. Publicly Funded Family Planning Program, Original Investigation*, *The Millbank Quarterly*, Vol. 92, No. 4, 2014 (pp. 667-720), available at <https://onlinelibrary.wiley.com/doi/epdf/10.1111/1468-0009.12080> (last visited March 1, 2021).

⁸ *Id.*, at 669.

⁹ *Id.*, at 696.

Health Risks Associated with Unintended Pregnancies

Unintended pregnancies may pose certain health risks. Prenatal care may be neglected or forgone entirely because unintended pregnancies are often a surprise. Births resulting from unintended pregnancies correlate to adverse health outcomes for mother and baby, including:¹⁰

- Low birthweight.
- Shorter duration of breastfeeding.
- Increased risk of postpartum depression and parenting stress.
- Negative physical and mental impacts for children, such as poor development and potential behavioral health issues.

Teen Pregnancies and Births in Florida

Florida's birth rate for teens aged 15-19 years has declined markedly since 2011, dropping from 28.7 births per 1,000 females to 16.2 per 1,000 in 2019. Approximately 4.3 percent (9,541) of 2019's live births (220,010) in Florida were to teenagers 15-19 years of age. This represents a 2.9-percent decline from the 9,828 births to teen mothers ages 15-19 in 2018 and is 31.6 percent lower than the number of births in this age group (13,956) in 2013.¹¹

Types of Long Acting Reversible Birth Control Methods

Long-acting reversible contraception (LARC) methods are the most effective forms of reversible birth control available, with fewer than one in 100 women using a LARC method becoming pregnant, the same range as for sterilization.¹² LARC methods include an IUD or a birth control implant. Both methods last for several years, are reversible, and can be removed at any time.

IUD

An IUD is a small, T-shaped, plastic device that is inserted and left inside the uterus. There are two types of IUDs:

- The hormonal IUD releases progestin¹³ and is approved for up to five years.
- The copper IUD does not contain hormones and is approved for up to 10 years.¹⁴

¹⁰ America's Health Rankings, *Health of Women and Children: Unintended Pregnancy*, available at https://www.americashealthrankings.org/explore/health-of-women-and-children/measure/unintended_pregnancy/state/U.S. (last visited Feb. 26, 2021).

¹¹ Department of Health, *Senate Bill 1154 Fiscal Analysis* (Mar. 1, 2021) (on file with the Senate Committee on Health Care).

¹² American College of Obstetricians and Gynecologists, *ACOG Practice Bulletin: Clinical Management Guidelines for Obstetrician-Gynecologists: Long Acting Reversible Contraception: Implants and Intrauterine Devices* (Number 186, November 2017, Replaces Practice Bulletin Number 121, July 2011), available at <https://www.acog.org/Clinical-Guidance-and-Publications/Practice-Bulletins/Committee-on-Practice-Bulletins-Gynecology/Long-Acting-Reversible-Contraception-Implants-and-Intrauterine-Devices> (last visited March 1, 2021).

¹³ Progestins are synthetic forms of the body's naturally-occurring hormone progesterone. Progestins were designed to interact with progesterone receptors in the body in order to cause progesterone-like effects. Progestins are present in all forms of hormonal birth control, either alone in progestin-only methods (like implants and hormonal IUDs) or with estrogen in combined hormonal birth control (like most birth control pills). See: <https://hellocue.com/articles/sex/progestins-101> (last visited Feb. 26, 2021).

¹⁴ American College of Obstetricians and Gynecologists, *supra*, note 12.

Implant

The birth control implant is a single flexible rod about the size of a matchstick that is inserted in the upper arm under the skin and releases progestin. The implant is typically designed to last three years.

Both the IUD and the implant may be placed or removed by a health care provider. There are few side effects to either method, and almost all women are eligible for an IUD or implant.¹⁵

While being cost-effective over the long-term, the high up-front costs of the LARC methods may be a barrier to widespread use, as the wholesale cost of an IUD or implant can be as high as \$1600, plus the cost of insertion.¹⁶

In February 2015, the federal Food and Drug Administration approved a new IUD, Liletta, which was developed by a non-profit organization and was originally made available by that organization to public clinics for as low as \$50, a savings to the clinics of more than \$700.¹⁷ A Liletta patient savings card is available for qualified patients who may not qualify for services in the clinics or county health departments allowing the patient to pay \$100 for a Liletta IUD.¹⁸

Most insurance plans under the federal Patient Protection and Affordable Care Act and Medicaid cover contraception and the associated services with no out-of-pocket costs; however, individuals without insurance coverage may face other financial hurdles such as high out of pocket costs or transportation issues.

The American College of Obstetricians and Gynecologists also recognized these as barriers to the widespread use of LARC methods, by adolescents in particular, in its updated *Committee on Adolescent Health Care Long-Acting Reversible Contraception Working Group* opinion document in May 2018. Also cited in that document are concerns with a provider's own lack of familiarity with or misconceptions about the methods, access issues, and a provider's concerns about the safety of LARC methods in adolescents (ages 9-11).¹⁹

Women aged 25-34 and women who have already had at least one child use a LARC method at the highest rates.²⁰ Adolescents are at high risk of unintended pregnancy and may benefit from

¹⁵ Brooke Winner, et al., *Effectiveness of Long-Acting Reversible Contraception*, N ENGL J MED 366; 21, nejm.org, May 24, 2012.

¹⁶ Bhadra Shah, M.D., *How Much Does an IUD Cost Without Insurance?* available at <https://spendonhealth.com/iud-cost-without-insurance/> (last visited March 1, 2021).

¹⁷ Karen Weise, *Warren Buffett's Family Secretly Funded a Birth Control Revolution*, Bloomberg Business (July 30, 2015), available at <http://www.bloomberg.com/news/articles/2015-07-30/warren-buffett-s-family-secretly-funded-a-birth-control-revolution> (last visited March 1, 2021).

¹⁸ Liletta Patient Savings Program, available at <https://www.liletta.com/acquiring/savings-card> (last visited Feb. 25, 2021).

¹⁹ American College of Obstetricians and Gynecologists, *supra*, note 12, at 2.

²⁰ Amy Branum, M.S.P.H, Ph.D., and Jo Jones, Ph.D., U.S. Department of Health and Human Services, Centers for Disease Control, National Center for Health Statistics, *Trends in Long-Acting Reversible Contraception Use Among U.S. Women Aged 15-44 (February 2015)* available at <https://www.cdc.gov/nchs/data/databriefs/db188.pdf> (last visited March 1, 2021).

increased access to LARC methods.²¹ For example, adolescents are more than twice as likely as women aged 30 or older to experience a birth control pill failure.²²

Title X Family Planning

The federal Title X Family Planning Program is a grant program created in 1970 for low-income patients to receive family planning and reproductive health services. Named for Title X of the Social Security Act, it funds services including contraception, testing and treatment for sexually transmitted infections, and breast and cervical cancer screenings. Title X regulations prohibit funds from being used for abortion care, though health centers that provide abortions have received Title X funds.

Title X is administered by the U.S. Department of Health and Human Services, Office of Population Affairs. The program is implemented through grants to over 3,500 clinical sites, including public health departments and not-for-profit health centers.²³

Title V Maternal and Child Health (MCH) Block Grant Program

The MCH is one of the largest federal block grant programs, and the program's funding, under Title V of the Social Security Act, is a major source of support for promoting and improving the health and well-being of mothers, children, and their families. In 2019, the MCH funded 59 states and jurisdictions to provide health care and public health services for an estimated 60 million people. Services reached 92 percent of all pregnant women, 98 percent of infants, and 60 percent of children nationwide, including children with special health care needs.²⁴

State maternal and child health agencies, which are usually located within a state health department, apply annually for Title V funding. States have flexibility in how Title V funds are used to support a wide range of activities that address state and national needs. States and jurisdictions must match every \$4 of federal Title V money that they receive by at least \$3 of state and/or local money.²⁵

The DOH Family Planning Program

Under s. 381.0051, F.S., known as the “Comprehensive Family Planning Act,” (Act) the DOH provides family planning services through its Family Planning Program.

²¹ American College of Obstetricians and Gynecologists, *supra*, note 6, at 1.

²² Heather D. Boonstra, *Leveling the Playing Field: The Promise of Long-Acting Reversible Contraceptives for Adolescents*, Guttmacher Policy Review, Vol. 16, p. 14, available at <https://www.guttmacher.org/pubs/gpr/16/4/gpr160413.html> (last visited March 1, 2021).

²³ Physicians for Reproductive Health, *Title X Explainer*, available at <https://prh.org/what-is-title-x-an-explainer/> (last visited March 1, 2021).

²⁴ Health Resources & Services Administration, *Title V Maternal and Child Health Services Block Grant Program*, available at <https://mchb.hrsa.gov/maternal-child-health-initiatives/title-v-maternal-and-child-health-services-block-grant-program> (last visited March 1, 2021).

²⁵ *Id.*

The Act directs the DOH to implement a comprehensive family planning program designed to include, but not be limited to:²⁶

- Comprehensive family planning education and counseling programs.
- Prescriptions for and provision of all medically recognized methods of contraception.
- Medical evaluation.
- Treatment of physical complications other than pregnancy resulting from the use of contraceptive methods.
- Provision of services at locations and times readily available to the population served.
- Emphasis and stress on service to postpartum mothers.

Services available from the DOH include pregnancy testing and counseling; physical examinations; and screening for hypertension, breast and cervical cancer, and sexually transmitted diseases, including HIV counseling and testing. Counseling and education for health promotion and disease prevention is also available. Abstinence counseling is available to all who want and are in need of services. Follow-up and referral services are offered based on the individual's history and need for medical or social services.²⁷

Under the Act, the program must make services available to all persons seeking such services, subject to the provisions of the Act, at a cost based on a fee schedule prepared and published by the DOH. Fees must be based on the cost of service and a person's ability to pay.²⁸ Priority is given to persons from low-income families. Services are provided on a sliding fee scale, based on family household income and size. Persons determined to have incomes of 100 percent or less of poverty do not pay fees for services.²⁹

The Act provides that maternal health and contraceptive information and services of a nonsurgical nature may be rendered to any minor by a physician licensed under ch. 458 or ch. 459, F.S., as well as by the DOH through the family planning program, if the minor:³⁰

- Is married;
- Is a parent;
- Is pregnant;
- Has the consent of a parent or legal guardian; or
- May, in the opinion of the physician, suffer probable health hazards if such services are not provided.

Under the Act, the application of nonpermanent, internal contraceptive device such as a LARC device is specifically deemed to not be a surgical procedure.³¹

The DOH provides services through the program, including the provision of LARC devices, in all 67 counties in Florida. The provision of services is supported by the Title X federal grant and,

²⁶ Section 381.0051(3)(a), F.S.

²⁷ Florida Dept. of Health, *Family Planning*, available at <http://www.floridahealth.gov/programs-and-services/womens-health/family-planning/index.html> (last visited March 1, 2021).

²⁸ Section 381.0051(3)(b), F.S.

²⁹ Florida Dept. of Health, *supra*, note 27.

³⁰ Section 381.0051(4)(a), F.S.

³¹ Section 381.0051(4)(b), F.S.

in part, by the Title V federal grant applied for and awarded to the DOH, along with state general revenue. The DOH distributes these funds to each county health department (CHD) for the provision of family planning services. The program served 106,515 clients in calendar year 2019, including 17,937 clients aged 19 or younger. Due to COVID-19, there was a 24-percent drop in client numbers in 2020 compared to 2019, but the DOH expects client numbers to rebound once there is a return to normal operations.³²

Florida's Family Planning Program was appropriated approximately \$3.2 million in general revenue for the 2020-2021 fiscal year for family planning pharmaceutical purchases, and the DOH has fully utilized such funding each year it has been appropriated. Supplemental funding from Title X for the purchase of LARC devices was utilized, on average, in the amount of \$369,693 for the past six grant years. Since July 1, 2016, all counties have had full access to ordering LARC devices, available through the DOH Bureau of Public Health Pharmacy.³³

The DOH currently provides both hormonal and non-hormonal intrauterine devices and implants, training for providers and staff, technical assistance, general support to expand capacity of family planning clinics, marketing and outreach, and related family planning and LARC services through the Title X funding. In 2019, 12,286 (11.5 percent) of the DOH's family planning clients were listed as using a LARC method, and 1,571 (8.8 percent) were 19 years old or younger.³⁴

Most of the DOH's family planning services are provided at CHD clinic sites, but there are a small number of CHDs that have subcontracts in place for the provision of family planning services.³⁵

Unintended Pregnancy and Abortion

Research published in *The Lancet Global Health* in 2020 found that, globally, between 2015 and 2019, there were approximately 121 million unintended pregnancies annually, corresponding to a global rate of 64 unintended pregnancies per 1,000 females aged 15-49 years, and that about 61 percent of those unintended pregnancies ended in abortion.³⁶

The study did not publish data for individual countries but did so for various regions of the world. According to the study, for Europe and "northern America" between 2015 and 2019, there were, annually, approximately 35 unintended pregnancies per 1,000 females aged 15-49 years, and about 49 percent of unintended pregnancies in those regions ended in abortion.³⁷

The study also found an inverse relationship between income and unintended pregnancy.³⁸

³² Florida Dept. of Health, *supra*, note 11.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ Jonathan Bearak, Ph.D., et al., *Unintended pregnancy and abortion by income, region, and the legal status of abortion: estimates from a comprehensive model for 1990–2019*, *The Lancet Global Health*, Vol. 8, Issue 9, p. e1155, available at [https://www.thelancet.com/journals/langlo/article/PIIS2214-109X\(20\)30315-6/fulltext](https://www.thelancet.com/journals/langlo/article/PIIS2214-109X(20)30315-6/fulltext) (last visited Feb. 26, 2021).

³⁷ *Id.*, p. e1156.

³⁸ *Id.*, p. e1159.

III. Effect of Proposed Changes:

Whereas Clauses

Under SB 1154's "Whereas Clauses," the Legislature finds that:

- Abortions end unborn life and, especially among young women, carry health risks for the mother;
- A variety of methods and options to discourage and prevent abortions should be developed and supported;
- Programs that provide HLARC methods contribute to declines in the number of abortions;
- HLARC methods improve health care outcomes and wellness for women and families by enabling women to better plan pregnancies; and
- Including HLARC as an option for women is an important step in preventing abortions and reducing health risks for all women.

The HLARC Program

Section 1 of the bill creates s. 381.00515, F.S., to establish the HLARC program within the DOH and authorizes the DOH to adopt rules for the program. The bill directs the DOH to contract with eligible family planning providers for statewide implementation, and it requires such contracts to provide for all of the following:

- The provision of hormonal IUDs and implants to participants.
- Training for providers and their staff regarding the provision of HLARC devices, counseling, and the management of side effects.
- Technical assistance with issues such as coding, billing, pharmacy rules, and clinic management associated with the increased use of HLARC devices.
- General support to expand the capacity of family planning providers for an increased demand for HLARC services.
- Marketing and outreach regarding the availability of HLARC services among other currently available contraceptive services.
- Other services the DOH considers necessary to ensure the health and safety of participants who receive HLARC devices.

Funding the Program

The bill directs the Legislature to make annual appropriations from the General Revenue Fund to the DOH for operation of the program, and it provides that funds appropriated under the bill may not supplant or reduce any other appropriation of state funds to family planning providers or to the DOH for family planning services. The bill also directs the DOH to seek grants from federal agencies and other sources to supplement state funds for the program.

Annual Report

The bill requires that by January 1, 2022, and annually thereafter, the DOH must submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the effectiveness of the program and directs the DOH to publish the report on its website. The

report must include, but need not be limited to, all of the following data pertaining to the previous calendar year:

- An assessment of the operation of the program, including any progress made in reducing the number of abortions, especially among teenagers.
- An assessment of the effectiveness of the program in increasing the availability of HLARC services.
- The number and location of family planning providers that participated in the program.
- The number of clients served by participating family planning providers.
- The number of times HLARC services were provided by participating family providers.
- The average cost per client served.
- The demographic characteristics of clients served.
- The sources and amounts of funding used for the program.
- A description of federal and other grants the DOH applied for in order to provide HLARC services, including the outcomes of the grant applications.
- An analysis of the return on investment for the provision of HLARC services regarding tax dollars saved in the provision of health and social services.
- A description and analysis of marketing and outreach activities conducted to promote the availability of HLARC services.
- Recommendations for improving the program.

Other Provisions

Section 2 of the bill provides a legislative finding that enactment of the bill is necessary to protect the public health, safety, and welfare.

Section 3 of 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:

If the HLARC program results in HLARC devices being administered that would not otherwise have been administered, private sector manufacturers and providers of such devices may experience an increase in revenue. Women who would have paid for LARC devices on their own but will instead receive one through the HLARC program, may experience an out-of-pocket cost savings. Women receiving HLARC devices under the program who would not otherwise have received one, may avoid the fiscal demands of an unintended pregnancy.

C. Government Sector Impact:

To the extent the HLARC program results in fewer unintended pregnancies and births paid for under government-sponsored programs such as Medicaid, the state will experience a cost savings. That impact is indeterminate.

SB 1154 directs the Legislature to make annual appropriations to the DOH from the General Revenue Fund to operate the HLARC program. However, the bill does not specify that the program's implementation and ongoing operation are contingent on such appropriations. The bill itself does not appropriate funds for the program, and, as of this writing, neither house of the Legislature has filed a budget bill for the 2021-2022 fiscal year, so the Legislature's intent to fund the program is unknown.

The DOH indicates it will need to hire one full-time equivalent employee and one "other personal services" employee to implement the bill and will need funding for the marketing and outreach that the bill requires. The DOH estimates a total negative fiscal impact of \$195,701 in general revenue, about \$4,500 of which is nonrecurring.³⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

Lines 51-53 of the bill direct the DOH to contract with "eligible family planning providers" to implement the HLARC program throughout the state, but the bill does not provide criteria under which a family planning provider would be considered "eligible."

VIII. Statutes Affected:

This bill creates section 381.00515 of the Florida Statutes.

³⁹ Florida Dept. of Health, *supra*, note 11.

This bill creates a non-statutory section within the Laws of Florida.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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



705550

LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment (with title amendment)

Delete lines 56 - 90

and insert:

implants to participants and the removal of such devices and
implants upon participant request.

(b) Training for providers and their staff regarding the
provision of HLARC devices, counseling strategies, and the
management of side effects.

(c) Technical assistance regarding issues such as coding,
billing, pharmacy rules, and clinic management associated with



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the increased use of HLARC devices.

(d) General support to expand the capacity of family planning providers in response to increased demand for HLARC services.

(e) Marketing and outreach regarding the availability of HLARC services among other currently available contraceptive services.

(f) Other services the department considers necessary to ensure the health and safety of participants who receive HLARC devices.

(3) The Legislature shall annually appropriate funds from the General Revenue Fund to the department to operate the HLARC program. Funds appropriated pursuant to this subsection may not supplant or reduce any other appropriation of state funds to family planning providers or to the department for family planning services.

(4) The department shall seek grants from federal agencies and other sources to supplement state funds provided for the HLARC program.

(5) By January 1, 2022, and annually thereafter, the department shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the effectiveness of the HLARC program. The department shall publish the report on its website. The report must include, but need not be limited to, all of the following for the previous calendar year:

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

And the title is amended as follows:



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Delete lines 21 - 36.



923622

LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment (with title amendment)

Between lines 114 and 115

insert:

Section 2. Subsection (13) is added to section 409.904, Florida Statutes, to read:

409.904 Optional payments for eligible persons.—The agency may make payments for medical assistance and related services on behalf of the following persons who are determined to be eligible subject to the income, assets, and categorical



923622

eligibility tests set forth in federal and state law. Payment on behalf of these Medicaid eligible persons is subject to the availability of moneys and any limitations established by the General Appropriations Act or chapter 216.

(13) An adult described in 42 U.S.C. s. 1396a(a)(10)(A)(i)(VIII).

