

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 Appropriations

BILL: CS/CS/CS/SB 532

INTRODUCER: Appropriations Committee; Finance and Tax Committee; Health Policy Committee; and Senator Grimsley

SUBJECT: Access to Health Care Services

DATE: April 24, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harper/Stovall</u>	<u>Stovall</u>	<u>HP</u>	<u>Fav/CS</u>
2.	<u>Gross</u>	<u>Diez-Arguelles</u>	<u>FT</u>	<u>Fav/CS</u>
3.	<u>Gross</u>	<u>Kynoch</u>	<u>AP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 532 provides express authority for an advanced registered nurse practitioner to order any medication for administration to a patient in a hospital, ambulatory surgical center, or mobile surgical facility within the framework of an established protocol. The bill provides express authority in chapter 893, Florida Statutes, the Florida Comprehensive Drug Abuse Prevention and Control Act, for a supervisory physician to authorize a physician assistant or an advanced registered nurse practitioner to order controlled substances for administration to a patient in a hospital, ambulatory surgical center, or mobile surgical facility.

The bill makes changes to chapter 465, Florida Statutes, relating to pharmacy, and chapter 893, Florida Statutes, relating to drug abuse prevention and control, to clarify the distinction between a prescription and an order for administration.

The bill creates a site selection process for new state veterans' nursing homes to be administered by the Florida Department of Veterans' Affairs (FDVA).

The bill provides that a direct primary care agreement is not insurance and is not subject to the Florida Insurance Code.

The bill authorizes a free clinic to receive and use appropriations or grants from a governmental entity or nonprofit corporation to support the delivery of the contracted services by volunteer

health care providers, which may include employing providers to supplement, coordinate, or support the volunteers.

The bill also clarifies that employees and agents of a health care provider fall within the sovereign immunity protections of the contracted health care provider when providing health care services pursuant to the Access to Health Care Act.

The bill provides for an effective date of July 1, 2015.

II. Present Situation:

Regulation of Physician Assistants in Florida

Chapter 458, F.S., sets forth the provisions for the regulation of the practice of medicine by the Board of Medicine. Chapter 459, F.S., similarly sets forth the provisions for the regulation of the practice of osteopathic medicine by the Board of Osteopathic Medicine. Physician assistants (PAs) are regulated by both boards. Licensure of PAs is overseen jointly by the boards through the Council on Physician Assistants.¹

Physician assistants are required by statute to work under the supervision and control of medical physicians or osteopathic physicians.² The Board of Medicine and the Board of Osteopathic Medicine have adopted rules that set out the general principles a supervising physician must use in developing the scope of practice of the PA under both direct³ and indirect⁴ supervision. A supervising physician's decision to permit a PA to perform a task or procedure under direct or indirect supervision must be based on reasonable medical judgment regarding the probability of morbidity and mortality to the patient. The supervising physician must be certain that the PA is knowledgeable and skilled in performing the tasks and procedures assigned.⁵ Each physician or group of physicians supervising a licensed PA must be qualified in the medical areas in which the PA is to perform and must be individually or collectively responsible and liable for the performance and the acts and omissions of the PA.⁶

Current law allows a supervisory physician to delegate to a licensed PA the authority to prescribe or dispense any medication used in the physician's practice, except controlled substances, general anesthetics, and radiographic contrast materials.⁷ However, Florida law does allow a supervisory physician to delegate to a licensed PA the authority to order any medication, which

¹ The council consists of three physicians who are members of the Board of Medicine; one physician who is a member of the Board of Osteopathic Medicine; and a physician assistant appointed by the State Surgeon General. (*See* ss. 458.347(9) and 459.022(9), F.S.)

² Sections 458.347 and 459.022, F.S.

³ "Direct supervision" requires the physician to be on the premises and immediately available. (*See* Rules 64B8-30.001(4) and 64B15-6.001(4), F.A.C.)

⁴ "Indirect supervision" refers to the easy availability of the supervising physician to the physician assistant, which includes the ability to communicate by telecommunications, and requires the physician to be within reasonable physical proximity. (*See* Rules 64B8-30.001(5) and 64B15-6.001(5), F.A.C.)

⁵ Rules 64B8-30.012(2) and 64B15-6.010(2), F.A.C.

⁶ Sections 458.347(3) and 459.022(3), F.S.

