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 Appropriations Subcommittee on Health and Human Services

BILL: SB 438

INTRODUCER: Senator Sobel and others

SUBJECT: Palliative Care

DATE: April 13, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Lloyd	Stovall	HP	**Favorable**
2.	Brown	Pigott	AHS	**Pre-meeting**
3.			FP	

I. Summary:

SB 438 establishes the Palliative Care Consumer and Professional Information and Education Program within the Department of Health (DOH) and also directs the department to house information and links on its website.

The bill creates the 11-member Florida Palliative Care and Quality of Life Interdisciplinary Task Force within the DOH. The primary purpose of the task force is to consult with and advise the DOH on matters relating to the establishment, maintenance, operation, and outcome evaluation of palliative care initiatives in this state. Members of the task force are appointed by the Governor, the President of the Senate, and the Speaker of the House of Representatives. The task force must produce a preliminary report by January 15, 2017, and a final report by December 31, 2018. The task force is dissolved December 31, 2018.

The DOH reports that implementation of the bill will require $48,901 the first year and a recurring impact of $45,019 in subsequent years. These costs may be absorbed within existing DOH resources.

The bill is effective upon becoming law.

II. Present Situation:

According to the Center to Advance Palliative Care, palliative care can be defined as specialized medical care for people with serious illnesses that focuses on providing those patients with relief from the symptoms, pain, and stress of that illness with a goal of improving quality of life for both the patient and the patient’s family.[1] Examples of serious illnesses helped by palliative care

---

[1] Center to Advance Palliative Care, *About Palliative Care*, https://www.capc.org/about/palliative-care/ (last visited April 2, 2015).

include cancer, cardiac diseases, kidney failure, Alzheimer's disease, HIV/AIDS, and Amyotrophic Lateral Sclerosis (ALS). Palliative care focuses on helping patients get relief from symptoms caused by serious illnesses. Given alone when other treatment is not working or along with curative treatment, palliative care can be given from time of diagnosis until end of life.[2]

Access to palliative care in the United States has more than doubled in the last five years.[3] Ten years ago, there were almost no palliative care programs in America's hospitals. State by state calculations show that 62 percent of Florida's hospitals having 50 or more beds provide a palliative care team.[4] Public opinion polls show that many Americans are not knowledgeable about palliative care; however, once explained, 92 percent reported they would be highly likely to consider palliative care for themselves or families if they had a serious illness.[5]

Palliative Care in Florida

Under s. 765.102(5) and (6), F.S., the Legislature has recognized the need to establish end-of-life care standards, including pain management and palliative care. The Department of Health, the Agency for Health Care Administration (AHCA), and the Department of Elder Affairs (DOEA) are required to jointly develop an end-of-life care campaign. The focus is on planning for end-of-life care and includes:[6]

- An opportunity to discuss and plan for end-of-life care;
- Assurance that physical and mental suffering will be carefully attended to;
- Assurance that preferences for withholding and withdrawing life-sustaining interventions will be honored;
- Assurance that the personal goals of the dying person will be addressed;
- Assurance that the dignity of the dying person will be a priority;
- Assurance that health care providers will not abandon the dying person;
- Assurance that the burden to family and others will be addressed;
- Assurance that advance directives for care will be respected regardless of the location of care;
- Assurance that organizational mechanisms are in place to evaluate the availability and quality of end-of-life, palliative, and hospice care services, including the evaluation of administrative and regulatory barriers;
- Assurance that necessary health care services will be provided and that relevant reimbursement policies are available; and
- Assurance that the goals will be accomplished in a culturally-appropriate manner.

---

[2] American Cancer Society, *A Guide to Palliative or Supportive Care* (last revised Sept. 23, 2014) http://www.cancer.org/treatment/treatmentsandsideeffects/palliativecare/supportive-care (last visited April 2, 2015).

[3] Center to Advance Palliative Care, *Executive Summary*, http://www.capc.org/reportcard/summary (last visited April 2, 2015).

[4] Center to Advance Palliative Care, *State by State Report Card - Florida*, http://www.capc.org/reportcard/home/FL/RC/Florida (last visited: April 2, 2015).

[5] American Cancer Society, *Palliative Care at a Glance*, http://www.acscan.org/content/wp-content/uploads/2012/07/Palliative-Care-at-a-Glance.pdf (last visited April 2, 2015).

[6] Section 765.102(5)(b), F.S.

In 2013, the DOH's Cancer Program and Cancer Control and Research Advisory Council jointly sponsored a workshop and webinar on palliative care that included participants from Florida and other national organizations.

The AHCA, the DOH, and the DOEA have webpages devoted to end-of-life resources with links to mostly external websites. In 2005, the DOEA published *Making Choices: A Guide to End of Life Planning* to address strategies for advance care planning.[7] The guide is available on the DOEA's website.

The AHCA is responsible for the licensing and regulation of facilities that provide palliative care, including hospitals, long-term care facilities, nursing homes, home health agencies, hospices, intermediate care facilities, prescribed pediatric care centers, and assisted living facilities under chs. 395, 400, and 429, F.S.

The DOH is responsible for the regulation of health care professionals, which includes, among others, allopathic and osteopathic physicians, physician assistants, and nurses under chs. 458, 459, and 464, F.S.