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

And the title is amended as follows:

Delete line 19

and insert:

the department to adopt rules; amending s. 409.904, F.S.; extending Medicaid eligibility to specified adults; providing a legislative

By Senator Bean

4-01038B-21

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1 A bill to be entitled
 2 An act relating to the Hormonal Long-acting Reversible
 3 Contraception Program; creating s. 381.00515, F.S.;
 4 establishing the Hormonal Long-acting Reversible
 5 Contraception (HLARC) Program within the Department of
 6 Health for specified purposes; defining terms;
 7 requiring the department to contract with family
 8 planning providers to implement the program and
 9 provide HLARC services throughout the state; providing
 10 requirements for such contracts; providing for an
 11 annual appropriation; providing that such
 12 appropriations do not supplant or reduce certain other
 13 appropriations; requiring the department to apply for
 14 grants for additional funding; requiring the
 15 department to submit an annual report to the Governor
 16 and the Legislature by a specified date; requiring the
 17 department to publish the report on its website;
 18 providing requirements for such reports; authorizing
 19 the department to adopt rules; providing a legislative
 20 finding; providing an effective date.
 21
 22 WHEREAS, the Legislature finds that abortions end unborn
 23 life and, especially among young women, carry health risks for
 24 the mother, and
 25 WHEREAS, the Legislature further finds that a variety of
 26 methods and options to discourage and prevent abortions should
 27 be developed and supported, and
 28 WHEREAS, the Legislature finds that programs that provide
 29 hormonal long-acting reversible contraception (HLARC) methods

Page 1 of 5

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

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30 contribute to declines in the number of abortions, and
 31 WHEREAS, the Legislature further finds that HLARC methods
 32 improve health care outcomes and wellness for women and families
 33 by enabling women to better plan pregnancies, and
 34 WHEREAS, the Legislature finds that including HLARC as an
 35 option for women is an important step in preventing abortions
 36 and reducing health risks for all women, NOW, THEREFORE,
 37
 38 Be It Enacted by the Legislature of the State of Florida:
 39
 40 Section 1. Section 381.00515, Florida Statutes, is created
 41 to read:
 42 381.00515 Hormonal Long-acting Reversible Contraception
 43 Program.—The Hormonal Long-acting Reversible Contraception
 44 (HLARC) Program is established within the Department of Health
 45 to improve the provision of HLARC services to women statewide
 46 and reduce the number of abortions.
 47 (1) As used in this section, the term:
 48 (a) "Department" means the Department of Health.
 49 (b) "HLARC program" means the Hormonal Long-Acting
 50 Reversible Contraception Program.
 51 (2) The department shall contract with eligible family
 52 planning providers to implement the HLARC program throughout the
 53 state. A contract to provide HLARC services must provide for all
 54 of the following:
 55 (a) The provision of hormonal intrauterine devices and
 56 implants to participants.
 57 (b) Training for providers and their staff regarding the
 58 provision of HLARC devices, counseling strategies, and the

Page 2 of 5

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

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management of side effects.

(c) Technical assistance regarding issues such as coding, billing, pharmacy rules, and clinic management associated with the increased use of HLARC devices.

(d) General support to expand the capacity of family planning providers in response to increased demand for HLARC services.

(e) Marketing and outreach regarding the availability of HLARC services among other currently available contraceptive services.

(f) Other services the department considers necessary to ensure the health and safety of participants who receive HLARC devices.

(3) The Legislature shall annually appropriate funds from the General Revenue Fund to the department to operate the HLARC program. Funds appropriated pursuant to this subsection may not supplant or reduce any other appropriation of state funds to family planning providers or to the department for family planning services.

(4) The department shall seek grants from federal agencies and other sources to supplement state funds provided for the HLARC program.

(5) By January 1, 2022, and annually thereafter, the department shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the effectiveness of the HLARC program. The department shall publish the report on its website. The report must include, but need not be limited to, all of the following for the previous calendar year:

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(a) An assessment of the operation of the program, including any progress made in reducing the number of abortions, especially among teenagers.

(b) An assessment of the effectiveness of the program in increasing the availability of HLARC services.

(c) The number and location of family planning providers that participated in the program.

(d) The number of clients served by participating family planning providers.

(e) The number of times HLARC services were provided by participating family providers.

(f) The average cost per client served.

(g) The demographic characteristics of clients served.

(h) The sources and amounts of funding used for the program.

(i) A description of federal and other grants the department applied for in order to provide HLARC services, including the outcomes of the grant applications.

(j) An analysis of the return on investment for the provision of HLARC services with regard to tax dollars saved in the provision of health and social services.

(k) A description and analysis of marketing and outreach activities conducted to promote the availability of HLARC services.

(l) Recommendations for improving the program.

(6) The department may adopt rules to implement this section.

Section 2. The Legislature finds that this act is necessary to protect the public health, safety, and welfare.

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Section 3. 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: February 24, 2021

I respectfully request that **Senate Bill # 1154**, relating to Hormonal Long-acting Reversible Contraception Program (LARC), be placed on the:

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

A handwritten signature in blue ink that reads "Aaron Bean". The signature is written in a cursive style.

Senator Aaron Bean
Florida Senate, District 4



2021 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Florida Department of Health

<u>BILL INFORMATION</u>	
BILL NUMBER:	1154
BILL TITLE:	Hormonal Long-acting Reversible Contraception Program
BILL SPONSOR:	Bean
EFFECTIVE DATE:	7/1/2021

<u>COMMITTEES OF REFERENCE</u>
1) Health Policy
2) Appropriations Subcommittee on Health and Human Services
3) Appropriations
4) Click or tap here to enter text.
5) Click or tap here to enter text.

<u>PREVIOUS LEGISLATION</u>	
BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.
YEAR:	Click or tap here to enter text.
LAST ACTION:	Click or tap here to enter text.

<u>CURRENT COMMITTEE</u>
Health Policy

<u>SIMILAR BILLS</u>	
BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.

<u>IDENTICAL BILLS</u>	
BILL NUMBER:	925
SPONSOR:	Williams

Is this bill part of an agency package?
No

<u>BILL ANALYSIS INFORMATION</u>	
DATE OF ANALYSIS:	February 15, 2021
LEAD AGENCY ANALYST:	Anna Simmons
ADDITIONAL ANALYST(S):	Click or tap here to enter text.
LEGAL ANALYST:	Louise St. Laurent
FISCAL ANALYST:	Matthew Martin

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The bill requires the Department of Health to establish a hormonal long-acting reversible contraceptive (LARC) program for the purpose of preventing unintended pregnancies and abortions.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

The Department of Health provides comprehensive family planning services including provisions of LARC services, in all 67 counties in Florida. The provision of these services is supported by the Title X federal grant and in part by the Title V federal grant applied for and awarded to the Department, along with State General Revenue. The Department distributes these funds to each County Health Department (CHD) for the provision of family planning services.

The Family Planning Program received approximately \$3.2 million for fiscal year 2020-2021 in General Revenue for family planning pharmaceutical purchases and each year the funding has been fully utilized. Supplemental funding from the Title X Family Planning Grant for the purchase of LARC methods was utilized, on average, in the amount of \$369,693 for the past six grant years.

Since July 1, 2016 all counties have full access to ordering LARCs, available through the Department's Bureau of Public Health Pharmacy.

The Department currently provides both hormonal and non-hormonal intrauterine devices and implants, training for providers and staff, technical assistance, general support to expand capacity of family planning clinics, marketing and outreach, and related family planning and LARC services through the statewide Title X Grant Family Planning Program. Most family planning services are provided at CHD clinic sites; there are a small number of CHDs that have subcontracts in place for the provision of family planning services.

The 2019 Family Planning Annual Report (FPAR) data indicated that the Department served 106,515 clients in calendar year 2019. There were 17,937 clients ages 19 and younger according to the 2019 FPAR data.

Due to COVID-19, there was a drop (24.4%) in client numbers in 2020 compared to 2019. It is expected for client numbers to rebound once there is a return to normal operations.

Florida's birth rate for teens ages 15-19 has declined markedly since 2011, dropping from 28.7 births per 1,000 females to 16.2 in 2019. Approximately 4.3 percent (9,541) of all 2019 live births (220,010) in Florida were to teenagers 15-19 years of age. This represents a 2.9 percent decline from the 9,828 births to teen mothers ages 15-19 in 2018 and is 31.6 percent lower than the number of births in this age group (13,956) in 2013. In 2019, according to FPAR data, 12,286 (11.5%) family planning clients were listed as using a LARC method, and 1,571 (8.8%) were ages 19 and younger.

2. EFFECT OF THE BILL:

The effect of this bill would be minimal due to the fact that the proposed hormonal LARC services are already provided through the Department of Health Family Planning Program, in all 67 counties in Florida. The bill does not specify the number of hormonal LARC devices will be purchase and utilized in the program.

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

If yes, explain:	Bill allows the department to adopt rules to implement the hormonal long-acting reversible contraception program.
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Is the change consistent with the agency's core mission?	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	None.

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

Proponents and summary of position:	Unknown.
Opponents and summary of position:	Unknown.

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?Y ☒ N ☐

If yes, provide a description:	A report is provided to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the effectiveness of the HLARC program.
Date Due:	1/1/2022
Bill Section Number(s):	Section 1.

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL?Y ☐ N ☒

Board:	N/A
Board Purpose:	N/A
Who Appoints:	N/A
Changes:	N/A
Bill Section Number(s):	N/A

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?Y ☐ N ☒

Revenues:	N/A
Expenditures:	N/A
Does the legislation increase local taxes or fees? If yes, explain.	N/A

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?	N/A
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2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?Y ☒ N ☐

Revenues:	None.
Expenditures:	<p>Estimated expenditures (Bill requires an appropriation yearly – since the amount is not indicated the following are expected expenses)</p> <p>Salaries</p> <p>1 Government Operations Consultant III</p> <p>@\$22.66hr – pay grade 25. \$ 54,529</p> <p>1 OPS computed 28% fringe</p> <p>This position will provide program oversight and monitoring; provide technical assistance and consultation; collect and compile program information and prepare the report to the Governor and Legislature.</p> <p>Expenses – Non-Recurring \$ 4,429</p> <p>Expenses – Recurring \$ 11,636</p> <p>Other recurring expense(marketing And outreach) \$ 125,000</p> <p>HR Outsourcing OPS \$ 107</p> <p>Total estimated expenditures</p> <p>Non-recurring & recurring\$ 195,701</p>
Does the legislation contain a State Government appropriation?	An annual appropriation is required but the amount is not specified.
If yes, was this appropriated last year?	N/A

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?Y ☐ N ☒

Revenues:	N/A
Expenditures:	N/A
Other:	N/A

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?Y ☐ N ☒

If yes, explain impact.	N/A
Bill Section Number:	N/A

TECHNOLOGY IMPACT

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

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

N/A

FEDERAL IMPACT

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

If yes, describe the anticipated impact including any fiscal impact.

N/A

ADDITIONAL COMMENTS

Lines 51-71 state that the Department will contract with eligible family planning providers to implement the hormonal LARC program throughout the state. It is unclear whether the Department would be required to establish new or additional contracts to implement the program, or to utilize the current service delivery systems at the local county health department clinics.

Lines 55-56 require the provision of hormonal intrauterine devices and implants to participants. If the program utilizes the current service delivery system at the local county health department it could utilize the discounted LARC method pricing.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:

No legal issues, concerns or comments identified at this time.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 876

INTRODUCER: Senator Diaz

SUBJECT: Optometry

DATE: March 2, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Brown	HP	Pre-meeting
2.			AHS	
3.			AP	

I. Summary:

SB 876:

- Expands the scope of practice for certified optometrists;
- Amends the definition of “certified optometrist” to provide that the term “certified optometric physician” is synonymous with the former term;
- Adds the following elements to the definition of “optometry” which do not exist under the current-law definition:
 - The “evaluation, treatment, and management” of conditions of the human eye and its appendages, and, under the bill, such conditions include “any chronic systemic conditions relating to the eye;” and
 - The prescribing and application of “vision therapy, low-vision rehabilitation services, and ophthalmic procedures and therapy for the diagnosis, evaluation, treatment, or management” of any insufficiency, anomaly, abnormality, or disease condition relating to the human eye or its appendages.
- Deletes the current-law prohibition against an optometrist performing surgeries on the eye;
- Provides that optometrists may be certified to perform “ophthalmic procedures” such as laser and non-laser ophthalmic procedures and therapy approved by the Board of Optometry (Board);
- Creates a new section of statute for ophthalmic procedures that an optometrist may become certified to perform;
- Repeals the current-law formulary process for topical ocular agents that an optometrist may prescribe, as developed by the Board;
- Repeals the current-law statutory formulary of oral ocular agents that an optometrist may prescribe;
- Replaces the current-law formularies with a negative formulary system, to be established by the Board, that will include ocular agents that an optometrist is prohibited from prescribing;

- Removes the current-law limitation on the administration methods a certified optometrist may use for ocular pharmaceuticals (topical and oral), thereby allowing certified optometrists to use additional medication delivery systems;
- Removes from law the current requirement for a certified optometrist or a holder of a optometric faculty certificate to provide proof to the Department of Health (DOH) that he or she has successfully completed a course and passed an exam on general and ocular pharmaceuticals and their side effects, before he or she may administer or prescribe oral ocular pharmaceuticals;
- Revises current law relating to controlled substances that certified optometrists are prohibited from administering or prescribing, except for oral analgesics for the relief of pain due to ocular conditions, by adding Schedule II controlled substances to that provision;
- Limits the time frame for applicants to retake failed part(s) of the licensure examination;
- Authorizes the creation of a new certification for certified optometrists to perform Board-approved laser and non-laser ophthalmic procedures and therapy if certain conditions are met;
- Directs the Board to:
 - Review and approve the initial content of the ophthalmic procedures and therapy course and examination, and subsequent examinations, to satisfy the criteria set out in the bill;
 - Establish the new negative formulary of ocular medications;
 - Determine the required content, grading criteria, and passing score for the certified optometrist licensure examination;
 - Adopt rules relating to:
 - The practices and procedures for the administration and prescription of eye medications;
 - The Laser and non-laser ophthalmic procedures and therapies an optometrist certified in ophthalmic procedures may perform;
 - The standards of practice for each Board-approved ophthalmic procedure or therapy an optometrist certified in ophthalmic procedures may perform;
 - The scope of practice of optometry;
 - The required content, grading criteria, and passing score for the licensure examination for certified optometrists; and
- Specifies a list of ophthalmic procedures which are excluded from the scope of practice of optometry.

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

II. Present Situation:

The Department of Health

The Legislature created the DOH to protect and promote the health of all residents and visitors in the state.¹ The DOH is charged with the regulation of health practitioners for the preservation of

¹ Section 20.43, F.S.

the health, safety, and welfare of the public. The Division of Medical Quality Assurance (MQA) is responsible for the boards² and professions within the DOH.³

Board of Optometry (Board)

The Board was established to ensure that every person engaged in the practice of optometry in this state meets minimum requirements for safe practice. The Board is composed of seven members appointed by the Governor and confirmed by the Senate.⁴ Individuals who practice under the Board's regulatory authority are certified optometrists or "licensed practitioners."

Optometry

Optometry is the diagnosis of conditions of the human eye and its appendages.⁵ The appendages of the eye are the eyelids, the eyebrows, the conjunctiva, and the lacrimal apparatus.⁶

Optometry is one of the health care professions the Legislature has charged the DOH with regulating to protect and promote the health of all residents and visitors in Florida for the preservation of the health, safety, and welfare of the public.⁷

Training of Optometrists and Ophthalmologists

Optometrists and ophthalmologists are both part of a patient's visual health care team. Optometrists attend optometry school for four years and are not required to undertake postgraduate training.⁸ Ophthalmologists are either allopathic (M.D.) or osteopathic (D.O.) physicians⁹ who are trained in medical schools to treat the whole person and who undertake four additional years of specialized training in eye care, diseases of the eye, and surgery. Optometrists are not medical doctors and receive an "O.D." degree. They attend optometry school for four years and are not required to undertake postgraduate training.¹⁰

² Under s. 456.001(1), F.S., "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 DOH MQA.

³ Section 20.43, F.S.

⁴ Sections 463.003 and 463.005, F.S. Five members of the Board must be licensed practitioners actively practicing in Florida. The remaining two members must be citizens of Florida who are not, and have never been, licensed practitioners and may not be connected with the practice of optometry or with any other vision-related profession or business. At least one member of the board must be 60 years of age or older.

⁵ Section 463.002(7), F.S.

⁶ Section 463.002(10), F.S.

⁷ Section 20.43, F.S.

⁸ American Academy of Ophthalmology, *Differences in Education Between Optometrists and Ophthalmologists*, available at <https://www.aao.org/about/policies/differences-education-optometrists-ophthalmologists> (last visited Feb. 18, 2021).

⁹ Ophthalmologists are licensed under ch. 458, F.S., relating to the allopathic practice of medicine or ch. 459, F.S., relating to the osteopathic practice of medicine.

¹⁰ American Academy of Ophthalmology, *Differences in Education Between Optometrists and Ophthalmologists* available at <https://www.aao.org/about/policies/differences-education-optometrists-ophthalmologists> (last visited Feb. 25, 2021).

Optometrists	Ophthalmologists
2,300 clinical hours	17,000+ clinical hours
At least 3 years of college or university	4 years college or university
4 years optometry school	4 years medical school
No hands-on training for lasers or scalpel surgery	1 year hospital internship
N/A	3 years of surgical ophthalmology residency (eye surgery and laser)
N/A	1-2 years of post-residency fellowship sub-specialized in ocular surgery

Optometric Education

While every optometry school is slightly different, this analysis uses the Nova Southeastern College of Optometry as an example. A doctor of optometry (O.D.) degree at Nova Southeastern requires four years of study. Students must have a minimum of a 2.0 grade point average and have a passing score on the Optometry Admissions Test (OAT).¹¹

During the first year, optometry students concentrate on the basic biological sciences including anatomy and physiology, microbiology, and neuroanatomy. In addition, they receive lecture, laboratory, and clinical instruction in theoretical optics and the conducting of an optometric examination.

In the second year, students study ocular physiology and psychophysics; and begin their first courses in ocular disease and anomalies of binocular vision. In the summer between the second and third years, students begin to examine patients in the university's Eye Care Institute. They care for adults, children, and geriatric patients with all types of ocular and visual needs in the primary eye care clinic.

Third-year students continue to study ocular disease, contact lenses, and clinical medicine. A two-semester practice management course begins in the third year with introduction of basic business and management concepts. In the fourth year, students receive training in secondary-tertiary eye care, specialized optometric care, and continued clinical education. Training emphasizes practical experience through externships, specialty clinical rotations, and clinical practice. In the fourth year a practice management course presents business decisions and concepts that may be necessary for a successful practice.¹² Nova Southeastern also offers a small number of optional primary care residencies in ocular disease, cornea and contact lenses, pediatrics and binocular vision and low vision. It does not offer any surgical residencies.¹³

¹¹ Nova Southeastern University, College of Optometry, Doctor of Optometry, *Admission Requirements*, available at <https://optometry.nova.edu/od/admissions/index.html> (last visited Feb. 17, 2021).

¹² Nova Southeastern University, College of Optometry, *Overview*, available at <https://optometry.nova.edu/od/index.html> (last visited Feb. 17, 2021).

¹³ Nova Southeastern University, College of Optometry, Residency, *Residency in Primary Care*, available at <https://optometry.nova.edu/residency/index.html> (last visited Feb. 17, 2021).

Ophthalmological Education

Ophthalmologists differ from optometrists in their levels of training and in what they can diagnose and treat.¹⁴ In addition to four years of medical school and one year of internship, every ophthalmologist spends a minimum of three years of residency (hospital-based training) in ophthalmology.

During residency, an ophthalmologist receives special training in all aspects of eye care, including prevention, diagnosis and medical and surgical treatment of eye conditions and diseases.¹⁵ Many, but not all, ophthalmologist are board certified. A board-certified ophthalmologist has passed a rigorous two-part examination given by the American Board of Ophthalmology designed to assess his/her knowledge, experience and skills.¹⁶

To be licensed by and practice in Florida, ophthalmologists must also demonstrate financial responsibility to pay claims and costs arising out of the provision of ophthalmological care and treatment.¹⁷ Optometrists are not required to carry professional liability insurance. Often, an ophthalmologist spends an additional one to two years training in a subspecialty that involves a specific area of eye care.¹⁸

The Practice of Optometry

The practice of optometry includes:

- The use of any objective or subjective means or methods, including ocular pharmaceutical agents, to determine:
 - The refractive powers of the human eyes; or
 - Any visual, muscular, neurological, or anatomic anomalies of the eyes or their appendages; and
- The prescribing and use of any of the following for the correction, remedy, or relief of any insufficiencies or abnormal conditions of the eyes and their appendages:
 - Lenses;
 - Prisms;
 - Frames;
 - Mountings;
 - Contact lenses;
 - Orthoptic exercises;
 - Light frequencies; and

¹⁴ American Academy of Ophthalmology, *What is an Ophthalmologist?* available at <https://www.aao.org/eye-health/tips-prevention/what-is-ophthalmologist> (last visited Feb. 18, 2021).

¹⁵ American Academy of Ophthalmology, *Training and Certification for Ophthalmologists*, available at <https://www.aao.org/eye-health/tips-prevention/ophthalmology-training-certification> (last visited Feb. 18, 2021).

¹⁶ *Id.*

¹⁷ See ss. 458.320, 459.0085, and 456.048, F.S.

¹⁸ American Academy of Ophthalmology, *Subspecialties in Ophthalmology*, available at <https://www.aao.org/eye-health/tips-prevention/ophthalmology-training-certification> (last visited Feb. 17, 2021).