⁷ Sections 458.347(4)(e) and (f)1. and 459.022(4)(e), F.S.

would include controlled substances, general anesthetics, and radiographic contrast materials, for a patient of the physician during the patient's stay in a facility licensed under ch. 395, F.S.^{8,9}

Regulation of Advanced Registered Nurse Practitioners in Florida

Chapter 464, F.S., governs the licensure and regulation of nurses in Florida. Nurses are licensed by the Department of Health and are regulated by the Board of Nursing.¹⁰ An advanced registered nurse practitioner (ARNP) is a licensed nurse who is certified in advanced or specialized nursing.¹¹ Florida recognizes three types of ARNPs: nurse practitioner (NP), certified registered nurse anesthetist (CRNA), and certified nurse midwife (CNM).¹² To be certified as an ARNP, a nurse must hold a current license as a registered nurse¹³ and submit proof to the Board of Nursing that he or she meets one of the following requirements:¹⁴

- Satisfactory completion of a formal postbasic educational program of specialized or advanced nursing practice;
- Certification by an appropriate specialty board;¹⁵ or
- Graduation from a master's degree program in a nursing clinical specialty area with preparation in specialized practitioner skills.

Advanced or specialized nursing acts may only be performed under protocol of a supervising physician. Within the established framework of the protocol, an ARNP may:¹⁶

- Monitor and alter drug therapies.
- Initiate appropriate therapies for certain conditions.
- Order diagnostic tests and physical and occupational therapy.

⁸ Section 458.347(4)(g)

⁹ See s. 395.002(16), F.S. The facilities licensed under ch. 395, F.S., are hospitals, ambulatory surgical centers, and mobile surgical facilities.

¹⁰ The Board of Nursing is comprised of 13 members appointed by the Governor and confirmed by the Senate who serve 4-year terms. Seven of the 13 members must be nurses who reside in Florida and have been engaged in the practice of professional nursing for at least 4 years. Of those seven members, one must be an advanced registered nurse practitioner, one a nurse educator at an approved nursing program, and one a nurse executive. Three members of the BON must be licensed practical nurses who reside in the state and have engaged in the practice of practical nursing for at least 4 years. The remaining three members must be Florida residents who have never been licensed as nurses and are in no way connected to the practice of nursing, any health care facility, agency, or insurer. Additionally, one member must be 60 years of age or older. (See s. 464.004(2), F.S.)

¹¹ "Advanced or specialized nursing practice" is defined as the performance of advanced-level nursing acts approved by the Board of Nursing which, by virtue of postbasic specialized education, training and experience, are appropriately performed by an advanced registered nurse practitioner. (See s. 464.003(2), F.S.)

¹² Section 464.003(3), F.S. Florida certifies clinical nurse specialists as a category distinct from advanced registered nurse practitioners. (See ss. 464.003(7) and 464.0115, F.S.)

¹³ Practice of professional nursing. (See s. 464.003(20), F.S.)

¹⁴ Section 464.012(1), F.S.

¹⁵ Specialty boards expressly recognized by the Board of Nursing include: Council on Certification of Nurse Anesthetists, or Council on Recertification of Nurse Anesthetists; American College of Nurse Midwives; American Nurses Association (American Nurses Credentialing Center); National Certification Corporation for OB/GYN, Neonatal Nursing Specialties; National Board of Pediatric Nurse Practitioners and Associates; National Board for Certification of Hospice and Palliative Nurses; American Academy of Nurse Practitioners; Oncology Nursing Certification Corporation; American Association of Critical-Care Nurses Adult Acute Care Nurse Practitioner Certification. (See Rule 64B9-4.002(2), F.A.C.)

¹⁶ Section 464.012(3), F.S.

The statute further describes additional acts that may be performed within an ARNP's specialty certification (CRNA, CNM, and NP).¹⁷

Advanced registered nurse practitioners must meet financial responsibility requirements, as determined by rule of the Board of Nursing, and the practitioner profiling requirements.¹⁸ The Board of Nursing, currently, requires ARNPs to carry professional liability coverage of at least \$100,000 per claim with a minimum annual aggregate of at least \$300,000 or an unexpired irrevocable letter of credit in the same amounts payable to the ARNP.¹⁹

Florida does not allow ARNPs to prescribe controlled substances.²⁰ However, s. 464.012(4)(a), F.S., provides express authority for a CRNA to order certain controlled substances "to the extent authorized by established protocol approved by the medical staff of the facility in which the anesthetic service is performed."

