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 Health Regulation Committee

BILL:	CS/SB 1256
INTRODUCER:	Health Regulation Committee and Senator Peaden
SUBJECT:	Physician Workforce
DATE:	March 18, 2010 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bell	Wilson	HR	**Fav/CS**
2.			HE	
3.			HA	
4.			WPSC	
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

The committee substitute (CS) for SB 1256 modifies the section of law that establishes the Department of Health's (Department) responsibility for physician workforce development. The CS provides definitions; creates a Physician Workforce Advisory Council; and a Physician Workforce Graduate Medical Education (GME) Innovation Pilot Projects program.

The CS repeals the Community Hospital Education Act that includes the Community Hospital Education Council, the GME Committee, the GME annual report, and the Community Hospital Education Program (CHEP).

The CS substantially amends ss. 381.4018, 458.3192, 459.0082, and 409.908, F.S., and repeals s. 381.0403, F.S.

II. Present Situation:

Florida Department of Health

The Department of Health is created in s. 20.43, F.S. The purpose of the department is to promote and protect the health of all residents and visitors in the state through organized state

and community efforts, including cooperative agreements with counties. Among the duties assigned to the department in s. 20.43(1), F.S., is the duty to:

> Serve as the statewide repository of all aggregate data accumulated by state agencies related to health care; analyze that data and issue periodic reports and policy statements, as appropriate; require that all aggregated data be kept in a manner that promotes easy utilization by the public, state agencies, and all other interested parties; provide technical assistance as required; and work cooperatively with the state's higher education programs to promote further study and analysis of health care systems and health care outcomes.

Physician Workforce Assessment

In 2007, the Legislature directed the Department to serve as the coordinating and strategic planning body to actively assess Florida's current and future physician workforce needs and work with multiple stakeholders to develop strategies and alternatives to address current and projected workforce needs.[1] Under s. 381.4018, F.S., the Department is directed to maximize the use of existing programs in the Department and coordinate with other governmental and nongovernment stakeholders to develop a state physician workforce strategic plan. The law specifies a variety of related functions for which the Department is responsible, including:

- Monitoring, evaluating, and reporting on the supply and distribution of physicians licensed under ch. 458 or ch. 459, F.S., and maintaining a statewide database of data concerning the physician workforce;
- Developing strategies to ensure that the number of graduates from the state's public and private allopathic and osteopathic medical schools are adequate to meet the physician workforce needs;
- Pursuing strategies and policies to create, expand, and maintain GME positions in the state based on the analysis of the physician workforce data; and
- Coordinating and enhancing activities related to physician workforce needs, undergraduate medical education, and GME that are provided by the Division of Medical Quality Assurance, the Community Hospital Education Program, and the Graduate Medical Education Committee established in s. 381.0403, F.S., area health education center networks, and other offices and programs within the Department as designated by the State Surgeon General.

Physician Workforce Survey

Under ss. 458.3191 and 459.0081, F.S., all Florida-licensed allopathic and osteopathic physicians are required to participate in a physician survey in conjunction with their biennial licensure renewal. The collected physician survey information must include, but is not limited to:

- Frequency and geographic location of practice within the state;
- Practice setting;
- Percentage of time spent in direct patient care;
- Anticipated change of license or practice status;
- Areas of specialty or certification; and
- The availability and trends related to critically needed services, as specified in law and determined by the Department.

[1] Laws of Florida, Ch. No. 2007-172 and Ch. No. 2007-96.

The law provides the Department with rulemaking authority to develop and administer the physician survey. The Department is required to issue a nondisciplinary citation to any physician licensed under ch. 458 or ch. 459, F.S., to any physician who fails to complete the physician workforce survey within 90 days of licensure renewal.[2] The citation notifies a physician who fails to complete the required physician survey the he or she cannot subsequently renew his or her license, until the physician completes the survey.

Physician Survey Annual Report

Under ss. 458.3192 and 459.0082, F.S., the Department is required to analyze the results of the required physician survey and determine, by geographic area and specialty, the number of physicians who:

- Perform deliveries of children in Florida;
- Read mammograms and perform breast-imaging-guiding procedures in Florida;
- Perform emergency care on an on-call basis for a hospital emergency department; or
- Plan to relocate their allopathic or osteopathic practice outside the state.

The State Surgeon General appointed a Healthcare Ad Hoc Committee to help the Department develop the physician workforce strategic plan, physician survey, and Physician Survey Annual Report. The Healthcare Ad Hoc Committee consists of twenty-three individuals, who also make recommendations to be included in the physician survey annual report.[3]

The Community Hospital Education Act

Under s. 381.0403, F.S., the Department is responsible for administering the Community Hospital Education Act, to provide additional outpatient and inpatient services, a continuing supply of highly trained physicians, and GME. The Community Hospital Education Act includes: the Community Hospital Education Program (CHEP), the Community Hospital Education Council, the GME Committee, and the Program for GME Innovations.