- Ocular pharmaceutical agents.^{19,20}

Current law in Florida prohibits all surgery for optometrists²¹ and defines the term “surgery” to include a procedure using an instrument, such as a laser, scalpel, or needle, in which human tissue is cut, burned, scraped, or vaporized, by incision, injection, ultrasound, laser, infusion, cryotherapy, or radiation. The term also includes a procedure using an instrument which requires the closure of human tissue by suture, clamp, or other device.²² The following procedures performed by a certified optometrist are considered within the definition of optometry:²³

- The removal of a superficial foreign body embedded in the conjunctiva or cornea but not penetrating the globe;
- The removal of an eyelash by epilation;
- The probing of an uninflamed tear duct of an adult;
- The blocking of the puncta by plug or superficial scraping to remove damaged epithelial tissue or superficial foreign bodies; or
- The taking of a culture from the surface of the cornea or conjunctiva.²⁴

Licensed Practitioners of Optometry

“Licensed practitioners” engaged in the practice of optometry, who are not certified optometrists, may use topically applied anesthetics solely for the purpose of glaucoma examinations, but are otherwise prohibited from administering or prescribing ocular pharmaceutical agents.²⁵ A licensed practitioner is required to post at his or her practice location a sign, which states: “*I am a Licensed Practitioner, not a Certified Optometrist, and I am not able to prescribe ocular pharmaceutical agents.*”²⁶ Current law allows licensed practitioners wishing to become certified optometrists to do so by:

- Submitting an application for certification to the DOH;
- Completing 110 hours of Board-approved coursework and clinical training in general and ocular pharmacology conducted by an accredited institution which has facilities for both didactic and clinical instruction in pharmacology;
- Completing one year of a supervised experience in differential diagnosis of eye diseases or disorders during either optometric training or in a clinical setting as part of optometric experience in an academic or non-academic environment; and
- Successfully passing Part II (Patient Assessment and Management, including an embedded Treatment and Management of Ocular Disease examination) of the National Boards of Examiners in Optometry (NBEO) examination.²⁷

¹⁹ *Supra*, note 5.

²⁰ Section 463.002(5), F.S. An “Ocular pharmaceutical agent” is a pharmaceutical agent that is administered topically or orally for the diagnosis or treatment of ocular conditions of the human eye and its appendages, without the use of surgery or other invasive techniques.

²¹ Section 463.014(4), F.S.

²² Section 463.002(6), F.S.

²³ Section 463.002(7), F.S.

²⁴ Section 463.014(4), F.S.

²⁵ Section 463.0055(1)(a), F.S.

²⁶ Section 463.002(3), F.S.

²⁷ Fla. Admin. Code R. 64B13-10.001 (2020).

As of January 6, 2021, in Florida there were 56 clear and active, and seven clear and inactive, “licensed practitioners” engaging in the practice of optometry.²⁸

Licensed and Certified Optometrists

All optometrists initially licensed after July 1, 1993,²⁹ are now required to be both licensed and certified and may administer and prescribe ocular pharmaceutical agents for the diagnosis and treatment of ocular conditions of the human eye and its appendages without the use of surgery or other invasive techniques.³⁰

Before a certified optometrist can administer or prescribe oral ocular pharmaceutical agents, the certified optometrist must provide proof to the DOH of the successful completion of a course and subsequent Board-approved examination on general and ocular pharmaceutical agents and their side effects. The course must consist of 20 contact hours; and all may be web-based. Successful completion of the course and examination may be used by a certified optometrist to satisfy 20 hours of the continuing education but only for the biennial period in which the Board-approved course and examination were taken. If a certified optometrist does not complete such a Board-approved course and examination, the certified optometrist is only authorized to administer and prescribe topical ocular pharmaceutical agents.³¹

Under ch. 456, F.S., the general provisions applicable to all professions regulated by MQA within the DOH must provide for the development, preparation, administration, scoring, score reporting, and evaluation of all examinations in consultation with the appropriate regulatory board. For each examination developed by the DOH or a contracted vendor, the respective board must specify by rule:

- The general areas to be covered by each examination;
- The relative weight to be assigned in grading each area tested; and
- The score necessary to achieve a passing grade.³²

A board and the DOH may not administer a state-developed written examination if a national examination has been certified by the DOH.³³ A board may administer a state-developed practical or clinical examination, if required by the applicable practice act if all costs are paid by

²⁸ E-mail from Anthony B. Spivey Dr.BA, Executive Director, Board of Optometry, Division of Medical Quality Assurance, Bureau of Health Care Practitioner Regulation, Department of Health (Jan. .7, 2021) (on file with the Senate Health Policy Committee).

²⁹ Section 463.002(3), F.S. In 1986 the Legislature amended ch. 463, F.S., to require that anyone applying for an optometrist license after July 1, 1993, become a Certified Optometrist. The legislation required all applicants after that date to meet additional education and examination requirements. *See also* the Department of Health, Board of Optometry, *Licensing and Registration*, available at <http://floridaoptometry.gov/licensing/>, (last visited Feb. 9, 2021).

³⁰ Sections 463.002(4) and 463.0055, F.S.

³¹ *See* s. 463.005(1)(b), F.S. The course and examination are developed and offered jointly by a statewide professional association of physicians accredited to provide educational activities designated for the American Medical Association Physician’s Recognition Award (AMA PRA) Category 1 credit and a statewide professional association of licensed practitioners which provides Board-approved continuing education on an annual basis. The Board must review and approve of the content of the initial course and examination; and will annually review and approve of the course and examination to ensure that the content continues to satisfy the statutory criteria.

³² Section 456.017(1)(a) and (b), F.S.

³³ Section 456.017(1)(c)2., F.S.

the candidate. If a national practical or clinical examination is available and certified by the DOH, a board may administer the national examination.³⁴

Currently, any person desiring to be a licensed certified optometrist in Florida must apply to the DOH to take the licensure and certification examinations.³⁵ To be a licensed certified optometrist, an applicant must submit proof that he or she:

- Has completed the application forms and remitted the fees for the application, the certification exam, and the licensure exam;
- Is at least 18 years of age;
- Has graduated from an accredited school or college of optometry approved by the Board;³⁶
- Is of good moral character;
- Has completed at least 110 hours of transcript quality course work and clinical training in general and ocular pharmacology at an institution that:
 - Has both didactic and clinical instruction in pharmacology; and
 - Is accredited by an organization recognized by the Commission on Recognition of Postsecondary Accreditation or the U. S. Department of Education.
- Has completed at least one year of supervised experience in differential diagnosis of eye diseases or disorders as part of the optometric training or in a clinical setting as part of the optometric experience;
- Has successfully pass all parts of the Florida Licensure Examination, consisting of:
 - The NBEO examination Part II and Part III;
 - The Florida Practical Examination, which is taken simultaneously with Part III and includes the NBEO Part III skills of Biomicroscopy, Binocular Indirect Ophthalmoscopy and Dilated Biomicroscopy, and Non-Contact Fundus Lens Evaluation with a minimum score of 75 percent on each skill on the same attempt; and
 - Part IV (Florida Laws and Rules) with a score of 84 percent or higher.

If the applicant is, or has ever been, licensed in another state, he or she must also submit a licensure verification form from each state in which he or she has held a license.³⁷

Applicants must receive passing scores on all four parts of the Florida Licensure Examination within the three years immediately preceding submission of an application or after submission of an application. Applicants who submit an application that is complete in all respects, but who have not passed all parts of the examinations, may be approved by the DOH, but a license to practice will not be issued until the DOH has received proof of passage of all parts of the Florida Licensure Examination.³⁸

³⁴ Section 456.017, F.S.

³⁵ Section 463.006(1), F.S.

³⁶ Pursuant to Fla. Admin. Code R. 64B13-4.004 (2020), all Board-approved schools or colleges must be accredited by the Accreditation Council for Optometric Education. In addition, applicants must provide documentation of passage of National Boards of Examiners in Optometry (NBEO) Part I in order to demonstrate graduation from a Board-approved school or college. See Department of Health, Board of Optometry, Certified Optometrist, *Requirements*, available at <https://floridasoptometry.gov/licensing/certified-optometrist/> (last visited Feb. 9, 2021).

³⁷ *Id.*

³⁸ Department of Health, Board of Optometry, Certified Optometrist, *Requirements*, available at <https://floridasoptometry.gov/licensing/certified-optometrist/> (last visited Feb. 9, 2021).

An applicant who fails to achieve a passing score on Part I, Part II, Part III, or Part IV of the licensure examination may retake any part by registering directly with the NBEO. There is no limitation on the number of times an applicant may retake any examination part.³⁹ There are no surgery sections on any part of the Florida Licensure or the Florida Practical Examinations.

According to the DOH 2019-2020 Annual Long Range Plan there are 2,922 in-state, active certified optometrists.⁴⁰

The Topical and Oral Ocular Formularies – Limits on Controlled Substances

Florida law contains separate provisions for the authority of a certified optometrist to administer or prescribe topical ocular agents versus oral ocular agents. And, current law provides no authorization for optometrists to administer ocular agents by any means other than topical or oral. No other delivery methods are authorized.

Topical Ocular Agents

For topical ocular agents, the Board has authority to create a formulary containing topical agents a certified optometrist may administer or prescribe. The topical ocular formulary must consist of topical ocular agents that are appropriate to treat or diagnose ocular diseases and disorders and that a certified optometrist is qualified to use in the practice of optometry. The Board may add to, delete from, or modify the topical formulary by rule. The topical formulary rules becomes effective 60 days from the date they are filed with the Secretary of State. Upon the adoption, and each addition, deletion, or modification of the topical formulary, the Board must mail a copy of the amended formulary to each certified optometrist and to each pharmacy in the state.⁴¹

Oral Ocular Agents

Only certified optometrists who provide proof to the DOH of having successfully completed the Board-approved pharmaceutical course and examination are authorized to administer and prescribe oral ocular pharmaceutical agents or their therapeutic equivalents.⁴² Certified optometrists may write prescriptions, using a prescriber number issued by the Board, for the medications listed on the formulary of topical ocular pharmaceutical agents established by Board rule⁴³ and the statutory formulary of oral ocular pharmaceutical agents.⁴⁴

A certified optometrist may not administer or prescribe controlled substances:

- Listed in Schedule III, IV, or V of s. 893.03, F.S., except for an oral analgesic on the statutory oral ocular formulary for relief of pain due to conditions of the eye and its appendages.⁴⁵

³⁹ Fla. Admin. Code R. 64B13-4.002 (2020).

⁴⁰ Florida Department of Health, Medical Quality Assurance, *Annual Report and Long-Range Plan Fiscal Year 2019-2020*, available at <http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/documents/2019-2020-annual-report.pdf> (last visited Feb. 17, 2021).

⁴¹ Section 463.0055(2)(d), F.S.

⁴² Section 463.0055(1)(b), F.S.

⁴³ Section 463.0055(2), F.S. and Fla. Admin. Code R. 64B13-18.002 (2020).

⁴⁴ Section 463.0055(3), F.S. and Fla. Admin. Code R. 64B13-10-002 (2020).

⁴⁵ Section 463.0055(4)(a), F.S.

- For the treatment of chronic nonmalignant pain.⁴⁶

Instead of directing the Board to develop a formulary of oral ocular agents by rule, the Legislature has written such a formulary into the Florida Statutes. The statutory oral ocular formulary includes:

- Two analgesics, which may not be prescribed for more than 72 hours without a consultation with an ophthalmologist, including;
 - Tramadol hydrochloride (which is a Schedule IV controlled substance);⁴⁷
 - Acetaminophen 300 mg with No. 3 codeine phosphate 30 mg. (a Schedule III controlled substance);⁴⁸
- Antibiotics;
- Antivirals; and
- Anti-glaucoma agents which may not be prescribed for more than 72 hours.

There is no specific statutory authority under current law for an optometrist to administer or prescribe a Schedule II controlled substance.

Optometrists – Required Medical Referrals

Florida law requires optometrists to refer patients to an ophthalmologist for further treatment when he or she diagnoses the patient with:

- Angle closure, infantile, or congenital forms of glaucoma;⁴⁹
- Infectious corneal disease condition that has not responded to standard treatment;⁵⁰ or
- A sudden onset of spots or “floaters” in a patient’s eyes with loss of all or part of the visual field.⁵¹

Optometrists are also required to maintain the names of at least three allopathic or osteopathic physicians, clinics, or hospitals to which they may refer patients who experience adverse drug reactions.⁵²

Authority Granted by States for Optometrists to Prescribe Controlled Substances

Currently, four states – Maryland, Massachusetts, New York, and Hawaii – and the District of Columbia, Guam, Puerto Rico, the Virgin Islands, and the Marianna Islands, do not permit optometrists to prescribe any controlled substances. The other 46 states permit varying levels of Schedule II through V⁵³ prescribing of controlled substances by optometrists, as the chart below indicates.

⁴⁶ Sections 463.0055(4)(b), F.S., and 456.44(1)(f).

⁴⁷ See note 53.

⁴⁸ *Id.*

⁴⁹ Section 463.0135(2), F.S.

⁵⁰ Section 463.0135(3), F.S.

⁵¹ Section 463.0135(4), F.S.

⁵² Section 463.0135(8), F.S.

⁵³ U.S. Department of Justice, Drug Enforcement Administration, Diversion Control Division, *Mid-Level Practitioners Authorization by State*, available at https://www.deadiversion.usdoj.gov/drugreg/practioners/mlp_by_state.pdf (last visited Feb. 22, 2021).

Optometrist Authorization to Use Controlled Substances by State⁵⁴

	Schedule II										Schedule III						Schedule IV	Schedule V
	All	Hydrocodone products only			Codeine			Tramadol			Narcotic			Non-narcotic				
A=Administer, P=Prescribe, D=Dispense		A	P	D	A	P	D	A	P	D	A	P	D	A	P	D		
Connecticut, Idaho, Kansas, Iowa, Missouri, Montana, Nebraska, North Carolina, Tennessee	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	A, P, D	A, P, D
Louisiana, Nevada, Texas	x	x	x		x	x		x	x		x	x		x	x		A, P	A, P
South Dakota	x		x			x			x			x			x		P	P
New Mexico, South Carolina, Wisconsin		x	x	x							x	x	x	x	x	x	A, P, D	A, P, D
Ohio		x	x								x	x		x	x		A, P	A, P
Virginia***		x	x								x	x		x	x		A, P	no
California			x			x			x			x			x		P	no
Alaska, Arkansas, Colorado, Illinois, Michigan, Delaware, Kentucky, New Jersey, Oklahoma, Rhode Island			x									x			x		P	P
Georgia			x									x			x		P	no
Oregon			x								Analgesics per formulary - no prescribing							
Pennsylvania			x								Use of drug in practice - not to exceed 6 weeks							
Utah			x								x	x		x	x		A, P	A, P
Vermont												x		x			P	P
Washington*** West Virginia			x								x	x	x	x	x	x	A, P, D	A, P, D
Arizona			x								x	x	x	x	x	x	no	no
Maine, North Dakota, Wyoming											x	x	x	x	x	x	A, P, D	A, P, D
Alabama											x	x		x	x		A, P	A, P
Florida***												x	x				A, P	no
New Hampshire												x	x		x	x	P, D	no
Minnesota																	A, P, D	A, P, D
Indiana**																	A, P, D	no
Mississippi																	P	P

* Acetaminophen 300 mg with No. 3 codeine phosphate 30 mg.

** Tramadol Hydrochloride

*** Hydrocodone in combination with acetaminophen

Authority Granted by States for Optometrists to Perform Laser and Non-laser Surgery

Currently, five states – Oklahoma, Kentucky, Alaska, Louisiana and Arkansas – permit optometrists to perform advanced procedures (i.e., laser treatments, injections, and removal of lesions and growths). These five states also authorize optometrists to perform some level of laser

⁵⁴ *Id.*

and non-leaser ophthalmic surgery.⁵⁵ The remaining forty-five states do not currently permit optometrists to perform advanced laser and non-laser surgical procedures.

Oklahoma was the first state to permit optometrists to perform surgery in 1988. Oklahoma defines the practice of optometry to include the diagnosis of conditions of the eye, and the correcting and relief of ocular abnormalities, by means of laser and non-laser surgical procedures; and requires optometrists to be certified by the board to perform those procedures authorized by the board.⁵⁶ The Oklahoma statutes and board rules are silent on how a practitioner becomes certified by the board prior to performing laser or non-laser surgery procedures; though the statutes do prohibit optometrists from performing laser retinal, laser in-situ keratomileusis (LASIK), and cosmetic lid surgery. The board has by rule, however, published a list of 14 prohibited non-laser surgical procedures.⁵⁷

In 2011, Kentucky defined the practice of optometry to include using vision therapy or orthoptics, low vision rehabilitation, and laser surgery procedures, excluding retina, LASIK, and PRK, and 16 other prohibited procedures.⁵⁸ Any licensed optometrist in Kentucky desiring to also perform “expanded therapeutic procedures” is required to take a course and meet additional educational and competence criteria set by the board to obtaining a laser credential. However, Kentucky statutes and rules are silent on what constitutes an, “expanded therapeutic procedures.” Kentucky’s credentialing process for a candidate indicates that he or she must, among other things, demonstrate to his or her board-approved preceptor⁵⁹ that he or she has performed an anterior segment laser procedure on a living human eye, thus indicating that an anterior segment laser procedure is probably an “expanded therapeutic procedure.”⁶⁰

In 2014 Louisiana authorized optometrists to perform both laser and non-laser surgery. A Louisiana optometrist is required to complete a 32-hour course⁶¹ focused on laser surgery topics,

⁵⁵ See Alaska Stat. ss. 8.72.010 - 310 (2019); Ark. Stat. ss. 17-90-101 - 17-90-510 (2020); KY Rev. Stat. s. 320.210(2020); Louis. Rev. Stat., ch. 12, s. 37:1041(2020); and 59 OK Stat s. 581 (2021).

⁵⁶ 59 OK s. 581, D. (2021).

⁵⁷ Oklahoma Admin. Code R., Tit. 505:10-5-17(2020).

⁵⁸ Kentucky. Rev. Stat. 320.210 (2019). 1) Non-laser surgery to remove an eye; 2) Non-laser surgery using full thickness incision or excision of the cornea or sclera other than emergency situation to reduction the pressure in the eye; 3) Penetrating keratoplasty (corneal transplant), or lamellar keratoplasty; 4) Non-laser surgery with incision into iris and ciliary body, including iris diathermy or cryotherapy; 5) Non-laser surgery with incision into vitreous; 6) Non-laser surgery with incision into retina; 7) Non-laser surgical extraction of the crystalline lens; 8) Non-laser intraocular implants; 9) non-laser incision or excision of extraocular muscles; 10) Non-laser surgery of the eyelid malignancies or for cosmetic or blepharochalasis, ptosis, and tarsorrhaphy; 11) Non-laser surgery of the bony orbit, including orbital implants; 12) non-leaser incision or excision into the lacrimal system or related procedures; 13) Non-laser surgery using full thickness conjunctivoplasty with graft or flap; 14) Non-laser surgical procedure that does not provide for the correction and relief of ocular abnormalities; 15) Laser or non-laser injection into the posterior chamber of the eye to treat any macular or retinal disease; and 16) The administration of general anesthesia.

⁵⁹ Kentucky Admin. Code R. 5:110 s. 4 (2019) The Board-approved preceptor must be: 1) A licensed optometrist or ophthalmologist whose license is in good standing; 2) A full-time or adjunct faculty member of an accredited optometry or medical school; and 3) Credentialed in the expanded therapeutic procedure or expanded therapeutic laser procedure that the preceptor is teaching.

⁶⁰ *Id.*

⁶¹ See an example of a board approved expanded therapeutic procedures course offered by Northeastern State University, Oklahoma College of Optometry, offering Association of Regulatory Boards, Inc. (ARBO), Council on Optometric Practitioner Education (COPE), approved *NSUOCO Advanced Procedures*, courses July 8th & 9th -16 hrs CE Surgical Procedures and July 10th & 11th, 2021 -16 hrs. CE Laser Therapy the Anterior Segment, schedule *available at*

to perform surgery, or, beginning with the graduating class of 2015, any optometrist who graduated from an optometry school whose program included all of the training and testing requirements established by the Louisiana Board of Optometry was be deemed to have met the requirements for certification to perform authorized ophthalmic surgery procedures, including certain laser procedures.⁶² Louisiana defines “ophthalmic surgery” to include any procedure upon the human eye in which in vivo human tissue is injected, cut, burned, frozen, sutured, vaporized, coagulated, or photo-disrupted by the use of surgical instruments such as, but not limited to, a scalpel, cryoprobe, laser, electric cautery, or ionizing radiation,⁶³ and includes primary eye care surgical procedures such as YAG laser capsulotomy, laser peripheral iridotomy, and laser trabeculoplasty.⁶⁴

In 2017, Alaskan optometrists were authorized to perform ophthalmic surgery if it was within the scope of their education and training from an accredited school of optometry and they were authorized by certain regulations.⁶⁵ Alaska defines “ophthalmic surgery” as an invasive procedure in which human tissue is cut, ablated, or otherwise penetrated by incision, laser, or other means to treat diseases of the eye, alter or correct refractive error, or alter or enhance cosmetic appearance.⁶⁶ “Ophthalmic surgery” does not include the remove of superficial foreign bodies from the eye and its appendages.⁶⁷ An Alaskan optometrist may not perform ophthalmic surgery unless the procedure is an “expanded therapeutic procedure,” and he or she is authorized by the Alaskan regulatory board to perform the procedure. An “expanded therapeutic procedure” is an ophthalmic surgery approved by the regulatory board and may include:⁶⁸

- Anterior segment laser procedures;
- Anterior segment surgical procedures;
- YAG laser capsulotomy;
- Laser peripheral iridotomy (LPI); and
- Laser trabeculoplasty.