Definitions related to the Ordering of Medicinal Drugs

Chapter 464, F.S., does not contain a definition of the terms "order" or "prescribe." Chapter 465, F.S., relating to pharmacy, defines "prescription" as "any order for drugs or medicinal supplies written or transmitted by any means of communication by a duly licensed practitioner authorized by the laws of the state to prescribe such drugs or medicinal supplies and intended to be dispensed by a pharmacist."²¹ "Dispense" is defined as "the transfer of possession of one or more doses of a medicinal drug by a pharmacist to the ultimate consumer or her or his agent."²² "Administration" is defined as "the obtaining and giving of a single dose of medicinal drugs by a legally authorized person to a patient for her or his consumption."²³ Chapter 893, F.S., relating to drug abuse prevention and control, contains similar definitions.²⁴

ARNP Petition for Declaratory Statement

On January 22, 2014, a petition for declaratory statement²⁵ was filed with the Board of Nursing which asked "Can ARNPs legally order narcotics for patients we treat in the institution with written protocols from our attending Doctors [sic]?"²⁶ The petition noted that prior to January 1, 2014, ARNPs ordered controlled substances for patients. Effective January 1, 2014, the hospital disallowed the practice and required all ARNPs to get an order from a physician. The hospital cited passage of legislation in 2013 which clarified the authority of physician assistants to order controlled substances, but did not address the authority of ARNPs.²⁷ The Board of Nursing

¹⁷ Section 464.012(4), F.S.

¹⁸ Sections 456.0391 and 456.041, F.S.

¹⁹ Rule 64B9-4.002(5), F.A.C.

²⁰ Sections 893.02(21) and 893.05(1), F.S.

²¹ Section 465.003(14), F.S.

²² Section 465.003(6), F.S.

²³ Section 465.003(1), F.S.

²⁴ See ss. 893.02(1), 893.02(7), and 893.02(22), F.S.

²⁵ A declaratory statement is an agency's opinion regarding the applicability of a statutory provision, rule, or agency order to a petitioner's set of circumstances. (See s. 120.565(1), F.S.)

²⁶ Petition for Declaratory Statement filed by Carolann Robley ARNP, MSN, BC, FNP (on file with the Senate Committee on Health Policy).

²⁷ See ch. 2013-127, Laws of Fla.

dismissed the petition finding that it failed to comply with the requirements of ch. 120, F.S., and that it sought an opinion regarding the scope of practice of a category of licensees based on an employer's policies.

Drug Enforcement Agency Registration

An individual practitioner²⁸ who is an agent or employee of another practitioner (other than a mid-level practitioner)²⁹ registered to dispense controlled substances, may, when acting in the normal course of business or employment, administer or dispense (other than by issuance of a prescription) controlled substances if and to the extent authorized by state law, under the registration of the employer or principal practitioner in lieu of being registered himself or herself.³⁰

Health care practitioners who are agents or employees of a hospital or other institution, may, when acting in the usual course of business or employment, administer, dispense, or prescribe controlled substances under the registration of the hospital or other institution in which he or she is employed, in lieu of individual registration, provided that:

- The dispensing, administering, or prescribing is in the usual course of professional practice;
- The practitioner is authorized to do so by the state in which he or she practices;
- The hospital or other institution has verified that the practitioner is permitted to administer, dispense, or prescribe controlled substances within the state;
- The practitioner acts only within the scope of employment in the hospital or other institution;
- The hospital or other institution authorizes the practitioner to administer, dispense, or prescribe under its registration and assigns a specific internal code number for each practitioner; and
- The hospital or other institution maintains a current list of internal codes and the corresponding practitioner.³¹

State Veterans' Homes Program

The Florida Department of Veterans' Affairs (FDVA) operates the State Veterans' Homes Program (Program) as authorized by chs. 292 and 296, F.S.³² The Program provides care to eligible veterans in need of either long-term skilled nursing care or assisted living services. Care is provided to veterans with qualifying war or peacetime service, who are residents of Florida

²⁸ "Practitioner" means a physician, dentist, veterinarian, scientific investigator, pharmacy, hospital, or other person licensed, registered, or otherwise permitted, by the United States of the jurisdiction in which he practices or does research, to distribute, dispense, conduct research with respect to, administer, or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research. (21 U.S.C. s.802(21))

²⁹ Examples of mid-level practitioners include, but are not limited to: nurse practitioners, nurse midwives, nurse anesthetists, clinical nurse specialists, and physician assistants.

³⁰ 21 C.F.R. 1301.22.