The Community Hospital Education Program

The CHEP, is the statewide GME program that supports primary care residents and interns.[4] The program provides health care access at the local level and is responsible for the continued supply of highly trained primary care physicians in Florida. The current general revenue funding allocated for the program is $13.75 million and is separated into two parts; the Department receives $75,000 to administer the CHEP and the Agency for Health Care Administration (Agency) receives approximately $13 million to be deposited into the Medicaid low-income-pool (LIP) program to draw down additional federal dollars. The LIP program creates additional funding for residency programs by allowing sponsoring hospitals to receive an increased payment on each Medicaid claim. The 2010 Annual Report on GME in Florida lists the following advantages of the CHEP:

- Approximately 65 percent of CHEP residents stay in Florida to practice or continue education, whereas national state retention rates are only 55 percent;

[2] The physician survey procedures are adopted in rule. See Florida Administrative Code, 64B-9.002.
[3] The Department of Health Bill Analysis, Economic Statement, and Fiscal Note, SB 1256, February 26, 2010, on file with the Health Regulation Committee.
[4] Section 381.0403, F.S.

- The CHEP services over 61 primary care residency programs with over 1,400 residents and interns; and
- The CHEP supports primary care residencies in emergency medicine, family practice, internal medicine, pediatrics, psychiatry, obstetrics/gynecology, and combined pediatrics and internal medicine.

The Community Hospital Education Council

Under s. 381.0403(6), F.S., the Department is responsible for facilitating the Community Hospital Education Council, an 11-member council, that offers oversight and recommendations for the CHEP.[5] The Department reports that the Community Hospital Education Council has not met in the past 12 months because the Council decided that they no longer had authority to oversee the CHEP since the Council is not responsible for directly awarding the CHEP funding.[6] The Council agreed that oversight by the program's accrediting bodies assured quality and adherence to high standards. In addition, the Council agreed that when the CHEP funding is transferred to the Medicaid program to draw down additional federal funds through the LIP, the funds are provided directly to the hospital, not the residency program, so it is difficult for the Council to monitor the CHEP expenditures and hold a residency program accountable.[7]

The Graduate Medical Education Committee

The Executive Office of the Governor, the Department, and the Agency are responsible for facilitating the GME Committee, under s. 381.0403(9), F.S. The GME Committee is an 11-member body that includes five medical school deans or their designees and other stakeholders. The GME Committee is responsible for the production of the GME annual report[8] that addresses the following:

- The role of residents and medical faculty in the provision of health care;
- The relationship of GME to the state's physician workforce;
- The cost of training medical residents for hospitals, medical schools, teaching hospitals, including all hospital-medical-affiliations, practice plans at all of the medical schools, and municipalities;
- The availability and adequacy of all sources of revenue to support GME and recommended alternative sources of funding for GME; and
- The use of state and federal appropriated funds for GME by hospitals receiving such funds.

Program for Graduate Medical Education Innovations

Section 381.0403(4), F.S., authorizes the Program for GME Innovations, established in the Department to foster GME. The program is designed to award hospitals or consortia funding for GME programs in a community setting based on criteria that include, but are not limited to:

- Increasing the number of residents in primary care and other high demand specialties or fellowships;

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[5] Section 381.0403(6), F.S.

[6] The Department of Health Bill Analysis, Economic Statement, and Fiscal Note, SB 1256, February 26, 2010, on file with the Senate Health Regulation Committee.

[7] The Department of Health Bill Analysis, Economic Statement, and Fiscal Note, SB 1256, February 26, 2010, on file with the Senate Health Regulation Committee.

[8] The Department of Health, GME Committee, Annual Report on GME in Florida, January 2010. Found at: <http://www.doh.state.fl.us/Workforce/GME_Annual_Report_2010.pdf> (Last visited on March 17, 2010).

- Enhancing retention of primary care physicians in Florida practice;
- Promoting practice in medically underserved areas of the state;
- Encouraging racial and ethnic diversity within the state's physician workforce; and
- Encouraging increased production of geriatricians.

The Program for GME Innovations has never been funded. If funded, the Community Hospital Education Council is charged with overseeing the Program for GME Innovations.