An Alaskan optometrist requesting authorization to perform an expanded therapeutic procedure must have satisfactorily completed a 32 hour course⁶⁹ in the expanded therapeutic procedure

<https://optometry.nsuok.edu/continuingeducation/ScheduleofEvents/AdvancedProcedures/default.aspx> (last visited Feb. 25, 2021). 20 Courses plus a review & Final Exam: Intro to Optometric Surgery and Ophthalmic Surgical Instruments; Review of Surgical Anatomy of the Face; Oculofacial Surgical Asepsis; Review of Eyelid Anatomy & Eyelid Lesions; Office-based Local Anesthesia; Radio Frequency Surgery in Optometric Practice; Introduction to Oculofacial Biopsy; Chalazion Management; Video Grand Rounds & Surgical Concepts; Intro to Suturing; Suture Techniques Lab; Lab Rotations| Injection Techniques, Radiosurgical Techniques, Oculofacial Biopsy; Laser Physics, Hazards & Safety; Laser Tissue Interactions; Clinical Workshops: Intro to Therapeutic Lasers; Gonioscopy: How to Interpret What You Are Seeing; Laser Therapy for the Open Angle Glaucomas: LT & SLT; Laser Therapy in Narrow Angles/Angle Closure: LPI and ALPI; YAG Laser Posterior Capsulotomy; Managing Potential Laser Complications; Medicolegal Aspects of Anterior Segment Laser Procedures: Panel Discussion; Lab Rotations: YAG Capsulotomy, Laser Peripheral Iridotomy, Gonioscopy & Laser Lenses, Laser Trabeculoplasty: ALT & SLT; Review & Final Exam. Cost is \$1000 per course or \$1,750.00 for both courses.

⁶¹ Alaska Admin. Code R. 48.040(d) (2019).

⁶² Louis. Admin Code R., Tit. 46, Pt. L1. ch. 5, s. 503 H (2020).

⁶³ Louis. Rev. Stat. ch. 12, s. 37-1041(4)(a), (2020).

⁶⁴ Louis. Admin Code R., Tit. 46, Pt. L1. ch. 5, s. 107 B (2020).

⁶⁵ Alaska Stat. s. 08.72.278(b)(2019).

⁶⁶ Alaska Stat. s. 08.072.278(c) (2019).

⁶⁷ Alaska Stat. s. 08.72.273 (2019).

⁶⁸ Alaska Admin. Code R. 48.040(l) (2019).

⁶⁹ *Supra*, note 64.

provided by an optometry school accredited by the Council for Higher Education Accreditation and approved by the Alaskan regulatory board.⁷⁰ The regulatory board also specifically prohibits 17 ophthalmic surgeries an optometrist may not perform under any circumstances.⁷¹

In 2019 Arkansas redefined the “practice of optometry” to include the following surgical and laser procedures:⁷²

- Injections, excluding intravenous or intraocular injections;
- Incision and curettage of a chalazion;⁷³
- Removal and biopsy of skin lesions with low risk of malignancy, excluding lesion involving the lid margin or nasal to the puncta;
- Laser capsulotomy; and
- Laser trabeculoplasty.

The Arkansas regulatory board establishes the credentialing requirements for optometrists to obtain certification⁷⁴ for surgical and laser procedures⁷⁵ and requires every optometrist who is certified to perform authorized laser procedures to report to the regulatory board regarding the outcome of the each procedure.⁷⁶ All licensed optometrists are prohibited from performing cataract surgery and performing radial keratotomy.⁷⁷

Optometrist and Ophthalmologist - Access, Safety, and Costs

Access

The University of Washington conducted a peer-reviewed study of respondents aged 65 and older from a 2010 U.S. Census survey to quantify the proximity of eye care in the contiguous United States by calculating driving routes and driving time. Their analysis estimated that 90 percent of the United States Medicare population lives within 15 minutes’ driving time of an optometrist and half an hour of an ophthalmologist. In the case of a patient seen by an optometrist, needing an elevated level of care, 90 percent of optometrists practices were within 20 minutes of an ophthalmologist. For each U.S. state, the addresses of all practicing ophthalmologists and optometrists were obtained from the 2012 Medicare Provider Utilization and Payment Data from the Centers for Medicare & Medicaid Services (CMS). While there were regional variations, the study concluded that overall, more than 90 percent of Medicare beneficiaries lived within a 30-minute drive of an ophthalmologist and within 15 minutes of an

⁷⁰ Alaska Admin. Code R. 48.040(d) (2019).

⁷¹ Alaska Admin. Code R. 48.040(h) (2019).

⁷² Ark. Stat. s. 17-90-101(2020).

⁷³ American Academy of Ophthalmology, What Are Chalazia and Styes?, *What is a chalazion?*, available at <https://www.aao.org/eye-health/diseases/what-are-chalazia-styes> (last visited (Feb. 26, 2021)). A chalazion is a swollen bump on the eyelid.

⁷⁴ Ark. Stat. s. 17-90-301 (2020).

⁷⁵ Ark. Stat. s. 17-90-204(9) (2020).

⁷⁶ Ark. Stat. s. 17-90-206 (2020).

⁷⁷ *Supra*, note 65.

optometrist.⁷⁸ Current CMS data from the U.S. Census show that 96.3 percent of the Florida population lives within one-half hour drive to an ophthalmology point of service.⁷⁹

Safety and Cost

One peer-reviewed research study published in the *Journal of the American Medical Association* suggested that there was an increased risk of medically necessary follow-up surgeries when the same procedures were performed by an optometrist as compared to when the procedures were performed by an ophthalmologist. Medicare beneficiaries who underwent laser trabeculoplasty (LTP) by optometrists had a 189 percent increased risk of requiring additional LTPs in the same eye compared with those who underwent LTP by ophthalmologists. The study concluded that twice as many laser surgeries were done on patients (on the same eye) if performed by optometrists as compared to ophthalmologists, resulting in twice the risk of additional surgeries, twice as many visits, and twice the cost.⁸⁰ The American Optometric Association alleged that this study was inaccurate based on the claim that repeated LTP sessions were, “an acceptable model” of care.⁸¹

The Florida Optometric Association indicates that optometrist performance of laser and non-laser ophthalmic procedures in states where such procedures are permitted is safe. The Association points to the fact that liability insurance rates for optometrists in those states have not increased and that, even in the states with the most advanced scope of practice for optometrists, the professional liability insurance rates are significantly lower than for comparable insurance in Florida.⁸²

In response to similar assertions, Ophthalmology Mutual Insurance Company (OMIC), a large insurance company that insures thousands of ophthalmologist and optometrists nationwide, issued a written statement on February 10, 2021, in which the company addressed the relative stability of optometric malpractice rates and the known complications that can arise from the performance certain ocular surgical procedures. In the statement, OMIC indicated it had implemented new underwriting guidelines to ensure that coverage would be available to health care providers for those procedures for which they had the necessary education, training, and expertise; and that because OMIC did not have the experience to properly underwrite, rate, and administer claims arising from surgical procedures performed by optometrists, and lacked available data on this liability risk, OMIC had made the decision to not offer coverage to

⁷⁸ National Institute of Health, National Library of Medicine, National Center for Biotechnology information, Lee CS, Morris A, Van Gelder RN, Lee AY. *Evaluating Access to Eye Care in the Contiguous United States by Calculated Driving Time in the United States Medicare Population*. Ophthalmology. 2016 Dec; 123(12):2456-2461. doi: 10.1016/j.ophtha.2016.08.015. Epub 2016 Sep 12. PMID: 27633646; PMCID: PMC5608548. available at <https://pubmed.ncbi.nlm.nih.gov/27633646/> (last visited Feb. 26, 2021).

⁷⁹ Florida Society of Ophthalmology, Centers for Medicare & Medicaid Services, 2010 U.S. Census, Ophthalmology Point of Service, *Drive Time to an Ophthalmology Point of Service, Map* (on file with the Senate Health Policy Committee).

⁸⁰ National Institute of Health, National Library of Medicine, *Comparison of Outcomes of Laser Trabeculoplasty Performed by Optometrists vs Ophthalmologists in Oklahoma*. Stein JD, Zhao PY, Andrews C, Skuta GL. reprint from JAMA Ophthalmol. 2016 Oct 1;134(10):1095-1101, available at <https://pubmed.ncbi.nlm.nih.gov/27467233/> (last visited Feb. 25, 2021).

⁸¹ American Optometric Association, *Criticized Laser Study Resurfaces in Scope Battles*, April 28, 2017, available at <https://www.aoa.org/news/clinical-eye-care/trabeculoplasty-commentary> (last visited Feb. 26, 2021).

⁸² Florida Optometric Association, *Recommended Updates to Florida Optometry Practice Act 2021* (on file with the Senate Health Policy Committee).

optometrists who administered injections or perform procedures using scalpels or lasers, other than diagnostic lasers, such as OCT.⁸³

The U.S. Veteran's Health Administration (VHA), as part of its facilities medical staff, utilizes optometrists, optometrist fellows and residents, and ophthalmologists and ophthalmology residents. The VHA only permits therapeutic laser eye procedures in VHA facilities to be performed by ophthalmologists or ophthalmology residents.

Physicians who perform laser surgery at VHA medical facilities must also be current in laser safety training provided within the VHA Talent Management System for initial granting of and maintenance of laser privileges.⁸⁴

On January 15, 2020, the State of Vermont, Secretary of State, Office of Professional Regulation (OPR) released a *Study of Optometric Advanced Procedures* that the 2019 Vermont legislature directed the OPR to perform to evaluate the safety and public health needs of enlarging the scope of practice of optometrists to include advanced surgical procedures.⁸⁵ The study addresses the impact of enlarging the scope of practice of optometrists on public safety, the need and impact on access to healthcare, and the costs. Specifically, the study looked at the following four anterior segment laser procedures, in addition to other:⁸⁶

- Laser Capsulorhexis;
- YAG Capsulotomy;
- Laser Trabeculoplasty (LTP); and
- Laser Iridotomy.

The Vermont OPR study reviewed the laser capsulorhexis and YAG capsulotomy procedures for cataracts, noting that laser capsulorhexis is a procedure using a laser to make an incision around the capsule of the eye to permit the removal of the lens for cataract surgery. Whether performed by an optometrist or an ophthalmologist, this procedure must be done in an operating room because surgery to remove the cataract and replacement of the lens follows. The Vermont OPR noted there were reported challenges controlling the size and contour of the incision with the laser; and complications noted in the study included:⁸⁷

- Imprecise and/or incomplete incision;
- Repeated surgery;
- Poor visual acuity following surgery;
- Repeat tear of the incision;
- Blindness;

⁸³ Ophthalmology Mutual Insurance Company (OMIC), *Statement on Optometric Malpractice Rates*, Feb. 10, 2021 (on file with the Senate Health Policy Committee).

⁸⁴ United States Department of Veterans Affairs, Veterans Health Administration, Washington, DC 20420, Oct. 2, 2019, amended. Aug. 18, 2020, VHA DIRECTIVE 1121(2), *VHA EYE AND VISION CARE*, Appendix G, available at https://www.va.gov/OPTOMETRY/docs/VHA_Directive_1121-2_VHA_Eye_and_vision_Care_10-02-2019_Amended_08-19-2020.pdf (Last Visited Feb. 26, 2021).

⁸⁵ Vermont Act 30, s. 13 (2019).

⁸⁶ State of Vermont, Secretary of State, Office of Professional Regulation, *Study of Optometric Advanced Procedures*, Jan. 15, 2020, available at <https://sos.vermont.gov/media/dhlgd0ve/optometry-advanced-procedures-report-january-2020.pdf> (last visited Feb. 26, 2021).

⁸⁷ *Id.*

- Loss of the eye.

Based on its findings in the study, Vermont's OPR concluded that there was little evidence to demonstrate lack of access, cost savings, or that an optometrist received the education and training necessary to provide the proposed advanced procedures safely.⁸⁸

III. Effect of Proposed Changes:

SB 876:

- Expands the scope of practice for certified optometrists;
- Amends the definition of “certified optometrist” to provide that the term “certified optometric physician” is synonymous with the former term;
- Adds the following elements to the definition of “optometry” which do not exist under the current-law definition:
 - The “evaluation, treatment, and management” of conditions of the human eye and its appendages, and, under the bill, such conditions include “any chronic systemic conditions relating to the eye;” and
 - The prescribing and application of “vision therapy, low-vision rehabilitation services, and ophthalmic procedures and therapy for the diagnosis, evaluation, treatment, or management” of any insufficiency, anomaly, abnormality, or disease condition relating to the human eye or its appendages.
- Removes from law the current requirement for a certified optometrist or a holder of a optometric faculty certificate to provide proof to the Department of Health (DOH) that he or she has successfully completed a course and passed an exam on general and ocular pharmaceuticals and their side effects, before he or she may administer or prescribe oral ocular pharmaceuticals;
- Limits the time frame for applicants to retake any failed part(s) of the licensure examination to within three years after the submission of the application;
- Authorizes the creation of a new certification for certified optometrists, the optometrist certified in ophthalmic procedures and therapy, to perform Board-approved laser and non-laser ophthalmic procedures and therapy if certain conditions are met;
- Revises the composition of the Board to require that all optometrist members must be certified optometrists or optometrists certified in ophthalmic procedures;
- Revises current law relating to controlled substances that certified optometrists are prohibited from administering or prescribing, except for oral analgesics for the relief of pain due to ocular conditions, by adding Schedule II controlled substances to that provision, which will authorize certified optometrists to prescribe or administer Schedule II controlled substances under the exception;⁸⁹

⁸⁸ *Id.*

⁸⁹ United States Department of Justice, Drug Enforcement Administration, Diversion Control Division, *Controlled Substance Schedules*, available at <https://www.deadiversion.usdoj.gov/schedules/#:~:text=Examples%20of%20Schedule%20II%20narcotics,Sublimaze%C2%AE%2C%20Duragesic%C2%AE> (last visited Feb. 27, 2021). Examples of Schedule II analgesics include the following narcotics: hydromorphone (Dilaudid®), methadone (Dolophine®), meperidine (Demerol®), oxycodone (OxyContin®, Percocet®), and fentanyl (Sublimaze®, Duragesic®). Other Schedule II narcotics include: morphine, opium, codeine, and hydrocodone.

- Repeals the current-law formulary process for topical ocular agents that an optometrist may prescribe, as developed by the Board;
- Repeals the current-law statutory formulary of oral ocular agents that an optometrist may prescribe;
- Replaces the current-law formularies with a negative formulary system, to be established by the Board, that will include ocular agents that an optometrist is prohibited from prescribing;
- Removes the current-law limitation on the administration methods a certified optometrist may use for ocular pharmaceuticals, thereby allowing certified optometrists to use additional medication delivery systems – including subcutaneous (Sub-Q), intramuscular (IM), and intravenous (IV) – for ocular pharmaceutical agents not listed in the negative formulary;
- Directs the Board to:
 - Establish the negative formulary of ocular medications that certified optometrists are prohibited from administering or prescribing;
 - Adopt rules relating to:
 - The practices and procedures for the administration and prescription of eye medications;
 - The laser and non-laser ophthalmic procedures and therapies an optometrist certified in ophthalmic procedures may perform;
 - The standards of practice for each Board-approved ophthalmic procedure or therapy an optometrist certified in ophthalmic procedures may perform;
 - The scope of practice of optometry;
 - The required content, grading criteria, and passing score for the licensure examination for certified optometrists; and
- Specifies that the following ophthalmic procedures are excluded from the scope of practice of optometry:
 - Any procedure that requires preoperative medication;
 - Any procedure that requires drug induced alteration of consciousness;
 - Laser vision correction;
 - Penetrating keratoplasty;
 - Corneal or lamellar keratoplasty;
 - Laser of the vitreous chamber or retina to treat vitreomacular or retinal disease;
 - Eyelid surgery for:
 - Suspected eyelid malignancies;
 - Incisional cosmetic or mechanical repair of blepharochalasis, ptosis, or tarsorrhaphy.
 - Boney orbit surgery, including, but not limited to:
 - Orbital implants; or
 - Removal of the human eye.
 - Surgery of the lacrimal system other than lacrimal probing;
 - Full thickness surgeries of the cornea or sclera other than paracentesis in an emergency;
 - Iris and ciliary body surgery requiring a scalpel including, iris diathermy or cryotherapy;
 - Surgery of the vitreous or retina;
 - Surgery of the crystalline lens or an intraocular prosthetic implant;
 - Surgery on extraocular muscles;
 - A full thickness conjunctivoplasty with graft or flap; and
 - Pterygium surgery.

Any other ophthalmology laser and non-laser surgical procedure could be authorized by the Board to be performed by optometrists certified in ophthalmic procedures.⁹⁰

- Provides that all applicable provisions of ch. 456, F.S., relating to the activities of the DOH's regulatory boards will apply to the Board, except for the provisions of that chapter which conflict with the provisions of ch. 463, F.S., relating to the practice of optometry; and
- Makes conforming and cross-referencing changes.

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

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.

IV. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Due to the bill's expansion of services that optometrists may perform, the bill might result in increased costs borne by private health insurers and HMOs that cover optometric services. The fiscal impact is indeterminate at this time.

C. Government Sector Impact:

Due to the bill's expansion of services that optometrists may perform, the bill might result in increased costs for optometric services under state group health insurance and

⁹⁰ Florida Society of Ophthalmology, *Examples of Surgeries SB 876/HB 631 Would Authorize Optometrists to Perform* (on file with the Senate Health Policy Committee).

Medicaid, to the extent such services are covered and provided under those respective benefit packages. The fiscal impact is indeterminate at this time.

V. Technical Deficiencies:

None.

VI. Related Issues:

- The bill directs the Board to review and approve the content of the initial course and examination for certification as an optometrist certified in ophthalmic procedures, and the course and examination must adequately and reliably satisfy the criteria set forth in s. 463.0056, F.S., as created by the bill, relating to ophthalmic procedures certified optometrists may perform. The bill also directs the Board to annually review and approve the examination if the Board determines that the content continues to adequately and reliably satisfy such criteria. However, the bill provides no such criteria in that new section of statute, aside from criteria specifying organizations that may develop and offer the course and exam. For example, the bill does not give guidance as to the number of hours required, the procedures to be included, whether the course and exam can be completed online, or whether the course is lecture-only or requires clinical experience.
- The bill requires an optometrist desiring to be certified to perform ophthalmic procedures, to first provide proof to the DOH of his or her successful completion of a course and subsequent examination, approved by the Board, on laser and non-laser ophthalmic procedures and therapy. The bill defines an “optometrist certified in ophthalmic procedures” as a certified optometrist who is authorized under s. 463.0056, F.S., as created by the bill, to perform Board-approved laser and non-laser ophthalmic procedures and therapy in accordance with that section.

The bill does not provide any guidance as to what happens after a certified optometrist submits his or her proof to the DOH. To wit:

- The bill contains no provision as to who issues the certification, i.e. the DOH or the Board.
- The bill contains no provision for the certification to expire or be renewed.
- The bill contains no continuing education requirements to maintain the certification.
- The bill expands the scope of the practice of optometry to include the ability of optometrist certified in ophthalmic procedures to perform laser and non-laser procedures that are currently only performed by ophthalmology physicians, who are required to carry medical malpractice insurance or provide proof of financial responsibility. Physicians must also report adverse incidents to the DOH. The bill contains no such requirements for optometrists who become certified to perform ophthalmic procedures.
- The bill does not define “minimal tranquilization” that the optometrist certified to perform ophthalmic procedures is permitted to utilize. That term is not a standard term of induced levels of consciousness.

VII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 463.002, 463.003, 463.005, 463.0055, 463.0057, 463.006, 463.0135, 463.014, 463.009, and 641.31.