³¹ *Id.*; See also U.S. Department of Justice, Drug Enforcement Administration, *Practitioner's Manual*, 27 (2006), available at http://www.deadiversion.usdoj.gov/pubs/manuals/pract/pract_manual012508.pdf (last visited Mar. 27, 2015).

³² Section 292.05(7), F.S. "The Department shall administer this chapter and shall have the authority and responsibility to apply for and administer any federal programs and develop and coordinate such state programs as may be beneficial to the particular interests of the veterans of this state."; part II of ch. 296, F.S., titled "The Veterans' Nursing Home of Florida Act" provides for the establishment of basic standards by FDVA for the operation of veteran's nursing homes for eligible veterans in need of such services."

and who require skilled care as certified by a U.S. Department of Veterans' Affairs (USDVA) physician.³³ There are approximately 697,000 veterans aged 65 years and older in the state.³⁴

Currently, there are six state veterans' nursing homes in Florida. The six nursing homes are located in Daytona Beach, Land O' Lakes, Pembroke Pines, Panama City, Port Charlotte, and St. Augustine with a total of 720 skilled-nursing beds and an average occupancy rate of 97.8 percent for FY 2013-14.³⁵ In 2014, St. Lucie County became the seventh site for a veterans' nursing home.

Veterans' Homes Funding

Construction of a new nursing home is subject to approval by the Governor and Cabinet and shall not exceed a federal-state funding ratio of 65 percent to 35 percent, respectively.³⁶ The state's cost will be paid from the FDVA Operations and Maintenance Trust Fund.

Site Selection Process for Recently Authorized State Veterans' Nursing Homes

In 2013, the Legislature appropriated funds for FDVA to contract with a private entity to conduct a Site Selection Study (Study). The purpose of the Study was to identify five communities, defined as single-county or multi-county areas, to be given priority for development of a new state veterans' nursing home.

The Study used the following criteria to score the counties, rank ordered from greatest to least value assigned:

- Number of elderly veterans in the county;
- Ratio of existing nursing home beds per/1,000 elderly male residents in the county;
- County poverty rate;
- Distance to an existing state veterans' nursing home;
- Presence of an existing veterans' health care facility in the county; and
- Presence of nursing education programs in the county.

St. Lucie County was selected as the site for the seventh nursing home, and approved by the Governor and Cabinet on September 23, 2014.

Direct Primary Care

Direct primary care (DPC) is a primary care medical practice model that eliminates third party payers from the primary care provider-patient relationship. Through a contractual agreement, a patient pays a monthly fee to the primary care provider for defined primary care services. These primary care services may include:

- Office visits;
- Annual physical examination;

³³ S. 296.36, F.S.

³⁴ Florida Department of Veterans' Affairs, Annual Report: Fiscal Year 2013-14, page 15, *available at* <http://floridavets.org/about-us/annual-report/> (last visited Apr. 23, 2015).

³⁵ *Id.*

³⁶ 38 CFR §59.80

- Routine laboratory tests;
- Vaccinations;
- Wound care;
- Splinting or casting of fractured or broken bones;
- Other routine testing, e.g. echocardiogram and colon cancer screening; or
- Other medically necessary primary care procedures.

After paying the fee, a patient can utilize all services under the agreement at no extra charge. Some DPC practices also include routine preventative services, such as lab tests, mammograms, Pap screenings, and vaccinations. A primary care provider DPC model can be designed to address the large majority of health care issues, including women's health services, pediatric care, urgent care, wellness education, and chronic disease management.

The Patient Protection and Affordable Care Act (PPACA)³⁷ addresses the DPC practice model as part of health care reform. A qualified health plan under PPACA is permitted to offer coverage through a DPC medical home plan if it provides essential health benefits and meets all other criteria in the law.³⁸ Patients who are enrolled in a DPC medical home plan are exempt from the individual mandate if they have coverage for other services, such as a wraparound catastrophic health policy to cover treatment for serious illnesses, such as cancer, or severe injuries that require lengthy hospital stays and rehabilitation.³⁹

Access to Health Care Act

The Access to Health Care Act (the act) was enacted in 1992 to encourage health care providers to provide care to low-income persons.⁴⁰ The act is administered by the Department of Health (department) through the Volunteer Health Services Program.⁴¹

The act extends sovereign immunity to health care providers who execute a contract with a governmental contractor and who, as agents of the state, provide volunteer, uncompensated health care services to low-income individuals. These health care providers are considered agents of the state under s. 768.28(9), F.S., for purposes of extending sovereign immunity while acting within the scope of duties required under the act.