III. Effect of Proposed Changes:

Section 1 creates s. 381.825, F.S., to establish the palliative care consumer and professional information and education program. The following terms are defined:

- "Appropriate" means consistent with applicable legal, health, and professional standards; consistent with the patient's clinical and other circumstances; and consistent with the patient's reasonably known wishes and beliefs;
- "Medical care" means services provided, requested, or supervised by a physician, a physician assistant, or an advanced registered nurse practitioner;
- "Palliative care" means patient- and family-centered medical care offered throughout the continuum of an illness which optimizes quality of life by anticipating, preventing, and treating the suffering caused by a serious illness, and also addresses:
  - Physical needs;
  - Emotional needs;
  - Social needs;
  - Spiritual needs;
  - Autonomy;
  - Access to information;
  - Choice; and
  - Discussion of the patient's goals for treatment, appropriate options for the patient, including hospice care, and comprehensive pain and symptom management;
- "Serious illness" means a medical illness or physical injury or condition that substantially impacts quality of life for more than a short period of time, including, but not limited to:
  - Cancer;
  - Renal or liver failure;
  - Heart or lung disease; and

---

[7] Department of Elder Affairs, *Making Choices: A Guide to End of Life Planning* (2005) http://elderaffairs.state.fl.us/doea/pubs/pubs/EOL.pdf (last visited April 2, 2015).

  - Alzheimer's disease and related dementia.

The DOH is required to establish a palliative care consumer and professional information and education program to maximize the effectiveness of palliative care initiatives in the state. The DOH is directed to consult with the Palliative Care and Quality of Life Interdisciplinary Task Force in implementing the program. The program is required to:

- Make comprehensive and accurate information about palliative care available to the public, health care practitioners, and health care facilities; and
- Publish information and resources on the DOH website about continuing education opportunities for health care practitioners; information about palliative care delivery in the home and other health care settings, best practices for palliative care delivery; and consumer educational materials and referral information for palliative care, including hospice.

The DOH is also authorized to develop and implement other initiatives on palliative care that further the purposes of the program.

Section 2 establishes the Palliative Care and Quality of Life Interdisciplinary Advisory Task Force. The task force[8] is established within the DOH and consists of 11 members. Five members are appointed by the Governor, three are appointed by the President of the Senate, and three are appointed by the Speaker of the House of Representatives. All appointments must be made by December 31, 2015.

Task force members are to include, but are not limited to, professionals with expertise in different aspects of palliative care and patient and family caregivers or their advocates. The bill designates the representative groups for five of the appointments and directs the appointing officials to consult with the State Surgeon General to ensure broad representation on the task force. The specific designees to the task force are:

Task Force Designee	Appointing Official
American Cancer Society	Governor
Florida Hospice & Palliative Care Association	Governor
Department of Veterans' Affairs	Governor
2 - Board Certified Hospice and Palliative Care Medicine Physicians, Physician Assistants, or Nurses	1 - President of Senate 1 - Speaker of the House of Representatives

The bill directs the task force to adopt organizational procedures and to elect a chairman and vice chairman, whose duties will be established by the task force. The DOH is to provide support for the task force and establish a regular schedule of meetings which must include a minimum of two meetings per year. Members will serve without compensation; however, they may be reimbursed for travel expenditures in accordance with s. 112.061, F.S.

---

[8] A "committee" or "task force" is defined under s. 20.03(8), F.S., to mean "an advisory body created without specific statutory enactment for a time not to exceed 1 year or created by a specific statutory enactment for a time not to exceed 3 years and appointed to study a specific problem and recommend a solution or policy alternative with respect to that problem. Its existence terminates upon the completion of its assignment.

The task force must submit a preliminary report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, by January 15, 2017, with recommendations for palliative care initiatives in this state, including statutory changes for legislative consideration.

The task force must submit a follow-up report by December 31, 2018, with details of any implementation activities by the DOH or legislative action on the recommendations from the preliminary report.

The bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Private sector palliative care vendors and service providers may benefit through additional information and resources being posted to the new website as required under SB 438. The availability of these resources may result in additional public interest and increased use of services.

C. Government Sector Impact:

The Department of Health (DOH) has three main responsibilities under the bill: dissemination of information under the education program, development of website resources and linkages, and administrative support of the task force. The DOH has identified a fiscal impact to support these responsibilities of $48,901 for the first year and $45,019 in the second year. These costs may be absorbed within existing DOH resources.

Estimated Expenditures	1st Year	2nd Year Annualized/Recurring
Salaries		
Other Personnel Services *1 part-time OPS Health Educator.* *Benefits @1.45%*	$13,963 $202	$13,963 $202
Expenses		
1 - OPS *Standard DOH professional package with limited travel*	$15,616	$11,734
Palliative Care Task Force *Travel reimbursement for members - (11 members X $500) for 2 meetings*	$11,000	$11,000
Human Resources Services *Calculated with standard DOH OPS package*	$120	$120
Contractual Services	$8,000	$8,000
TOTAL ESTIMATED EXPENDITURES	**$48,901**	**$45,019**

VI. Technical Deficiencies:

Under s. 20.03, F.S., a “committee” or a “task force” is time-limited for a period not to exceed three years. SB 438 is effective upon becoming law and the section creating the task force expires December 31, 2018, which is a duration of more than three years.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 381.825 of the Florida Statutes.

This bill creates one undesignated section of law.

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.