This bill creates section 463.0056 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

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

By Senator Diaz

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1 A bill to be entitled
 2 An act relating to optometry; reordering and amending
 3 s. 463.002, F.S.; revising and defining terms;
 4 amending s. 463.003, F.S.; revising the member
 5 composition requirements for the Board of Optometry;
 6 revising applicability; amending s. 463.005, F.S.;
 7 revising specified rules the board must adopt;
 8 amending s. 463.0055, F.S.; revising circumstances
 9 under which a certified optometrist may administer or
 10 prescribe ocular pharmaceutical agents; deleting
 11 requirements a certified optometrist must satisfy to
 12 administer or prescribe ocular pharmaceutical agents;
 13 requiring the board to adopt a negative formulary of
 14 ocular pharmaceutical agents certified optometrists
 15 are prohibited from administering or prescribing;
 16 deleting provisions relating to the topical and oral
 17 ocular pharmaceutical agent formularies established by
 18 the board; requiring the board to mail a copy of the
 19 negative formulary to all certified optometrists and
 20 licensed pharmacies under certain circumstances;
 21 revising the controlled substances that certified
 22 optometrists are prohibited from administering or
 23 prescribing; creating s. 463.0056, F.S.; authorizing
 24 certain certified optometrists to perform laser and
 25 non-laser ophthalmic procedures and therapies under
 26 certain circumstances; providing certification
 27 requirements certified optometrists must satisfy to
 28 perform such procedures and therapies; requiring the
 29 board to approve the courses and examinations to be

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30 used for certification if certain conditions are met;
 31 requiring the board to review and approve the
 32 examination annually if certain conditions are met;
 33 authorizing certified optometrists to use the board-
 34 approved course and examination to satisfy their
 35 continuing education requirements under certain
 36 circumstances; prohibiting a certified optometrist who
 37 does not complete such course and examination from
 38 performing certain ophthalmic procedures; specifying
 39 ophthalmic procedures that are excluded from the scope
 40 of practice of optometry, with an exception; amending
 41 s. 463.0057, F.S.; conforming a provision to changes
 42 made by the act; amending s. 463.006, F.S.; conforming
 43 provisions to changes made by the act; requiring the
 44 board to determine the required content, grading
 45 criteria, and passing score for the licensure
 46 examination for certified optometrists; making
 47 technical changes; amending s. 463.0135, F.S.;
 48 authorizing certified optometrists to remove
 49 superficial foreign bodies; defining the term
 50 "superficial foreign bodies"; specifying circumstances
 51 under which optometrists may perform procedures within
 52 the practice of optometry which may otherwise be
 53 considered surgery; requiring licensed practitioners
 54 who are not certified optometrists to display in their
 55 practices a sign containing specified information;
 56 amending s. 463.014, F.S.; deleting a prohibition on
 57 surgery performed by certified optometrists to conform
 58 to changes made by the act; amending ss. 463.009 and

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641.31, F.S.; conforming cross-references; providing
an effective date.

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

Section 1. Section 463.002, Florida Statutes, is reordered
and amended to read:

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

(2)(1) "Board" means the Board of Optometry.

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

(8)(3)(a) "Licensed practitioner" means a person who is a
primary health care provider licensed to engage in the practice
of optometry under the authority of this chapter. With respect
to persons initially licensed under this chapter after July 1,
1993, the term includes only certified optometrists.

~~(b) A licensed practitioner who is not a certified
optometrist shall be required to display at her or his place of
practice a sign which states, "I am a Licensed Practitioner, not
a Certified Optometrist, and I am not able to prescribe ocular
pharmaceutical agents."~~

~~(c) All practitioners initially licensed after July 1,
1993, must be certified optometrists.~~

(3)(4) "Certified optometrist" or "certified optometric
physician" means a licensed practitioner authorized by the board
to administer and prescribe ocular pharmaceutical agents.

(9)(5) "Ocular pharmaceutical agent" means a pharmaceutical
agent that is administered or prescribed topically or orally for
the diagnosis or treatment of ocular conditions of the human eye
and its appendages ~~without the use of surgery or other invasive~~

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~~techniques.~~

(13)(6) "Surgery" means a procedure using an instrument,
including a laser, scalpel, or needle, in which human tissue is
cut, burned, scraped except as provided in s. 463.0135(12) ~~or~~
~~463.014(4)~~, or vaporized, by incision, injection, ultrasound,
laser, infusion, cryotherapy, or radiation. The term includes a
procedure using an instrument which requires the closure of
human tissue by suture, clamp, or other such device.

(11)(7) "Optometry" means the diagnosis, evaluation,
treatment, and management of conditions of the human eye and its
appendages, including any visual, muscular, neurological, or
anatomical anomalies and chronic systemic conditions relating to
the eye; the determination of the refractive powers of the human
eye; and the prescribing and employment of any objective or
subjective means or methods, including the administration of
ocular pharmaceutical agents, contact lenses, spectacle lenses,
magnification lenses, vision therapy, low vision rehabilitation
devices, and ophthalmic procedures and therapy, for the
diagnosis, evaluation, correction, remedy, treatment,
management, or relief of any insufficiency, anomaly,
abnormality, or disease condition relating to the human eye or
its appendages for the purpose of determining the refractive
powers of the human eyes, or any visual, muscular, neurological,
or anatomic anomalies of the human eyes and their appendages,
and the prescribing and employment of lenses, prisms, frames,
mountings, contact lenses, orthoptic exercises, light
frequencies, and any other means or methods, including ocular
pharmaceutical agents, for the correction, remedy, or relief of
any insufficiencies or abnormal conditions of the human eyes and

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117 ~~their appendages.~~

118 ~~(6)(8)~~ "Direct supervision" means supervision to an extent
119 that the licensee remains on the premises while all procedures
120 are being done and gives final approval to any procedures
121 performed by an employee.

122 ~~(7)(9)~~ "General supervision" means the responsible
123 supervision of supportive personnel by a licensee who need not
124 be present when such procedures are performed, but who assumes
125 legal liability therefor. Except in cases of emergency, "general
126 supervision" shall require the easy availability or physical
127 presence of the licensee for consultation with and direction of
128 the supportive personnel.

129 ~~(1)(10)~~ "Appendages" means the eyelids, the eyebrows, the
130 conjunctiva, and the lacrimal apparatus.

131 ~~(14)(11)~~ "Transcript-quality" means a course that which is
132 in conjunction with or sponsored by a school or college of
133 optometry or equivalent educational entity, which course is
134 approved by the board and requires a test and passing grade.

135 ~~(4)(12)~~ "Clock hours" means the actual time engaged in
136 approved coursework and clinical training.

137 (10) "Optometrist certified in ophthalmic procedures" means
138 a certified optometrist who is authorized under s. 463.0056 to
139 perform board-approved laser and non-laser ophthalmic procedures
140 and therapy in accordance with that section.

141 (12) "Refraction" means the use of lenses and ocular
142 pharmaceutical agents during the course of a comprehensive
143 medical eye examination to determine a patient's visual,
144 neurological, and physical requirements to attain optimal visual
145 and perceptual performance.

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146 Section 2. Subsections (2) and (4) of section 463.003,
147 Florida Statutes, are amended to read:

148 463.003 Board of Optometry.—

149 (2) Five members of the board must be certified
150 optometrists or optometrists certified in ophthalmic procedures
151 ~~licensed practitioners~~ actively practicing in this state. The
152 remaining two members must be citizens of this the state who are
153 not, and have never been, licensed practitioners and who are in
154 no way connected with the practice of optometry or with any
155 vision-oriented profession or business. At least one member of
156 the board must be 60 years of age or older.

157 (4) All applicable provisions of chapter 456 relating to
158 activities of regulatory boards which do not conflict with this
159 chapter shall apply.

160 Section 3. Subsection (1) of section 463.005, Florida
161 Statutes, is amended to read:

162 463.005 Authority of the board.—

163 (1) The Board of Optometry shall ~~has authority to~~ adopt
164 rules pursuant to ss. 120.536(1) and 120.54 to implement the
165 provisions of this chapter conferring duties upon it. Such rules
166 ~~must shall~~ include, but need not be limited to, rules relating
167 to all of the following:

168 (a) Standards of practice, including, but not limited to,
169 those provided ~~for~~ in s. 463.0135.

170 (b) Minimum equipment that which a licensed practitioner
171 ~~must shall~~ at all times possess to engage in the practice of
172 optometry.

173 (c) Minimum procedures that which shall constitute a visual
174 examination.

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(d) Procedures for the safekeeping and transfer of prescription files or case records ~~upon the discontinuance of practice.~~

(e) Supervision of supportive personnel.

(f) Courses and procedures for continuing education.

(g) Practices and procedures for the administration and prescription of ocular pharmaceutical agents.

(h) Laser and non-laser ophthalmic procedures and therapies an optometrist certified in ophthalmic procedures may perform, including, but not limited to, the standards of practice for such ophthalmic procedures and therapies.

(i) The scope of practice of optometry consistent with this chapter.

(j) Required content, grading criteria, and passing scores for the licensure examinations set forth in s. 463.006.

Section 4. Section 463.0055, Florida Statutes, is amended to read:

463.0055 Administration and prescription of ocular pharmaceutical agents.—

(1)(a) Certified optometrists may administer and prescribe ocular pharmaceutical agents as provided in this section for the diagnosis and treatment of ocular conditions of the human eye and its appendages ~~without the use of surgery or other invasive techniques.~~ However, a licensed practitioner who is not certified may use topically applied anesthetics solely for the purpose of glaucoma examinations, but is otherwise prohibited from administering or prescribing ocular pharmaceutical agents.

~~(b) Before a certified optometrist may administer or prescribe oral ocular pharmaceutical agents, the certified~~

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~~optometrist must provide proof to the department of successful completion of a course and subsequent examination, approved by the board, on general and ocular pharmaceutical agents and the side effects of those agents. The course shall consist of 20 contact hours, all of which may be web based. The first course and examination shall be presented by October 1, 2013, and shall be administered at least annually thereafter. The course and examination shall be developed and offered jointly by a statewide professional association of physicians in this state accredited to provide educational activities designated for the American Medical Association Physician's Recognition Award (AMA PRA) Category 1 credit and a statewide professional association of licensed practitioners which provides board approved continuing education on an annual basis. The board shall review and approve the content of the initial course and examination if the board determines that the course and examination adequately and reliably satisfy the criteria set forth in this section. The board shall thereafter annually review and approve the course and examination if the board determines that the content continues to adequately and reliably satisfy the criteria set forth in this section. Successful completion of the board-approved course and examination may be used by a certified optometrist to satisfy 20 hours of the continuing education requirements in s. 463.007(3), only for the biennial period in which the board-approved course and examination are taken. If a certified optometrist does not complete a board-approved course and examination under this section, the certified optometrist is only authorized to administer and prescribe topical ocular pharmaceutical agents.~~

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(2)(a) The board shall establish a negative formulary of topical ocular pharmaceutical agents that a certified optometrist may not administer or prescribe ~~be prescribed and administered by a certified optometrist~~. The formulary shall ~~consist of those topical ocular pharmaceutical agents that are appropriate to treat or diagnose ocular diseases and disorders and that the certified optometrist is qualified to use in the practice of optometry~~. The board shall establish, add to, delete from, or modify the topical formulary by rule. Notwithstanding any provision of chapter 120 to the contrary, the topical formulary rule becomes effective 60 days from the date it is filed with the Secretary of State.

(b) The formulary may be added to, deleted from, or modified according to the procedure described in paragraph (a). Any person who requests an addition, deletion, or modification of an authorized topical ocular pharmaceutical agent shall have the burden of proof to show cause why such addition, deletion, or modification should be made.

(c) The State Surgeon General shall have standing to challenge any rule or proposed rule of the board pursuant to s. 120.56. In addition to challenges for any invalid exercise of delegated legislative authority, the administrative law judge, upon such a challenge by the State Surgeon General, may declare all or part of a rule or proposed rule invalid if it:

1. Does not protect the public from any significant and discernible harm or damages;

2. Unreasonably restricts competition or the availability of professional services in the state or in a significant part of the state; or

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3. ~~Unnecessarily increases the cost of professional services without a corresponding or equivalent public benefit.~~

~~However, there shall not be created a presumption of the existence of any of the conditions cited in this subsection in the event that the rule or proposed rule is challenged.~~

(d) Upon adoption of the negative formulary required by this section, and upon each addition, deletion, or modification to the formulary, the board shall mail a copy of the amended formulary to each certified optometrist and to each pharmacy licensed by the state.

(3) In addition to the formulary of topical ocular pharmaceutical agents established by rule of the board, there is created a statutory formulary of oral ocular pharmaceutical agents, which includes the following agents:

(a) The following analgesics or their generic or therapeutic equivalents, which may not be administered or prescribed for more than 72 hours without consultation with a physician licensed under chapter 458 or chapter 459 who is skilled in diseases of the eye:

1. ~~Tramadol hydrochloride.~~

2. ~~Acetaminophen 300 mg with No. 3 codeine phosphate 30 mg.~~

(b) The following antibiotics or their generic or therapeutic equivalents:

1. ~~Amoxicillin with or without clavulanic acid.~~

2. ~~Azithromycin.~~

3. ~~Erythromycin.~~

4. ~~Dicloxacillin.~~

5. ~~Doxycycline/Tetracycline.~~

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291 ~~6. Keflex.~~
 292 ~~7. Minocycline.~~
 293 ~~(c) The following antivirals or their generic or~~
 294 ~~therapeutic equivalents:~~
 295 ~~1. Acyclovir.~~
 296 ~~2. Famciclovir.~~
 297 ~~3. Valacyclovir.~~
 298 ~~(d) The following oral anti-glaucoma agents or their~~
 299 ~~generic or therapeutic equivalents, which may not be~~
 300 ~~administered or prescribed for more than 72 hours:~~
 301 ~~1. Acetazolamide.~~
 302 ~~2. Methazolamide.~~
 303
 304 Any oral ocular pharmaceutical agent that is listed in the
 305 statutory formulary set forth in this subsection and that is
 306 subsequently determined by the United States Food and Drug
 307 Administration to be unsafe for administration or prescription
 308 shall be considered to have been deleted from the formulary of
 309 oral ocular pharmaceutical agents. The oral ocular
 310 pharmaceutical agents on the statutory formulary set forth in
 311 this subsection may not otherwise be deleted by the board, the
 312 department, or the State Surgeon General.
 313 (3)(4) A certified optometrist shall be issued a prescriber
 314 number by the board. Any prescription written by a certified
 315 optometrist for an ocular pharmaceutical agent pursuant to this
 316 section shall have the prescriber number printed thereon. A
 317 certified optometrist may not administer or prescribe any of the
 318 following:
 319 (a) A controlled substance listed in Schedule II, Schedule

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320 III, Schedule IV, or Schedule V of s. 893.03, except for an oral
 321 analgesic ~~placed on the formulary pursuant to this section for~~
 322 the relief of pain due to ocular conditions of the eye and its
 323 appendages.
 324 (b) A controlled substance for the treatment of chronic
 325 nonmalignant pain as defined in s. 456.44(1)(f).
 326 Section 5. Section 463.0056, Florida Statutes, is created
 327 to read:
 328 463.0056 Ophthalmic Procedures.—
 329 (1)(a) An optometrist certified in ophthalmic procedures
 330 may perform laser and non-laser ophthalmic procedures and
 331 therapies as authorized by the board but may not perform an
 332 ophthalmic procedure or therapy that requires preoperative
 333 medications or drug-induced alteration of consciousness.
 334 However, an optometrist certified in ophthalmic procedures may
 335 use medication for minimal tranquilization of the patient and
 336 local or topical anesthesia if the chances of complications
 337 requiring hospitalization of the patient as a result are remote.
 338 (b) To be certified to perform ophthalmic procedures, a
 339 certified optometrist must first provide proof to the department
 340 of successful completion of a course and subsequent examination,
 341 approved by the board, on laser and non-laser ophthalmic
 342 procedures and therapy. The course and examination shall be
 343 developed and offered jointly by a statewide professional
 344 association of physicians in this state accredited to provide
 345 educational activities designated for the American Medical
 346 Association Physician's Recognition Award Category 1 credit and
 347 a statewide professional association of licensed practitioners
 348 which provides board-approved continuing education on an annual

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basis. The board shall review and approve the content of the initial course and examination if the board determines that the course and examination adequately and reliably satisfy the criteria set forth in this section. The board shall thereafter annually review and approve the examination if the board determines that the content continues to adequately and reliably satisfy the criteria set forth in this section. Successful completion of the board-approved course and examination may be used by a certified optometrist to satisfy the continuing education requirements in s. 463.007(3) only for the biennial period in which the board-approved course and examination are taken. If a certified optometrist does not complete a board-approved course and examination under this section, the certified optometrist may not perform ophthalmic procedures described in paragraph (a).

(2) The following ophthalmic procedures are excluded from the scope of practice of optometry, except for the preoperative and postoperative care of these procedures:

(a) Laser vision correction, penetrating keratoplasty, and corneal or lamellar keratoplasty.

(b) Laser of the vitreous chamber or retina of the eye to treat any vitreomacular or retinal disease.

(c) Surgery of the eyelid for suspected eyelid malignancies or for incisional cosmetic or mechanical repair of blepharochalasis, ptosis, or tarsorrhaphy.

(d) Surgery of the boney orbit, including, but not limited to, orbital implants or removal of the human eye.

(e) Incisional or excisional surgery of the lacrimal system other than lacrimal probing or related procedures.

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(f) Surgery requiring full thickness incision or excision of the cornea or sclera other than paracentesis in an emergency situation requiring immediate reduction of elevated pressure inside the eye.

(g) Surgery requiring incision or excision by scalpel of the iris and ciliary body, including, but not limited to, iris diathermy or cryotherapy.

(h) Surgery requiring incision or excision of the vitreous or retina.

(i) Surgery requiring incision or excision of the crystalline lens or an intraocular prosthetic implant.

(j) Surgery involving incision or excision of the extraocular muscles.

(k) Surgery requiring full thickness conjunctivoplasty with graft or flap.

(l) Pterygium surgery.

(m) Any other procedure or therapy the board deems appropriate.

Section 6. Subsection (3) of section 463.0057, Florida Statutes, is amended to read:

463.0057 Optometric faculty certificate.—

(3) The holder of a faculty certificate may engage in the practice of optometry as permitted by this section but may not administer or prescribe topical ocular pharmaceutical agents unless the certificateholder has satisfied the requirements of s. 463.006(1)(e) and (f). ~~If a certificateholder wishes to administer or prescribe oral ocular pharmaceutical agents, the certificateholder must also satisfy the requirements of s. 463.0055(1)(b).~~

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407 Section 7. Section 463.006, Florida Statutes, is amended to
408 read:

409 463.006 Licensure and certification by examination.—

410 (1) Any person desiring to be a certified optometrist
411 ~~licensed practitioner~~ pursuant to this chapter must apply to the
412 department and must submit proof to the department that she or
413 he:

414 (a) Has completed the application forms as required by the
415 board, remitted an application fee for certification not to
416 exceed \$250, remitted an examination fee for certification not
417 to exceed \$250, and remitted an examination fee for licensure
418 not to exceed \$325, all as set by the board.

419 (b) Is at least 18 years of age.

420 (c) Has graduated from an accredited school or college of
421 optometry approved by rule of the board.

422 (d) Is of good moral character.

423 (e) Has successfully completed at least 110 hours of
424 transcript-quality coursework and clinical training in general
425 and ocular pharmacology as determined by the board, at an
426 institution that:

427 1. Has facilities for both didactic and clinical
428 instructions in pharmacology; and

429 2. Is accredited by a regional or professional accrediting
430 organization that is recognized and approved by the Commission
431 on Recognition of Postsecondary Accreditation or the United
432 States Department of Education.

433 (f) Has completed at least 1 year of supervised experience
434 in differential diagnosis of eye disease or disorders as part of
435 the optometric training or in a clinical setting as part of the

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436 optometric experience.

437 (2) The board shall approve a licensure examination
438 consisting of the appropriate subjects and including applicable
439 state laws and rules and general and ocular pharmacology with
440 emphasis on the use and side effects of ocular pharmaceutical
441 agents. The board may by rule substitute a national examination
442 as part or all of the examination and, notwithstanding chapter
443 456, may by rule offer a practical examination in addition to a
444 written examination. The board shall determine the required
445 content, grading criteria, and passing score for the licensure
446 examination.

447 (3) Each applicant who submits proof satisfactory to the
448 board that he or she has met the requirements of subsection (1),
449 who successfully passes the licensure examination within 3 years
450 before the date of application or within 3 years after the
451 submission of an application, and who otherwise meets the
452 requirements of this chapter is entitled to be licensed as a
453 certified optometrist practitioner and to be certified to
454 administer and prescribe ocular pharmaceutical agents in the
455 diagnosis and treatment of ocular conditions.

456 Section 8. Subsections (12) and (13) are added to section
457 463.0135, Florida Statutes, to read:

458 463.0135 Standards of practice.—

459 (12) Certified optometrists may remove superficial foreign
460 bodies. For the purpose of this subsection, the term
461 "superficial foreign bodies" means any foreign matter that is
462 embedded in the conjunctiva or cornea but that has not
463 penetrated the globe. Notwithstanding the definition of surgery
464 in s. 463.002, a certified optometrist may provide any

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optometric care within the practice of optometry as defined in
s. 463.002, including, but not limited to, removing an eyelash
by epilation, probing an uninflamed tear duct in a patient 18
years of age or older, blocking the puncta by plug, or
superficial scraping for the purpose of removing damaged
epithelial tissue or superficial foreign bodies or taking a
culture of the surface of the cornea or conjunctiva.