A contract under the act must be for volunteer, uncompensated services. For services to qualify as volunteer, uncompensated services, the health care provider must receive no compensation from the governmental contractor for any services provided under the contract and must not bill

³⁷ Pub. L. No. 111-148, H.R. 3590, 111th Cong. (Mar. 23, 2010).

³⁸ 42 U.S.C. §1802 (a)(3); 45 C.F.R. §156.245

³⁹ 42 U.S.C. §18021(a)(3)

⁴⁰ Low-income persons are defined in the act as a person who is Medicaid-eligible, a person who is without health insurance and whose family income does not exceed 200 percent of the federal poverty level, or any eligible client of the Department of Health who voluntarily chooses to participate in a program offered or approved by the department. Section 766.1115(3)(e), F.S. A single individual whose annual income does not exceed \$23,540 is at 200 percent of the federal poverty level using Medicaid data. See *2015 Poverty Guidelines, Annual Guidelines*, available at <http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Eligibility/Downloads/2015-Federal-Poverty-level-charts.pdf> (last visited Mar. 7, 2015).

⁴¹ See Florida Department of Health, *Volunteerism Volunteer Opportunities*, (last visited Mar. 7, 2015) available at <http://www.floridahealth.gov/provider-and-partner-resources/getting-involved-in-public-health/volunteerism-volunteer-opportunities/index.html>; Rule Chapter 64I-2, F.A.C.

or accept compensation from the recipient or any public or private third-party payer for the specific services provided to the low-income recipients covered by the contract.⁴²

A governmental contractor is defined in the act as the department, a county health department, a special taxing district having health care responsibilities, or a hospital owned and operated by a governmental entity.⁴³

In 2014, the Legislature amended the act to authorize dentists providing services as an agent of the governmental contractor to allow a patient to voluntarily contribute a monetary amount to cover costs of dental laboratory work related to the services provided under the contract to the patient.⁴⁴

Legislative Appropriation to Free and Charitable Clinics

The Florida Association of Free and Charitable Clinics received a \$4.5 million appropriation in the 2014-2015 General Appropriations Act through the department.⁴⁵ The department restricted the use of these funds by free and charitable clinics that were health care providers under the act to clinic capacity building purposes in the contract. The clinic capacity building was limited to products or processes that increase professional skills, infrastructure and resources of clinics. The department did not authorize these funds to be used to build capacity through the employment of clinical personnel. The department cautiously interpreted the provision in the act relating to volunteer, uncompensated services, which states that a health care provider must receive no compensation from the governmental contractor for any services provided under the contract.

Sovereign Immunity

Article X, Section 13 of the Florida Constitution recognizes the concept of sovereign immunity and gives the Legislature the power to waive immunity in part or in full by general law. Section 768.28, F.S., contains the limited waiver of sovereign immunity applicable to the state. Under this statute, officers, employees, and agents of the state will not be held personally liable in tort or named as a defendant in any action for any injury or damage suffered as a result of any act, event, or omission of action in the scope of her or his employment or function.

However, personal liability may result from actions committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

The recovery by any one person is limited to \$200,000 for one incident and the total for all recoveries related to one incident is limited to \$300,000.⁴⁶ The sovereign immunity recovery caps do not prevent a plaintiff from obtaining a judgment in excess of the caps, but the plaintiff cannot recover the excess damages without action by the Legislature.⁴⁷

⁴² Section 766.1115(3)(a), F.S.

⁴³ Section 766.1115(3)(c), F.S.

⁴⁴ Chapter 2014-108, s. 1, Laws of Fla.

⁴⁵ Chapter 2014-51, Laws of Fla., line item 461.

⁴⁶ Section 768.28(5), F.S.

⁴⁷ *Id.*

III. Effect of Proposed Changes:

Section 1 creates a site selection process for new state veterans' nursing homes to be administered by the Florida Department of Veterans' Affairs. The county with the highest ranking must be selected as the site for the new home, subject to approval by the Governor and the Cabinet. The bill requires the next highest ranked county to be selected if a higher ranked county cannot participate.

The bill also requires the FDVA to contract for a study to determine the most appropriate county for construction of a nursing home based on the greatest level of need. The study must be used to determine the site for any state veterans' nursing home authorized before July 1, 2020. For any veterans' nursing home authorized before November 1, 2015, the bill requires the FDVA to use the 2014 Site Selection Study.