Statutory Requirements Relating to Advisory Councils
Section 20.03(7), F.S., defines *advisory council* to mean "an advisory body created by specific statutory enactment and appointed to a function on a continuing basis for the study of the problems arising in a specified functional or program area of state government and to provide recommendations and policy alternatives." Section 20.052, F.S., establishes requirements for advisory bodies created by a specific statutory enactment. An advisory body may not be created unless:

- It meets a statutorily defined purpose;
- Its powers and responsibilities conform with the definitions for governmental units in s. 20.03, F.S.;
- Its members, unless expressly provided otherwise in the State Constitution, are appointed for 4-year staggered terms; and
- Its members, unless expressly provided otherwise by specific statutory enactment, serve without additional compensation or honorarium, and are authorized to receive only per diem and reimbursement for travel expenses as provided in s. 112.061, F.S.

III. Effect of Proposed Changes:

Section 1. Repeals s. 381.0403, F.S., the Community Hospital Education Act, that includes: the Community Hospital Education Council, the CHEP, the Program for GME Innovations, and the GME Committee responsible for the Annual Report on GME.

Section 2. Amends s. 381.4018, F.S., relating to the Department's physician workforce assessment responsibilities, to create: definitions, a Physician Workforce Advisory Council, and a Physician Workforce Graduate Medical Education Innovation Pilot Projects program.

Definitions
The CS defines consortium or consortia, council, department, graduate medical education program, and primary care specialty.

- *Consortium* or *consortia* means a combination of statutory teaching hospitals, statutory rural hospitals, other hospitals, accredited medical schools, clinics operated by the Department, clinics operated by the Department of Veterans' Affairs, area health education centers, community health centers, federally qualified health centers, prison clinics, local community clinics, or other programs. At least one member of the consortium must be a sponsoring institution accredited or currently seeking accreditation by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association.
- *Council* is the Physician Workforce Advisory Council created in the CS.
- *Department* is the Department of Health.

- *Graduate medical education program* means a program accredited by the Accreditation Council for GME or the American Osteopathic Association.
- *Primary care specialty* means emergency medicine, family practice, internal medicine, pediatrics, psychiatry, geriatrics, general surgery, obstetrics and gynecology, and combined pediatrics and internal medicine and other specialties, as determined by the Physician Workforce Advisory Council or the Department.

Physician Workforce Advisory Council

The CS creates the Physician Workforce Advisory Council (Council) in the Department to:

- Advise the State Surgeon General and the Department on matters concerning current and future physician workforce needs in this state;
- Review survey materials and the compilation of survey information;
- Annually review the number, location, cost, and reimbursement of graduate medical education programs and positions;
- Provide recommendations to the Department for the development of additional items to be incorporated in the survey completed by physicians licensed under ch. 458 or ch. 459, F.S.;
- Assist the Department in preparing the annual physician survey report;
- Assist the Department in preparing an initial strategic plan, conduct ongoing strategic planning in, and provide ongoing advice on implementing the strategic plan recommendations;
- Monitor the need for an increased number of primary care physicians or specialists to provide the necessary current and projected health and medical services for the state; and
- Monitor and make recommendations regarding the status of the needs relating to GME in this state.

The State Surgeon General is designated as the chair of the Council and is responsible for appointing a vice-chair to serve in his or her absence. The CS specifies that the Council will have 18 members and that the State Surgeon General is responsible for appointing members as specified in the CS. Members of Council will be appointed to 4-year terms, cannot serve more than two terms, and are not entitled to receive compensation or reimbursement for per diem or travel expenses. The Council will meet at least twice a year in person or by teleconference.

The CS provides that a Council member may be removed from office for malfeasance, misfeasance; neglect of duty; incompetence; permanent inability to perform official duties; or pleading guilty or nolo contendere to, or being found guilty of a felony. If a Council member is removed, the State Surgeon General is authorized to pick a replacement to serve out the removed Council member's term.

The duties of the Physician Workforce Council would consolidate some of the responsibilities of the current Community Hospital Education Council, GME Committee, and the Department's Healthcare Practitioner Ad Hoc Committee.[9]

Legislative Findings

The CS lists the following Legislative findings:

[9] The Department of Health Bill Analysis, Economic Statement, and Fiscal Note, SB 1256, February 26, 2010, on file with the Senate Health Regulation Committee.

- In order to ensure a physician workforce that is adequate to meet the needs of this state's residents and its health care system, policymakers must consider the education and training of future generations of well-trained health care providers.
- Physicians are likely to practice in the state where they complete their GME.
- Selectively funding GME can directly affect the makeup of the physician workforce to provide needed specialists in geographic areas of the state which have a deficient number of such specialists.
- Developing additional positions in GME programs is essential to the future of the state's health care system.
- It was necessary in 2007 to pass legislation that provided for an assessment of the status of this state's current and future physician workforce. The Department is collecting and analyzing information on an ongoing basis to assess this state's physician workforce needs, and such assessment may facilitate the determination of GME needs and strategies for the state.