(13) A licensed practitioner who is not a certified
optometrist is required to display at her or his place of
practice a sign that states, "I am a Licensed Practitioner, not
a Certified Optometrist, and I am not able to prescribe ocular
pharmaceutical agents or perform ophthalmic procedures."

Section 9. Subsection (4) of section 463.014, Florida
 Statutes, is amended to read:

463.014 Certain acts prohibited.—

~~(4) Surgery of any kind is expressly prohibited. Certified~~
~~optometrists may remove superficial foreign bodies. For the~~
~~purposes of this subsection, the term "superficial foreign~~
~~bodies" means any foreign matter that is embedded in the~~
~~conjunctiva or cornea but that has not penetrated the globe.~~
~~Notwithstanding the definition of surgery as provided in s.~~
~~463.002(6), a certified optometrist is not prohibited from~~
~~providing any optometric care within the practice of optometry~~
~~as defined in s. 463.002(7), such as removing an eyelash by~~
~~epilation, probing an uninflamed tear duct in a patient 18 years~~
~~of age or older, blocking the puncta by plug, or superficial~~
~~scraping for the purpose of removing damaged epithelial tissue~~
~~or superficial foreign bodies or taking a culture of the surface~~
~~of the cornea or conjunctiva.~~

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Section 10. Section 463.009, Florida Statutes, is amended
 to read:

463.009 Supportive personnel.—No person other than a
 licensed practitioner may engage in the practice of optometry as
 defined in s. 463.002 ~~s. 463.002(7)~~. Except as provided in this
 section, under no circumstances shall nonlicensed supportive
 personnel be delegated diagnosis or treatment duties; however,
 such personnel may perform data gathering, preliminary testing,
 prescribed visual therapy, and related duties under the direct
 supervision of the licensed practitioner. Nonlicensed personnel,
 who need not be employees of the licensed practitioner, may
 perform ministerial duties, tasks, and functions assigned to
 them by and performed under the general supervision of a
 licensed practitioner, including obtaining information from
 consumers for the purpose of making appointments for the
 licensed practitioner. The licensed practitioner shall be
 responsible for all delegated acts performed by persons under
 her or his direct and general supervision.

Section 11. Subsection (19) of section 641.31, Florida
 Statutes, is amended to read:

641.31 Health maintenance contracts.—

(19) Notwithstanding any other provision of law, health
 maintenance policies or contracts which provide coverage,
 benefits, or services as described in s. 463.002 ~~s. 463.002(7)~~,
 shall offer to the subscriber the services of an optometrist
 licensed pursuant to chapter 463.

Section 12. This act shall take effect July 1, 2021.

Rossitto-Vanwinkle, Tari

From: Spivey, Anthony B <Anthony.Spivey@flhealth.gov>
Sent: Thursday, January 7, 2021 1:22 PM
To: Rossitto-Vanwinkle, Tari
Subject: Optometrists licensed under s. 463.002(3)(b), F.S.
Attachments: OPT only clear inactive.docx; Opt only clear active.docx

Good afternoon Ms. Rossitto-Vanwinkle,

I am attaching your request for a list of the licensed optometrists who are not *certified* per your January 6, 2021 request to Ms. Hartman. Please contact me if you have any questions.

Sincerely,

Dr. Spivey

Anthony B. Spivey, DrBA

Executive Director

Boards of Chiropractic Medicine, Clinical Laboratory Personnel,
Nursing Home Administrators, Optometry
EMT/Paramedics, Radiology Technologists, and Medical Physicists
4052 Bald Cypress Way, Bin #C-07
Tallahassee, FL 32399
850 901-6830

Florida Medical Quality Assurance License Master Report

License Type: 1801 Optometrist

Selection Criteria: Status=20; Secondary Status=40; Rank=OP; Rank=OP; Address Type=MA;

File #	License #	Name	Rank	Status	Expiry Date	Modifiers	Zip	Region	County
721	1079	HARVEY A DUBIN	OPTOMETRIST	CLEAR, INACTIVE	02/28/2021	NDEA,PLP3	10606	None	Out of State
752	1110	ALTON L PROVOST	OPTOMETRIST	CLEAR, INACTIVE	02/28/2021	PLP3	30052	None	Out of State
779	1140	WILLIAM F BILLMAN	OPTOMETRIST	CLEAR, INACTIVE	02/28/2021	NDEA,PLP3	46240	None	Out of State
1074	1443	STUART D SCHATZ	OPTOMETRIST	CLEAR, INACTIVE	02/28/2023	PLP3	20740	None	Out of State
1820	2195	TIMOTHY C MCKERNAN	OPTOMETRIST	CLEAR, INACTIVE	02/28/2021	PLP3	16046	None	Out of State
1904	2279	TAMMY LYNNE HOLSCLOW-JONES	OPTOMETRIST	CLEAR, INACTIVE	02/28/2021	PLP3	37601	None	UNKNOWN
1970	2345	FRANK MICHAEL DERIENZO	OPTOMETRIST	CLEAR, INACTIVE	02/28/2021	PLP3	07726	None	Out of State

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Selection Criteria: Status=20; Secondary Status=20; Rank=OP; Rank=OP; Address Type=MA;

File #	License #	Name	Rank	Status	Expiry Date	Modifiers	Zip	Region	County
253	570	DAVID D HAUGHTON	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	NDEA,PLP3	33407-6555	West Palm Beach	PALM BEACH
300	628	DALE FAUST	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	PLP3,NDEA	33871-1147		HIGHLANDS
469	818	WILLIAM FLEISHER	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	PLP3	33308	Ft. Lauderdale	BROWARD
501	853	D B COCHRAN	OPTOMETRIST	CLEAR, ACTIVE	02/28/2023	PLP3,PLP2	33759	St. Petersburg	PINELLAS
519	872	ROBERT L AGNEW	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	PLP3	34957	West Palm Beach	MARTIN
549	902	ALLEN I SOBEL	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	PLP3	34429	Gainesville	CITRUS
615	969	TIMOTHY P ALLEN	OPTOMETRIST	CLEAR, ACTIVE	02/28/2023	PLP3	78251-4302	None	Out of State
657	1014	GARY ROBERT ALLEGRETTI	OPTOMETRIST	CLEAR, ACTIVE	02/28/2023	PLP3	33410	West Palm Beach	PALM BEACH
672	1030	KEITH A FINGER	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	PLP3	32626	Gainesville	LEVY
676	1034	GILBERT G JANNELLI	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	PLP3	33756	St. Petersburg	PINELLAS
687	1045	GARY E RADISH	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	PLP3	37043	None	Out of State
737	1095	MAURY J HOLLANDER	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	NDEA,PLP3	32701	Orlando	SEMINOLE
750	1108	CLAYTON L OLESEN JR	OPTOMETRIST	CLEAR, ACTIVE	02/28/2023	PLP3	32931	Orlando	BREVARD
766	1126	FRANK WASSERMAN O.D.	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	PLP3	63130	None	Out of State
772	1132	SAMUEL D WINN	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	NDEA,PLP3	32904	Orlando	BREVARD
803	1166	REUBEN MARGULIS	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	PLP3	33324	Ft. Lauderdale	BROWARD
829	1193	RICHARD C STEVENS	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	PLP3,NDEA	32137	Jacksonville	FLAGLER

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839	1203	HARRY NEIL SNYDER OD	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	PLP3	33412	West Palm Beach	PALM BEACH
849	1214	JAMES E FABRICANT OD	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	NDEA,PLP3	85750	None	Out of State
861	1226	RICHARD K HAUSER	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	PLP3	10583-1923	None	Out of State
File #	License #	Name	Rank	Status	Expiry Date	Modifiers	Zip	Region	County
869	1234	CLIFFORD A LEMKIN	OPTOMETRIST	CLEAR, ACTIVE	02/28/2023	NDEA,PLP3	11733-1946	None	UNKNOWN
878	1243	BENJAMIN PARRISH	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	NDEA,PLP3	37659	None	Out of State
904	1270	GERALD J GALLENTINE MR	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	NDEA,PLP3	33684	Tampa	HILLSBOROUGH
918	1286	JOEL S JUSTIN	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	PLP3	15241	None	Out of State
952	1320	DONALD R WALKER OD	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	PLP3	07869	None	Out of State
972	1340	MICHAEL M SLOANE	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	PLP3	11561-2713	None	Out of State
986	1354	DAVID IRVING HORN	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	NDEA,PLP3	10475	None	Out of State
1008	1376	WARREN ZIMMERMAN	OPTOMETRIST	CLEAR, ACTIVE	02/28/2023	PLP3,PLP2	11576	None	Out of State
1034	1403	ALAN J DEYONG	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	PLP3	10901	None	Out of State
1040	1409	GAYLE H FUQUA	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	NDEA,PLP3	32175-0032	Jacksonville	VOLUSIA
1063	1432	RICARDO A MORENO OD	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	NDEA,PLP3	33015	Miami	MIAMI-DADE
1084		1453 AMY HOLLANDER BEACH WOLNERMAN	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	NDEA,PLP3	33433	West Palm Beach	PALM BEACH
1086	1455	SCOTT WEIL	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	PLP3	11050	None	Out of State
1101	1470	EUGENE BENNETT FRANK	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	PLP3	08057	None	Out of State
1106	1475	ANDREW GALLANT HAHN OD	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	PLP3	28106	None	Out of State

Florida Medical Quality Assurance License Master Report

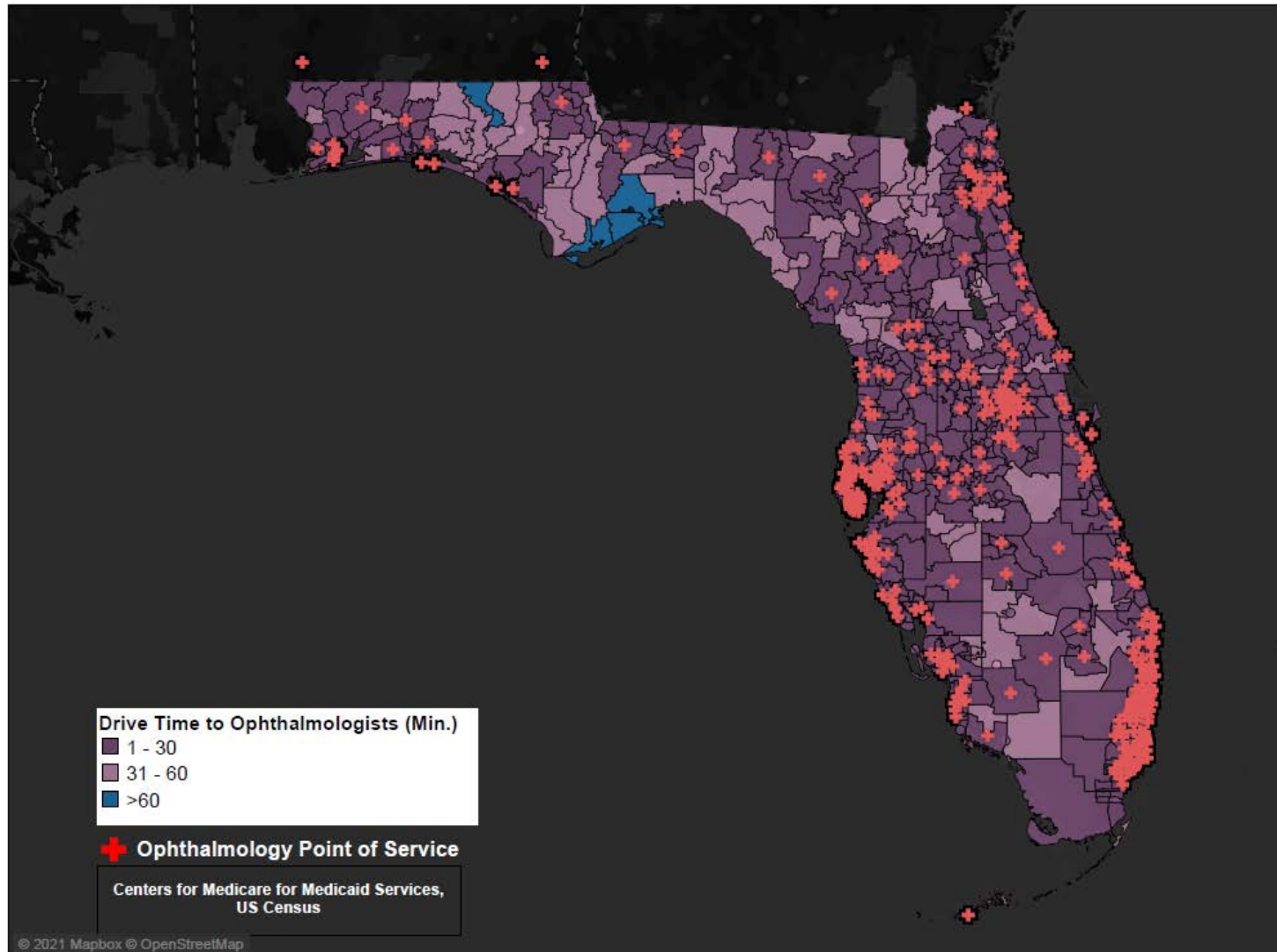
1178	1548	DOUGLAS LEE MEIER	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	PLP3	32714-5833	Orlando	SEMINOLE
1194	1564	STEVEN MICHAEL WILSON	OPTOMETRIST	CLEAR, ACTIVE	02/28/2023	PLP3	32250	Jacksonville	DUVAL
1244	1614	BRUCE M STEIN	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	NDEA,PLP3	32951	Orlando	BREVARD
1248	1618	STEVEN ROBERT ALI	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	NDEA,PLP3	10022	None	Out of State
1268	1639	HOWELL M FINDLEY O.D.	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	PLP3	40356	None	Out of State
1289	1662	STUART WARREN KRASNOFF	OPTOMETRIST	CLEAR, ACTIVE	02/28/2023	PLP3	11804-1018	None	Out of State
File #	License #	Name	Rank	Status	Expiry Date	Modifiers	Zip	Region	County
1434	1808	MARK J LICHT	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	PLP3	11235-2451	None	Out of State
1509	1884	ALAN R TITELBAUM	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	PLP3	02145-3129	None	Out of State
1525	1900	MICHAEL S BERK	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	PLP3	43230	None	Out of State
1540	1915	DEBORAH F MCDONALD	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	PLP3	31602	None	Out of State
1569	1944	BARNET LOUIS LELAND	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	NDEA,PLP3	48323	None	Out of State
1619	1994	DIANE L GALPER	OPTOMETRIST	CLEAR, ACTIVE	02/28/2023	PLP3	48377	None	Out of State
1704	2079	JILL KIMBERLY MEYER	OPTOMETRIST	CLEAR, ACTIVE	02/28/2023	PLP3	35124	None	Out of State
1778	2153	WILLIAM SHOCKLEY	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	PLP3	30265-3420	None	Out of State
1837	2212	KURT ERIC TREU	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	PLP3	30517	None	Out of State
1898	2273	JOSEPH LEE EDMISTON	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	PLP3	37075-4374	None	Out of State
1981	2356	SIDNEY ALAN GOTTLIEB	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	NDEA,PLP3	30022	None	Out of State

**Florida Medical Quality Assurance
License Master Report**

2040	2416	LORI ANN ROTHMAN	OPTOMETRIST	CLEAR, ACTIVE	02/28/2023	PLP3,NDEA 10022	None	UNKNOWN
2148	2525	CATHY LYNN EDWARDS	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	NDEA,PLP3 72758	None	Out of State
2177	2555	VITO PROSCIA	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	PLP3 11788	None	Out of State
2269	2647	FRANK GRAYSON FLOWERS	OPTOMETRIST	CLEAR, ACTIVE	02/28/2021	PLP3 39819	None	Out of State



96% of Florida's Population is Within a 30-Minute Drive to an Ophthalmologist*



*SOURCES:

- Centers for Medicare and Medicaid (CMS): National Physician Compare File
- U.S. Census Bureau

Recommended Updates to Florida Optometry Practice Act 2021

THE PROBLEM

At its core, updating Florida Optometry practice laws is a matter of removing unnecessary barriers to reduce patients' costs, provide patients more choices, and increase patients' access to quality, affordable health care.

Currently, Florida has some of the most narrow and restrictive optometric scope of practice laws in the United States. Many other states updated their laws years (and in some cases decades) ago with no overall adverse effects.

Notably, no state legislature has ever repealed modernized optometric scope of practice. No state licensure board where advanced ophthalmic procedures are practiced has ever been notified by the National Practitioner Data bank of a judgement against one of their licensees. And liability insurance rates for Doctors of Optometry in states with modernized scope of practice have not increased even though they are based and driven using state specific data.

Optometrists are the doctoral level primary care provider for the eye and its appendages. They have specialized advanced education and training and are held to the same standard of care as any medical doctor. And yet, in Florida, they are not allowed to practice to the level of their education and training or remain contemporary through certification processes available to other allied health providers. In fact, in many instances, Physician Assistants - who do not have the same level of background, specialized education and training as ODs - are permitted to perform more advanced eye procedures and possess broader prescriptive authority than an optometrist in Florida.

Physician Assistants act as extenders of an Ophthalmologist's practice to serve patients – but only when the patient is accepted by the Ophthalmologist. In Florida, PAs can and are successfully performing many ocular procedures that an updated optometric scope of practice law revision would allow Doctors of Optometry to perform. PAs can do so without physical supervision by the Supervising Physician / Ophthalmologist – so long as the PA can reach the physician by phone (Fla. Stat. 458.347). Additionally, Supervising Physicians can delegate unsupervised prescriptive authority of Schedule II-V drugs, limited only by a 7-day prescription maximum for Schedule II.

To be clear, noting these facts is merely intended to educate the reader as to the need for updating the optometric practice act. It is not intended to imply or advocate any need for limiting PAs currently provided authority. On the contrary, Florida Optometrists simply request that the laws be updated to allow them to utilize a fuller range of the available skillsets and “tools” to provide the most effective care possible for their patients.

Resistance to reform comes from a narrow subset of the specialty practitioners (Ophthalmologists) who could potentially lose market share for a limited suite of services if patients were provided more choices and increased access to affordable care. However, many Ophthalmologists support reform.

There are far less Ophthalmologists than Optometrists nationally and in Florida. And, although they have offices, Ophthalmology practitioners themselves are not in every community or county in Florida as are many Optometrists. Furthermore, as advanced surgeons, much of an Ophthalmologist's time is devoted to providing highly needed advanced surgeries performed in the ASC or hospital setting. This results in less access and longer wait times for patients needing primary eye care and leading to more negative healthcare outcomes due to delays in care for patients over time.

The federal government has recognized the access problem created by these outdated laws, and the fact that it drives up healthcare costs for patients and government healthcare programs. Notably, the federal government has sought corrections where it can, namely in veteran care delivered through the VA.

THE SOLUTION

Updating Florida's optometric scope of practice laws to allow Doctors of Optometry to practice to a fuller scope of their education and training will increase access to primary care for patients, provide patients more choices and control over their healthcare, and result in lower costs for patients and the healthcare system over time.

This has been done in many other states for a long time, with great success and without adverse effects. The reforms proposed here would not even go as far as other states which also have not experienced negative consequences.

WHAT ARE WE ASKING YOU TO DO?

1. We are asking you to stand for patients, not providers.

- It is about patient access and patient choice.
 - Florida has among the most restrictive optometric scope of practice laws in the country, limiting patients' options and access to care as provided by Doctors of Optometry.
 - Between 2000-2020 there has been an increase of 15,711 Doctors of Optometry nationwide, yet there has only been an increase of 2,000 ophthalmologists.
 - Doctors of Optometry are the only eye care providers in over 10,000 U.S. communities.

2. We are asking you to stand for data, not deception.

- States across the country have updated optometric scope of practice, without adverse effects.
 - No state licensure board where ophthalmic procedures are practiced has ever been notified by the National Practitioner Data Bank of a judgement against one of their licensees regarding ophthalmic procedures.
 - Liability insurance rates for Doctors of Optometry in states with up-to-date scope have not increased even though they are based on state specific data.
 - No state legislature has ever repealed optometric scope of practice.

3. We are asking you to safely expand our toolchest, not our treatment area.

- Optometric care is still limited to the eye and its appendages.
 - This will not broaden the scope of what conditions Doctors of Optometry currently manage and/or treat but will allow them to utilize the latest proven, safe, and approved technologies and medications to bring patients the best possible care.
 - Oversight of competency of Doctors of Optometry shall be exercised by the state-run licensure board, consistent with the authority of other doctoral level licensure boards.
 - To perform additional procedures, state certified Doctors of Optometry must meet specific educational requirements. No current licensee will be "grandfathered" into certification to perform additional procedures.

WHAT IS A DOCTOR OF OPTOMETRY?

They are doctoral level independent health care practitioners educated on the human body with specific emphasis on the eye, vision, and ophthalmic manifestations of systemic conditions.

They complete an undergraduate degree as well as four years of professional education at a school of optometry and earn a Doctor of Optometry degree. Many choose to get additional clinical training or complete a specialty residency after optometry school.

They prescribe medication, provide visual rehabilitation, prescribe corrective lenses, and perform specified minor surgical procedures.

They are held to the same standard of care as medical doctors. They have been designated as physicians in the State of Florida since 1993 (Fla. Stat. 456.056) and Federally since 1986.

WHAT DOES A DOCTOR OF OPTOMETRY DO?

Provide the following services:

- Primary care and, like all primary care doctors, total eye care coordination
- Annual or routine eye exams, including eye health education
- Diagnosis of eye conditions
- Prescriptions for eyeglasses, contact lenses, and other visual aids
- Medical treatments and minor surgical procedures for eye conditions
- Post-surgical eye care

They can prescribe controlled medications for eye conditions. Depending on the state's laws, some optometrists can also perform more advanced ocular surgeries. (www.healthline.com, 2019)

THREE AREAS OF SCOPE OF PRACTICE FOR DOCTORS OF OPTOMETRY

- **Practice authority** can be defined as an optometrist's ability to perform procedures that fall within their scope of practice, as determined by the state board of optometry. Procedures that may fall under an optometrist's scope of practice include foreign body removal, minor surgical procedures, and other state authorized procedures.
- **Prescriptive authority** refers to whether an optometrist can prescribe certain medications and limited and specified classifications of controlled substances.
- **Procedures Authority** refers to minor surgical procedures an optometrist can provide in treatment of the orbital structures for tear production and drainage, also known as the lacrimal system.

HOW DO FLORIDA'S OPTOMETRIC SCOPE OF PRACTICE LAWS COMPARE TO OTHERS?

- Florida has among the most restrictive and narrow optometric scope of practice laws in the United States.
 - Approximately 35 states allow broader prescription authority (Schedule II) than Florida.
 - Approximately 20 states allow wider latitude to provide minor surgical procedures.
 - Oklahoma has been doing it the longest, since 1988. In a letter from a board member of the Oklahoma Board of Examiners in Optometry, Oklahoma's experience with expanded scope is summarized as follows: *"an estimated 25,000 anterior laser surgery procedures have been performed by Oklahoma Optometrists. To this date there has been no complaints reported to the Board of Examiners by any entity, including members of the public, the legislature, any other regulatory body, the Oklahoma State Medical Association and the Oklahoma Academy of Ophthalmology."*

DO CURRENT FLORIDA OPTOMETRIC SCOPE OF PRACTICE LAWS ALIGN WITH PATIENT FOCUSED REFORM OF THE HEALTHCARE SYSTEM?

No.

- In late 2018, the [Department of Health and Human Services published a report](#) that outlined reforms the government should take to deliver optimal care to Americans, including realizing new health care choices for the public and identifying barriers on federal and state levels to market competition. Notably, that report specifically stated that Doctors of Optometry can provide the same services as other physicians and stressed "states should consider changes to their scope of practice statutes to allow all health care providers to practice to the top of their license, utilizing their full skill set."
- In an update to the Veterans Health Administration's (VHA) [Eye and Vision Care policy](#) on August 18, 2020, the administration rescinded a previous directive that effectively limited veteran access to therapeutic laser eye procedures at VA medical facilities, and, in turn, issued a new directive that emphasizes the use of interdisciplinary care. This recent VA action is one in a series of access-focused efforts, including an April 2020 policy underscoring that veterans are best served when all VA Doctors of Optometry and other essential care providers deliver care with full practice authority. (American Optometric Association, 2020)

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Overview of Recommended Changes to Florida Optometry Practice Act

1. **Contemporizing Control over the Scope of Practice:** The scope of practice of the field of Optometry will now be defined by the Board of Optometry over the prescription of pharmaceutical agents and the practice of any surgical procedures via final approval by the Surgeon General.
 - State Surgeon General shall have standing under Section 456.012, Florida Statutes, to challenge any rule or proposed rule of the board.
 - Consistent with authority of other doctoral level medical boards.
2. **Modernization of Scope of Practice for Prescriptive Authority:** The use of all FDA approved drugs and medications will be streamlined. Rather than relying on a quickly outdated enumerated list in the current law, the Board shall establish by rule a negative formulary of pharmaceutical agents or medications that may not be prescribed or administered due to known or reported problems, such as contamination or recall.
 - Certified (by the board) optometrists may administer and prescribe medically appropriate ocular pharmaceutical agents for the diagnosis and treatment of ocular conditions of the human eye and its appendages.
 - A licensed practitioner who is not certified may use topically applied anesthetics solely for the purpose of glaucoma examinations (currently allowed) but is otherwise prohibited from administering or prescribing ocular pharmaceutical agents.
 - A licensed practitioner who is not certified shall be required to display at her or his place of practice a sign which states, “I am a Licensed Practitioner, not a Certified Optometrist, and I am not able to prescribe ocular pharmaceutical agents or perform ophthalmic procedures.”
 - Schedule II controlled substances could be prescribed or administered for the relief of short-term side effects due to ocular conditions of the eye and its appendages.
 - At least 35 states currently allow Doctors of Optometry to prescribe Schedule II substances. Some restrict Schedule II prescribing authority only to hydrocodone products; others allow prescription of all appropriate Schedule II substances.
 - The use of a negative formulary will create treatment and market efficiency by reducing duplicative approval processes at the state level. Once the federal government has approved a medication or modality for use within the scope of optometric care, a Doctor of Optometry could begin using it immediately unless challenged by the Surgeon General or placed on the negative formulary.
 - This will improve efficiency and reduce costs as it is very common for already-approved “new” medications and drugs to come to market as more affordable generics or combination drugs – but under new names that would automatically make them unusable until slow bureaucratic processes put them on a formulary for approved use.
3. **Modernization of Scope of Practice for Minor “Surgical” Procedures:** Removes the complete ban on all surgical procedures for Doctors of Optometry and allows certain minor “surgical” procedures to be performed within the scope of education, training, and certification – consistent with what other states have allowed.
 - Surgeries that require general anesthesia or penetration of the vitreous chamber or retina of the eye will be *not* be permissible.
 - Optometrists cannot perform *any* surgical procedures unless they complete a detailed certification course that will be developed and offered jointly by a statewide professional association of physicians accredited to provide educational activities designated for the American Medical Association Physician’s Recognition Award Category 1 credit and a professional association of licensed practitioners which provides board-approved continuing education on an annual basis.
 - Expanded scope of optometric practices involving surgical procedures is already permitted in several states - Oklahoma, Louisiana, Kentucky, Alaska, Arkansas and expanded individual procedures are permitted in approximately 20 states throughout the nation.
 - In the states that have approved this expansion in scope, there has been zero increase in complications as compared to ophthalmologists performing identical procedures.
 - Physicians assistants are already performing many of these procedures **and more** in Florida without requisite (or additional) training. The objective of the current prohibition is not to serve or protect the patient, but to prohibit the expansion of scope of optometrists unreasonably and unethically to preserve market share, and as a result, deny greater access to primary eye health care for patients.

Works Cited

- American Optometric Association (AOA). (2020, May 25). Retrieved from <https://www.aoa.org/news/advocacy/state-advocacy/scope-expansion-to-save-americans-billions-annually?sso=y>
- American Optometric Association. (2020, August 27). *VA rescinds laser policy, opens path to full recognition of optometric care*. Retrieved December 2020, from <https://www.aoa.org/news/advocacy/patient-protection/va-rescinds-laser-policy?sso=y>.
- National Conference of State Legislatures (NCSL). (2018, October 23). Retrieved December 2020, from www.ncsl.org: <https://www.ncsl.org/research/health/optometrist-scope-of-practice.aspx>
- www.healthline.com. (2019, September 17). Retrieved December 2020, from <https://www.healthline.com/health/eye-health/optometrist-vs-ophthalmologist>

Statement on Optometric Malpractice Rates February 10, 2021

OMIC currently insures more than 5,500 ophthalmologists and more than 1,000 optometrists nationwide. During our 30+ years in operation, we have handled over 11,000 medical professional liability incidents and claims arising from the actions of the entire eye care team, from ophthalmologists to optometrists to technicians.

I will address the two issues that are frequently inquired about:

1. The stability of malpractice rates for optometrists; and
2. The complications that can arise from the performance of certain surgical procedures.

Insurance Premiums

Regarding the stability of optometric malpractice rates, the answer is very straightforward and is actuarial in nature.

- Most optometrists in the United States do not manage patients with complex ophthalmic conditions or perform laser and incisional surgery.
- Therefore, the number of “opportunities” for potential malpractice is relatively small, and such cases typically take three to four years to come to final adjudication.
- Without large numbers of cases having yet moved through the courts, there is little statistical information on which to base rate increases.
- This is particularly true compared to ophthalmologists who spend much of their time managing (including surgically) complex and sight-threatening cases and therefore have significantly more “opportunities” to incur malpractice allegations.

Surgical Complications

Regarding outcomes, every surgical procedure has associated potential complications. OMIC has drafted consent forms for most ophthalmic surgical procedures that explain the risks – or potential complications – for those procedures.

- For example, the consent form for laser iridotomy, which involves making a hole in the iris with the laser to treat narrow angle glaucoma, lists risks for this procedure that include:
 - Inflammation or bleeding in the eye,
 - Cataract formation, and
 - Damage to the cornea or retina from the laser light.
- All ocular surgical procedures have their own associated risks, including permanent loss of vision, even for surgeries seemingly as safe as draining a chalazion (an inflamed oil gland) of the eyelid.
- These complications cannot always be prevented, but the likelihood can be decreased by having a trained and skilled surgeon perform the procedure.

OMIC Statement on Optometric Malpractice Rates

February 10, 2021

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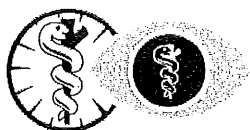
OMIC is committed to risk management, loss prevention, and patient safety. To this end, we have implemented underwriting guidelines to ensure that coverage is extended to health care providers only for those procedures for which they have the necessary education, training, and expertise. **For this reason, as well as the company's assessment that it does not have the experience to properly underwrite, rate, and administer claims arising from surgical procedures performed by optometrists, and the lack of data available on this liability risk, OMIC does not offer coverage to optometrists who administer injections or perform procedures using scalpels or lasers (other than diagnostic lasers, such as OCT).**

A handwritten signature in black ink that reads "Timothy J. Padovese". The signature is written in a cursive, flowing style.

Timothy J. Padovese

President & CEO

Ophthalmic Mutual Insurance Company



Examples of Surgeries SB 876/HB 631 Would Authorize Optometrist to Perform

Current Procedural Terminology (CPT) is a medical code set that is used to report medical, surgical, and diagnostic procedures and services to entities such as physicians, allied health practitioners (e.g. optometrists), and health insurance companies. It is a universal code. Some CPT codes are extremely specific (11441: *Excise benign lesion, skin only 0.6-1.0 cm*) and some are very broad (66999: *anterior segment unlisted code: for eye surgery that has not yet been assigned a code, now or in the future*).

Because SB 876/HB 631 contains “exclusionary” language, surgery that is not specifically excluded in the optometric bill, would now be permissible for optometrists to perform. Also, any future surgical procedure that has not yet been invented would also be permissible under the legislation.

- This following list of authorized procedures *is not intended to be a comprehensive list* of surgeries because *no such list could be made*.
- Only specific items are excluded by SB 876/HB 631, but each CPT code may describe **multiple procedures**.
 - Examples of multiple procedures with a single CPT code include 65450 and 65756
- CPT codes that include the phrase “unlisted procedure” include **ALL procedures not specifically defined by an existing CPT code**. Additionally, there are many ophthalmologic, dermatologic and anesthesia procedures/ CPT codes which are not included here.
- A grave concern regarding removal of “benign” skin lesions is that it completely leaves out the fact that **it’s impossible to know for certain a lesion is benign until the pathology report is complete back**. A lesion could *appear* benign but still be malignant. This is where proper surgical training and experience are vitally important—experience that is not part of the optometric training model. Improper removal of a malignant lesion could result in the cancer spreading to other parts of the body.

SB 876/HB 631: Authorized Surgeries for Optometrists:

CPT Code	Procedure	Description
10060	Drain skin abscess, simple/single	Surgery to make an incision to drain an infected cyst
11100	Biopsy of skin, subcutaneous tissue; single lesion with closure	Surgery to biopsy a portion of a lesion involving tissue deep to the skin, then suture wound
11101	Biopsy of skin, subcutaneous tissue; each additional lesion	Surgery to biopsy a portion of a lesion involving tissue deep to the skin (additional lesions)
11200	Removal of skin tags, any area, 15 or more	Surgery to cut off skin tags

12016	Simple repair of superficial wounds of face, ears, eyelids, nose, lips and/or mucous membranes, 12.6 to 20.0 cm	Surgery for one-layer closure of wound 12.6 to 20.0 cm. ANY closure of a wound to the face or eyelids is likely to be complex, not "simple"
12017	Simple repair of superficial wounds of face, ears, eyelids, nose, lips and/or mucous membranes, 20.1 to 30.0 cm	Surgery for one-layer closure of wound 20.1 to 30.0 cm. ANY closure of a wound to the face or eyelids is likely to be complex, not "simple"
12018	Simple repair of superficial wounds of face, ears, eyelids, nose, lips and/or mucous membranes over 30.0 cm	Surgery for one-layer closure of wound over 30.0 cm. ANY closure of a wound to the face or eyelids is likely to be complex, not "simple"
12051	Layer closure of wounds of face, ears, eyelids, nose, lips and/or mucous membranes; 2.5 cm or less	Surgery for two or more layer closure of wound <2.5cm. Requires suturing of deep tissue and skin.
12052	Layer closure of wounds of face, ears, eyelids, nose, lips and/or mucous membranes; 2.6 to 5.0 cm	Surgery for two or more layer closure of wound 2.6 cm to 5.0cm. See 12051
12053	Layer closure of wounds of face, ears, eyelids, nose, lips and/or mucous membranes; 5.1 to 7.5 cm	Surgery for two or more layer closure of wound 5.1 cm to 7.5 cm. See 12051
12054	Layer closure of wounds of face, ears, eyelids, nose, lips and/or mucous membranes; 7.6 to 12.5 cm	Surgery for two or more layer closure of wound 7.6 cm to 12.5 cm. See 12051
12055	Layer closure of wounds of face, ears, eyelids, nose, lips and/or mucous membranes; 12.6 to 20.0 cm	Surgery for two or more layer closure of wound 12.6 cm to 20.0 cm. See 12051
12056	Layer closure of wounds of face, ears, eyelids, nose, lips and/or mucous membranes; 20.1 to 30.0 cm	Surgery for two or more layer closure of wound 20.1 cm to 30.0 cm. See 12051
12057	Layer closure of wounds of face, ears, eyelids, nose, lips and/or mucous membranes; over 30.0 cm	Surgery for two or more layer closure of wound over 30.0 cm. See 12051
13150	Complex repair: eyelids, nose, ears, lips; 1.0 cm or less	Surgery for complex repair of wound <1.0 cm
13151	Complex repair: eyelids, nose, ears, lips; 1.1 cm to 2.5 cm	Surgery for complex repair of wound 1.1 cm to 2.5 cm
13152	Complex repair: eyelids, nose, ears, lips; 2.6 cm to 7.5 cm	Surgery for complex repair of wound 2.6 cm to 7.5 cm
13153	Complex repair: eyelids, nose, ears, lips - each additional 5cm or less	Surgery for complex repair of wound (each additional 5cm or less)
14060	Tissue transfer or rearrangement eyelids, nose, ears, lips 10 cm ²	Surgery to move eyelid, nose, ears, and lips tissue to reconstruct the eyelid
14061	Tissue transfer or rearrangement eyelids, nose, ears, lips 10-30 cm ²	Surgery to move eyelid, nose, ears, and lips tissue to reconstruct the eyelid

31239	Nasal endoscopy, surgical; with dacryocystorhinostomy	Using a probe and camera to examine inside the nose and perform SURGERY involving the sinuses and tear duct
37609	Temporal Artery Biopsy	Surgery to biopsy a blood vessel in the temple to look for inflammation. Risks include uncontrolled hemorrhage, stroke,
64612	Chemodenervation of muscles innervated by facial nerve	Botox injection to treat muscle spasms near the eyes and mouth. Incorrect diagnosis can mask a brain tumor or aneurysm.
64615	Chemodenervation of muscles innervated by facial nerve, trigeminal, cervical and accessory nerves	Botox injection to treat muscle spasms near the eyes, mouth, neck, and head. Incorrect diagnosis can mask a brain tumor or aneurysm.
64732	Transection or avulsion of; supraorbital nerve	Surgery to cut the nerve that gives sensation to the forehead
65091	Evisceration of Ocular contents; without implant	Surgery to scoop out the inner contents of the eye
65093	Evisceration of Ocular contents; with implant	Surgery to scoop out the inner contents of the eye and place implant
65125	Modification of Orbit, implant w/ Peg Placement/replacement	Surgery to alter an ocular implant (usually used to couple it to a peg for better movement)
65130	Secondary ocular implant after evisceration (in scleral shell)	Surgery to place an implant after the inner part of the eye was scooped out
65135	Secondary ocular implant after enucleation, muscle not attached to implant	Surgery to place an implant after the eye was removed
65150	Reinsertion of ocular implant; w/ or w/o conjunctival graft	Surgery to reinsert an ocular implant
65155	Reinsertion of ocular implant; w/ or w/o conjunctival graft, with the use of foreign material for reinforcement	Surgery to reinsert an ocular implant along with foreign material to bolster it
65175	Removal of ocular implant	Surgery to remove an ocular implant
65210	Removal of foreign body, conjunctival embedded, subconjunctival, or scleral non-perforating	Surgery to remove a foreign body embedded in the outer surface of the eye (can be embedded deep in the outer coating of the eye, but excludes penetrating into the inside of the eye)
65235	Removal of foreign body from the anterior chamber	Surgery to go inside the eye and remove a foreign body
65270	Repair of laceration, conjunctiva, with or without nonperforating laceration sclera, direct closure	Surgery to repair a wound to the conjunctiva, (non-penetrating or penetrating)
65275	Repair of laceration of cornea, nonperforating, with or without removal of foreign body	Surgery to repair laceration of cornea (nonperforating)

65860	Severing adhesions of anterior segment with laser	Surgery using laser to cut scar tissue within the front segment of the eye
65865	Severing adhesions of anterior segment, incisional technique	Surgery to release scarring in the anterior segment
65900	Removal of epithelial downgrowth	Surgery to remove abnormal cells from an area of the cornea
65920	Removal of implanted material; anterior segment	Surgical removal of implant from inside the front part of the eye
65930	Removal of blood clot; anterior segment	Surgical removal of a blood clot from behind the cornea
66030	Injection of medication into anterior segment	Penetrating the eye with a needle to deliver medication
66130	Excision of lesion, sclera	Surgery to remove lesion from the wall of the eye (white part) which is beneath the conjunctiva
66184	Revision of aqueous shunt to extraocular reservoir; without graft	Surgical alteration of the shunt that goes to a subconjunctival reservoir following glaucoma surgery
66185	Revision of aqueous shunt to extraocular reservoir; with graft	Surgical alteration of the shunt that goes to a subconjunctival reservoir following glaucoma surgery
66250	Revision or repair of operative wound of anterior segment, any type, early or late, major or minor procedure	Surgery to repair previous surgical wound in anterior segment (can be penetrating or nonpenetrating). Revision of a glaucoma wound (bleb) may result in dangerously low or high eye pressure, resulting in blindness.
66682	Repair of iris or ciliary body using internal sutures	Surgical repair of iris or ciliary body, using difficult internal suturing technique, most commonly following surgery or trauma
66700	Ciliary body destruction; diathermy	Surgery utilizing a surgical device which transmits electrically-induced heat to outer surface of the eye in order to destroy ciliary body tissue (inside the eye). Risks include pain, bleeding, blindness, loss of eye.
66710	cyclophotocoagulation	Laser surgery to burn the ciliary body. Risks include pain, bleeding, blindness, loss of eye.
66711	cyclophotocoagulation, endoscopic	Using an internal scope and laser to burn the ciliary body tissue
66720	Ciliary body destruction; cryotherapy	Surgery via surgical device using freezing to destroy ciliary body tissue (inside the eye). Risks include pain, bleeding, blindness, loss of eye.