Physician Workforce Graduate Medical Education Innovation Pilot Projects

The CS provides legislative findings relating to GME and establishes a program in the Department to foster Innovative GME Pilot Projects that are designed to promote the expansion of GME programs or positions to prepare physicians to practice in needed specialties and underserved areas or settings and to provide demographic and cultural representation in a manner that addresses current and projected needs for this state's physician workforce. Funds appropriated annually by the Legislature for these purposes are to be distributed to participating hospitals, medical schools, other GME program sponsors, consortia engaged in developing new GME programs or positions in those programs, or pilot projects providing innovative GME in community-based clinical settings. Pilot projects will be selected on a competitive grant basis, subject to available funds.

The pilot projects must be designed to meet one or more of the state's physician workforce needs, including, but not limited to:

- Increasing the number of residencies or fellowships in primary care or other needed specialties;
- Enhancing the retention of primary care physicians or other needed specialties in the state;
- Promoting practice in rural or medically underserved areas of the state;
- Encouraging racial and ethnic diversity within the state's physician workforce;
- Encouraging practice in community health care or other ambulatory care settings;
- Encouraging practice in clinics operated by the Department, including but not limited to, county health departments, clinics operated by the Department of Veterans' Affairs, prison clinics, or similar settings of need; and
- Encouraging the increased production of geriatricians.

Funding priority will be given to pilot project proposals that:

- Demonstrate a collaboration of federal, state, and local entities that are public or private;
- Obtain funding from multiple sources;
- Focus on enhancing GME in rural and underserved areas;
- Focus on enhancing GME in ambulatory or community-based settings other than a hospital environment;

- Include the use of technology, such as electronic medical records, distance consultation, and telemedicine, to ensure that residents are better prepared to care for patients in this state, regardless of the community in which the residents practice;
- Are designed to meet multiple policy needs listed under s. 381.4018(3), F.S.; and
- Use a consortium to provide for GME experiences.

The CS provides that pilot project funding may only be used for the direct cost of providing GME and must be documented in a pilot project annual report. The CS also specifies that state funds will be used to supplement funds from any local government, community, or private sources. The state is authorized to provide up to 50 percent of the funds for a pilot project, and local governmental grants or community or private sources must fund the balance needed for the pilot project.

The CS authorizes the Department to adopt rules for pilot project performance measures to evaluate the effectiveness, safety, and quality of the programs, and the impact of each program on meeting the state's physician workforce needs. The CS also provides the Department with broad authority to adopt rules to administer s. 381.4018, F.S., as amended.

The CS also includes the reentry of retired military and other physicians into the workforce as a component of the Department's physician workforce initiatives.

The Physician Workforce GME Innovation Pilot Projects program design, criteria, and funding structure are similar to the Program for GME Innovations repealed in Section 1 of the CS.

Section 3 and 4. Amend ss. 458.3192 and 459.0082, F.S., to require the Department to include additional information in its required annual report that analyzes information collected through the physician survey. In addition to the requirements in law, the Department is directed to also include the number of physicians, by geographic area and specialty, who: practice medicine in this state, and plan to reduce or modify the scope of their practice. The Department may include Physician Workforce Advisory Council recommended information in its physician survey annual report.

Section 5. Amends s. 409.908, F.S., to provide that any funds transferred from the Department to the Agency's Florida Medicaid program for: raising rate reimbursement caps, excluding rural hospitals; recognition of the costs of GME; and other methodologies recognized in the General Appropriations Act, are no longer subject to the requirements of The Community Hospital Education Act repealed in the CS.

Section 6. The effective date of the bill is July 1, 2010.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

If the Legislature appropriates funding for the Physician Workforce GME Innovation Pilot Projects program, hospitals, medical schools, and other GME sponsors would receive additional funding for GME programs to help Florida meet its physician workforce needs.

C. Government Sector Impact:

The Department has expressed concern that if s. 381.0403, F.S., is repealed it will lose the approximately $13.75 million it receives to administer and fund the CHEP. Approximately $75,000 is used by the Department for administrative purposes and the remainder is transferred to the Medicaid LIP program to draw down additional funds and allow hospitals with residency programs to receive additional Medicaid payments.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. 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 Regulation on March 18, 2010:
Modifies the membership and duties of the Physician Workforce Advisory Council;

- Modifies the definition of *primary care specialty* to include geriatrics, general surgery, and combined pediatrics and internal medicine;

- Requires that the Department of Health's physician workforce strategies will include the reentry of retired military and other physicians into the physician workforce; and
- Corrects several technical deficiencies in the bill.

B. Amendments:

None.