J2778	Injection of Lucentis	Injection of medication into vitreous, near the retina, to treat retinal disease, such as "wet" macular degeneration. Risks noted above
J3300	Injection of Triessence	Injection of medication into vitreous, near the retina, to treat inflammatory disease. Risks noted above.
J3590	Injection of Avastin	Injection of chemotherapy into vitreous, near the retina, to treat retinal disease, such as "wet" macular degeneration. Risks noted above
J3713	Injection of Iluvien	Injection of medication into vitreous, near the retina, to treat inflammatory disease. Risks noted above.
J7316	Injection of Jetrea	Injection of medication into vitreous, near the retina, to cause separation of the vitreous from the retina. Increases risk of retinal detachment. Other risks noted above.
67031	Severing of vitreous strands, opacities by laser (vitrealysis)	Laser surgery to disrupt floaters or adhesions in the back of the eye near the retina. Risks include retinal detachment .
67101	Repair of retinal detachment; cryotherapy	Using a freezing probe to causing retinal scarring in hopes of repairing a retinal detachment
67115	Release of encircling material (posterior segment)	Surgery to adjust encircling silicone band around the outer surface of the eye (non-penetrating)
67120	Removal of implanted material posterior segment; extraocular	Surgery to remove implants placed on the back outer surface of the eye (non-penetrating)
67141	Prophylaxis of retinal detachment, without drainage, cryotherapy, diathermy	Using a freezing probe or electrical heat to causing retinal scarring in hopes of preventing a retinal detachment
67208	Destruction of localized lesion of the retina (tumor or swelling); cryotherapy	Using a freezing probe to reduce swelling or tumor in the retina. Misdiagnosis and/or inadequate treatment of reye cancer may be LIFE THREATENING
67218	by radioactive implant	Surgical placement of a radioactive seed on the eye to treat cancer of the eye .
67227	Destruction of progressive retinopathy; cryotherapy, diathermy	Using a freezing probe or heated probe to cause retinal scarring in the treatment of retinopathy (such as from diabetes)
67229	Destruction of progressive retinopathy of prematurity IN A PRETERM INFANT	Using a laser or freezing probe to scar a premature infant's retina. MAY CAUSE BLINDNESS
67250	Scleral reinforcement (separate procedure); without graft	Surgery to reinforce coating of eye (sclera); without graft tissue (non-penetrating)
67255	Scleral reinforcement (separate procedure); with graft	Surgery to reinforce coating of eye (sclera); with graft tissue (non-penetrating)

67825	Epilation, cryotherapy	Destroy eyelash roots by freezing them
67830	Correction of trichiasis; incision of lid margin	Surgery to eyelid to correct for abnormal eyelash growth
67840	Excision of lesion of eyelid (except chalazion) involving the margin without closure or with simple direct closure	Surgery to remove a lesion on the eyelid margin with possible one-layer closure
67850	Destruction of lesion of the lid margin (up to 1 cm)	Surgery to destroy a lesion on the margin without cutting (freezing, laser, etc.)
67911	Lid retraction, correction	Surgery to lower the upper lid or raise the lower lid by multiple techniques
67912	Placement of Gold or Platinum Weight	Surgery to sew a metal weight into the upper eyelid to help it close
67914	Ectropion repair - Suture	Surgery to rotate the eyelid inward with sutures only. Risks include penetrating the eye inadvertently with suture needle.
67915	Ectropion repair - Thermocauterization	Surgery to rotate the eyelid inward with cautery only
67916	Ectropion repair - Excision tarsal wedge	Surgery to tighten the eyelid by cutting it horizontally in the outer corner and shortening it so that it turns inward
67917	Ectropion repair - Extensive (e.g. Lateral Tarsal Strip)	Surgery to tighten the eyelid by cutting the lid vertically and shortening it so that it turns inward
67921	Entropion repair - Suture	Surgery to rotate the eyelid outward with sutures only. Risks include penetrating the eye inadvertently with suture needle.
67922	Entropion repair - Thermocauterization	Surgery to rotate the eyelid outward with cautery only
67923	Entropion repair - Excision tarsal wedge	Surgery to tighten the eyelid by cutting the lid vertically and shortening it so that it turns outward
67924	Entropion repair - Extensive (e.g. Lateral Tarsal Strip)	Surgery to tighten the eyelid by cutting the lid vertically and shortening it so that it turns outward
67930	Suture of recent wound, eyelid, involving lid margin, tarsus, and/or palpebral conjunctiva direct closure; partial thickness	Surgery to repair eyelid laceration that is partial thickness of the eyelid
67935	Suture of recent wound, eyelid, involving lid margin, tarsus, and/or palpebral conjunctiva direct closure; full thickness	Surgery to repair eyelid laceration that involves the full thickness of the eyelid
67938	Removal of embedded foreign body, eyelid	Surgery to remove foreign body from eyelid
67950	Canthoplasty (reconstruction of canthus)	Reconstruction of the inner or outer corner of the eyelids
67999	Unlisted procedure, eyelids	ANY SURGERY, now or in the future, that is not described specifically by the preceding CPT codes (67700-67975), includes intradermal filler materials

95875	Cholinesterase inhibitor challenge test	Intravenous injection of a chemical that increases muscle function briefly in patients with Myasthenia Gravis. THIS TEST MAY CAUSE RESPIRATORY FAILURE/ DEATH
0191T	Insertion of anterior segment drainage device; trabecular meshwork	Surgical placement of a drainage device into the trabecular meshwork, where the cornea meets the sclera internally
0253T	Insertion of anterior segment drainage device; suprachoroidal space	Surgical placement of a drainage device into the space posterior to the iris
0290T	Laser incisions in the cornea	Femto laser incisions through corneal tissue. Femto laser can also be used to incise the lens capsule and fragment the lens (cataract) of the eye
0402T	Collagen crosslinking of cornea	Using chemicals and UV light to stiffen the cornea
0449T	Insertion of drainage device, internal approach, into the subconjunctival space	Surgical placement of a drain connecting the anterior chamber and the surface of the eye beneath the conjunctiva
Anesthesia	Use of anesthesia, other than general, to assist in the performance of any surgery or procedure	Use of ANY type of anesthesia, except for general (putting the patient to "sleep" requiring mechanical ventilation "respirator" and a "breathing tube"), to assist in performing surgery. This includes administration of intravenous sedatives and narcotics, including fentanyl and propofol, which are two of the most common drugs administered during routine eye surgery. These drugs have been implicated in the DEATHS of popular musical artist.

THE FLORIDA SENATE

Wed. 12pm

APPEARANCE RECORD

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

3/3/21

Meeting Date

876

Bill Number (if applicable)

Topic Optometry

Amendment Barcode (if applicable)

Name Steve Winn

Job Title Exec Director

Address 2544 Blairstone Pines Dr

Phone 878-3056

Street

Tallahassee FL 32301

City

State

Zip

Email winnsr@earthlink.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL Osteopathic Medical Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

3/3/21

Meeting Date

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

876

Bill Number (if applicable)

Topic Opposition to bill due to safety concerns

Amendment Barcode (if applicable)

Name Darby Miller, MD

Job Title Assistant Professor, Mayo Clinic

Address 108 Newport Lane

Street

Ponte Vedra Beach FL 32082

City

State

Zip

Phone 301-768-5178

Email darbydmiller@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing myself, Florida Society of Ophthalmology

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/3/21
Meeting Date

876
Bill Number (if applicable)

Topic OPTOMETRY

Amendment Barcode (if applicable)

Name DR. KEN LAWSON

Job Title LEGISLATIVE CHAIRMAN

Address 120 S. MONROE ST
Street

Phone _____

TALLAHASSEE FL
City State Zip

Email _____

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FLORIDA OPTOMETRIC ASSN.

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

3/3/2021
Meeting Date

876
Bill Number (if applicable)

Topic OPTOMETRY

Amendment Barcode (if applicable)

Name DR. MICHELLE LEVIN

Job Title PRESIDENT

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 FLORIDA OPTOMETRIC ASSN

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/3/21

Meeting Date

876

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Chris Noland

Job Title _____

Address 4427 Herschel St

Street

Phone 904-233-3058

Jacksonville, FL 32210

City

State

Zip

Email nolandlaw@aol.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Chapter, American College of Surgeons

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-3-21

Meeting Date

SB 876

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Dr. Charles Chase

Job Title Physician Anesthesiologist

Address 2065 Venetian Way

Street

Phone 407-947-1954

Winter Park FL 32789

City

State

Zip

Email zzzchase@yahoo.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Medical Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/3/2021
Meeting Date

SB 876
Bill Number (if applicable)

Topic Optometry Bill

Amendment Barcode (if applicable)

Name Charles Medert, MD

Job Title Resident Physician in Ophthalmology

Address 951 Brickell Ave APT 2207 Phone 513-503-8336
Street

Miami FL 33131 Email C.maxmedert@gmail.com
City State Zip

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida society of ophthalmology

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

March 3 2021
Meeting Date

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

SB 876
Bill Number (if applicable)

Topic Optometry Revising

Amendment Barcode (if applicable)

Name David Sanders

Job Title Retired 65yr Citizen of FL

Address 106 Wintersgreen Dr

Phone 352 805 659

City Fruitland Park FL 34731

Email golferdave

Speaking: ☐ For ☐ Against ☒ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.) 195505mg

Representing Self 65yr Calatracs

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

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on Health and
Human Services, *Chair*
Appropriations, *Vice Chair*
Environment and Natural Resources
Health Policy
Rules

JOINT COMMITTEE:

Joint Legislative Budget Commission

SENATOR AARON BEAN

President Pro Tempore
4th District

March 2, 2021

Senator Manny Diaz
Chair, Health Policy
306 Senate Building
404 South Monroe Street
Tallahassee, Florida 32399

Dear Senator Diaz:

I am writing to request approval to be excused from the Health Policy meeting scheduled for Wednesday, March 3, 2021, due to testing positive for COVID -19.

I appreciate your consideration in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Aaron Bean".

Aaron Bean
Senator | 4th District

REPLY TO:

- ☐ Duval Station, 13453 North Main Street, Suite 301, Jacksonville, Florida 32218 (904) 757-5039 FAX: (888) 263-1578
- ☐ 404 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5004 FAX: (850) 410-4805

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

CourtSmart Tag Report

Room: KB 412

Case No.: -

Type:

Caption: Senate Health Policy Committee

Judge:

Started: 3/3/2021 12:02:48 PM

Ends: 3/3/2021 2:00:28 PM **Length:** 01:57:41

12:02:47 PM Meeting called to order by Chair Diaz
12:02:50 PM Roll call by CAA Lynn Koon
12:03:02 PM Quorum present
12:03:09 PM Comments from Chair Diaz regarding Senator Bean being excused and SB 1154 is temporarily postponed
12:03:42 PM Introduction of Tab 1, SB 404 by Chair Diaz
12:04:08 PM Explanation of SB 404, Office of Minority Health and Health Equity by Senator Rouson
12:04:25 PM Introduction of Amendment Barcode 497736 by Chair Diaz
12:04:55 PM Explanation of Amendment by Senator Rouson
12:05:10 PM Comments from Chair Diaz
12:05:41 PM Amendment Barcode 497736 adopted
12:05:51 PM Comments from Chair Diaz
12:06:07 PM Speaker Barbara DeVane, FL NOW, Florida Retired Americans in support
12:06:44 PM Speaker David Mica, Florida Association in support
12:07:13 PM Senator Rouson in closure
12:07:20 PM Roll call by CAA
12:07:49 PM CS/SB 404 reported favorably
12:08:08 PM Introduction of Tab 2, SB 74 by Chair Diaz
12:08:18 PM Explanation of SB 74, COVID-19 related Claims Against Health Care Providers by Senator Brandes
12:12:28 PM Comments from Chair Diaz
12:12:34 PM Introduction of Amendment Barcode 978528 by Chair Diaz
12:12:47 PM Explanation of Amendment by Senator Jones
12:14:12 PM Susan McGrath, Florida Consumer Action Network waives in support
12:14:20 PM Toby Philpot, Florida Health Care Association waives in opposition
12:14:34 PM David Mica, Florida Hospital Association waives in opposition
12:14:40 PM Speaker Steve Waltrell, Florida Nursing Home Residents in support
12:15:57 PM Speaker Stephen Cain, Florida Justice Association in support
12:17:20 PM Senator Farmer in debate
12:19:45 PM Comments from Chair Diaz
12:19:48 PM Senator Brandes in opposition of Amendment
12:19:59 PM Senator Jones in closure on Amendment
12:21:03 PM Comments from Chair Diaz
12:21:12 PM Amendment is not adopted
12:21:19 PM Introduction of Amendment Barcode 579524 by Chair Diaz
12:21:29 PM Explanation of Amendment by Senator Farmer
12:23:33 PM Comments from Chair Diaz
12:23:43 PM Speaker Robin Khanal in opposition of Amendment
12:25:21 PM Susan McGrath, Florida Consumer Action Network waives in support
12:25:26 PM Toby Philpot, Florida Health Care Association in opposition
12:25:31 PM Dave Mica, Florida Hospital Association in opposition
12:25:40 PM Speaker Steve Watrel, Florida Nursing Home Residents in support
12:28:25 PM Stephen Cain, Florida Justice Association in support
12:29:43 PM Speaker Mark Delegal, The Doctors Company; MAG Mutual, ProAssurance in opposition
12:31:30 PM Comments from Chair Diaz
12:31:45 PM Senator Brandes speaking on Amendment in opposition
12:33:18 PM Senator Farmer in closure on Amendment
12:35:16 PM Amendment is not adopted
12:35:26 PM Introduction of Amendment Barcode 157912 by Chair Diaz
12:35:37 PM Explanation of Amendment by Senator Farmer
12:36:56 PM Comments from Chair Diaz
12:37:09 PM Speaker Stephen Cain, Florida Justice Association in support
12:38:22 PM Susan McGrath, Florida Consumer Action Network waives in support

12:38:28 PM Toby Philpot, Florida Health Care Association waives in opposition
12:38:32 PM David Mica, Florida Hospital Association in opposition
12:38:38 PM Speaker Steve Watrel, Florida Nursing Home Residents in support
12:39:32 PM Speaker Robin Khanal in opposition
12:40:23 PM Speaker Mark Delegal, The Doctors Company; MAG Mutual, ProAssurance in opposition
12:41:59 PM Comments from Chair Diaz
12:42:05 PM Senator Brandes in opposition of Amendment
12:42:13 PM Senator Farmer in closure of Amendment
12:44:44 PM Amendment is not adopted
12:45:06 PM Introduction of Amendment Barcode 693446 by Chair Diaz
12:45:23 PM Explanation of Amendment by Senator Cruz
12:48:15 PM Comments from Chair Diaz
12:48:37 PM Speaker Mark Delegal, The Doctors Company; MAG Mutual, ProAssurance in opposition
12:49:40 PM Speaker Steve Watrel, Florida Nursing Home Residents in support
12:51:54 PM Speaker Robin Khanal in opposition
12:53:53 PM Speaker Stephen Cain, Florida Justice Association in support
12:55:12 PM Toby Philpot, Florida Health Care Association waives in opposition
12:55:19 PM David Mica, Florida Hospital Association waives in opposition
12:55:23 PM Susan McGrath, Florida Assisted Living Association waives in support
12:55:40 PM Comments from Chair Diaz
12:55:46 PM Senator Farmer in debate
12:56:45 PM Senator Brandes in opposition of Amendment
12:58:34 PM Senator Cruz in closure on Amendment
1:01:10 PM Amendment is not adopted
1:01:18 PM Comments from Chair Diaz
1:01:25 PM Question from Senator Book
1:02:17 PM Response from Senator Brandes
1:03:19 PM Comment from Senator Book
1:03:47 PM Response from Senator Brandes
1:04:46 PM Follow-up question from Senator Book
1:04:54 PM Response from Senator Brandes
1:06:10 PM Follow-up question from Senator Book
1:06:16 PM Response from Senator Brandes
1:06:54 PM Follow-up question from Senator Book
1:07:04 PM Response from Senator Brandes
1:08:08 PM Question from Senator Farmer
1:08:19 PM Response from Senator Brandes
1:08:42 PM Follow-up question from Senator Farmer
1:08:52 PM Response from Senator Brandes
1:09:43 PM Follow-up question from Senator Farmer
1:10:42 PM Response from Chair Diaz
1:11:13 PM Follow-up question from Senator Farmer
1:11:21 PM Response from Senator Brandes
1:11:54 PM Follow-up question from Senator Farmer
1:12:01 PM Response from Senator Brandes
1:12:30 PM Follow-up question from Senator Farmer
1:12:38 PM Response from Senator Brandes
1:13:35 PM Follow-up question from Senator Farmer
1:13:46 PM Response from Senator Brandes
1:14:19 PM Follow-up question from Senator Farmer
1:14:27 PM Response from Senator Brandes
1:14:52 PM Question from Senator Albritton
1:14:59 PM Response from Senator Brandes
1:15:23 PM Follow-up question from Senator Albritton
1:15:33 PM Response from Senator Brandes
1:16:07 PM Follow-up question from Senator Albritton
1:16:16 PM Response from Senator Brandes
1:18:13 PM Toby Philpot, Florida Health Care Association in opposition
1:18:21 PM Susan McGrath, Florida Consumer Action Network in support
1:18:25 PM Tim Parson, Florida Assisted Living Association in support
1:18:30 PM Ida Eskamani, Florida Rising in opposition
1:18:33 PM Paul Ledford, Florida Hospice & Palliative Care Association in support

1:18:40 PM Tim Nungesser, NFIB in support
1:18:45 PM Matthew Holliday. NCH Healthcare System in support
1:18:51 PM Michael Cusick, Florida Society of Ambulatory Surgery Centers in support
1:19:00 PM Ken Kniepmenn, Florida Conference Catholic Bishops waives in support
1:19:03 PM Carolyn Johnson, Florida Chamber of Commerce waives in support
1:19:08 PM Steve Winn, Florida Osteopathic Medical Association in support
1:19:12 PM Jo Anne Hart, Florida Dental Association in support
1:19:18 PM Jared Willis, Nemours Foundation in support
1:19:42 PM Speaker William Large, Florida Justice Reform Institute in support
1:20:02 PM Speaker Jason Hand, Florida Senior Living Association in support
1:21:26 PM Speaker Stephen Cain, Florida Justice Association in opposition
1:23:16 PM Speaker Mark Delegal, The Doctors Company; MAG Mutual, ProAssurance in support
1:24:13 PM Speaker Barbara DeVane, FL NOW and FL Alliance for Retired Americans in opposition
1:25:33 PM Speaker Kim Biegasiweicz, Florida Health Care Association in support
1:26:55 PM Speaker Dr. Rich Templin, Florida AFL-CIO in opposition
1:28:37 PM Speaker Brewster Bevis, Associated Industries of Florida in support
1:29:22 PM Speaker Steve Watrel, Florida Nursing Homes Residents in opposition
1:30:19 PM Speaker David Mica, Florida Hospital Association in support
1:31:01 PM Speaker Dr. Charles Chase, Florida Medical Association in support
1:31:53 PM Speaker Robin Khanal in support
1:32:19 PM Question from Senator Jones
1:32:57 PM Response from Mr. Khanal
1:33:16 PM Follow-up question from Senator Jones
1:33:27 PM Response from Mr. Khanal
1:33:40 PM Speaker Chris Nuland, Florida Chapter, American College of Physicians in support
1:34:21 PM Speaker Andrew Shirvell, Florida Voice for the Unborn for information
1:34:40 PM Speaker Steve Bahmer, Leading Age Florida in support
1:36:01 PM David Serdar
1:37:05 PM Senator Book in debate
1:37:37 PM Senator Jones in debate
1:38:39 PM Senator Baxley in debate
1:40:02 PM Senator Farmer in debate
1:45:56 PM Senator Brandes in closure
1:47:39 PM Roll call by CAA
1:48:40 PM SB 74 reported favorably
1:49:05 PM Chair passed to Senator Brodeur
1:49:13 PM Introduction of Tab 4, SB 876 by Chair Brodeur
1:49:31 PM Explanation of SB 876, Optometry by Senator Diaz
1:50:05 PM Comments from Chair Brodeur
1:50:13 PM Question from Senator Book
1:50:18 PM Response from Senator Diaz
1:50:35 PM Follow-up question from Senator Book
1:50:40 PM Response from Senator Diaz
1:50:59 PM Comments from Chair Brodeur
1:51:05 PM Question from Senator Farmer
1:51:11 PM Response from Senator Diaz
1:51:32 PM Steve Winn, Florida Osteopathic Medical Association in opposition
1:51:41 PM Speaker Dr. Darby Miller, (Self), Florida Society of Ophthalmology in opposition
1:53:06 PM Speaker Dr. Ken Lawson, Florida Optometric Association in support
1:54:36 PM Speaker Dr. Michelle Levin, Florida Optometric Association in support
1:56:39 PM Speaker Chris Nuland, Florida Chapter, American College of Surgeons in opposition
1:57:12 PM Speaker Dr. Charles Chase, Florida Medical Association in opposition
2:00:10 PM SB 876 will be temporarily postponed per Chair Brodeur
2:00:18 PM Meeting adjourned