Sections 2 and 3 make conforming changes to ss. 458.347(4)(g) and 459.022(4)(f), F.S., related to the authority of a PA to order medications, but does not alter the authority of supervisory physicians or PAs.

Sections 4 and 11 provide express authority for an ARNP to order any medication for administration to a patient in a hospital, ambulatory surgical center, or mobile surgical facility within the framework of an established protocol. The bill also provides express authority in ch. 893, F.S., for a supervisory physician to authorize a PA or ARNP to order controlled substances for administration to a patient in a hospital, ambulatory surgical center, or mobile surgical facility.

Sections 5, 9, and 10 clarify the distinction between a prescription and an order for administration by amending the definition of "prescription" in chs. 465 and 893, F.S., to exclude an order that is dispensed for administration and making conforming changes in s. 893.04, F.S. The bill also revises the definition of "administer" in ch. 893, F.S., to include the term "administration."

Section 6 creates s. 624.27, F.S., relating to the application of the Florida Insurance Code (Code) to direct primary care agreements. Several new definitions are created under this section:

- *Direct primary care agreement* means a contract between a primary care provider or a primary care group practice and a patient, the patient's legal representative, or an employer which must satisfy certain requirements within the bill and does not indemnify for services provided by a third party.
- *Primary care provider* means a licensed health care provider under ch. 458 (medical doctor), ch. 459 (osteopathic doctor), or ch. 464 (nurses) who provides medical services which are commonly provided without referral from another health care provider.
- *Primary care service* means the screening, assessment, diagnosis, and treatment of a patient for the purpose of promoting health or detecting and managing disease or injury within the competency and training of the primary care provider.

The bill provides that direct primary care agreements are not insurance products and are not subject to Code. The bill also exempts a primary care provider, or his or her agent, from

certification or licensing requirements under the Code to market, sell, or offer to sell a direct primary care agreement.

Section 7 authorizes a free clinic⁴⁸ to receive and use appropriations or grants from a governmental entity or nonprofit corporation to support the delivery of contracted services by volunteer health care providers under the Access to Health Care Act (the act) without those funds being deemed compensation which might jeopardize the sovereign immunity protections afforded in the act.

The bill states that the receipt and use of the appropriation or grant does not constitute the acceptance of compensation for the specific services provided to the low-income recipients covered by the contract.

The bill also authorizes a free clinic to allow a patient, or a parent or guardian of the patient, to pay a nominal fee for administrative costs related to the services provided to the patient under the contract without jeopardizing the sovereign immunity protections afforded in the act.

The bill inserts the phrase “employees or agents” in several provisions in the act to clarify that employees and agents of a health care provider, which typically are paid by a health care provider, fall within the sovereign immunity protections of the contracted health care provider when acting pursuant to the contract.

Section 8 amends the limited waiver of sovereign immunity to specifically include a health care provider’s employees or agents.

Sections 12-17 reenact various sections of Florida law as required to incorporate amendments made thereto.

Section 18 provides a July 1, 2015, effective date.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill does not appear to affect county or municipal governments.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁴⁸ A free clinic for purposes of this provision is a clinic that delivers only medical diagnostic services or nonsurgical medical treatment free of charge to all low-income recipients.

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

None.

B. Private Sector Impact:

Under CS/CS/CS/SB 532, physicians who utilize advanced registered nurse practitioners to serve hospitalized patients, physicians who supervise ARNPs with a hospital practice, and hospitals that employ ARNPs, may see increased efficiencies if ARNPs can order controlled substances directly without the need for obtaining a physician's order. These efficiencies include time savings for the practitioners and better utilization of potentially limited space, such as emergency room beds where patients might otherwise wait while a supervising physician is located.

The bill removes regulatory uncertainty for health care providers as to whether the direct primary care agreement is insurance. Additional primary care providers may elect to pursue this option and establish direct primary care practices in this state which could increase access to affordable primary care services.

Contracted free clinics may receive or continue to receive governmental funding in the form of an appropriation or grant without being concerned that restrictions on such funding may be imposed by the Access to Health Care Act.

C. Government Sector Impact:

The impact described in Section V. B., above, would also apply to public hospitals and physicians employed in public hospitals.

The bill requires the Florida Department of Veterans' Affairs to contract for a study to rank each county according to greatest need to determine the most appropriate site for a new veterans' nursing home.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 296.42 and 624.27.

This bill substantially amends the following sections of the Florida Statutes: 458.347, 459.022, 464.012, 465.003, 766.1115, 768.28, 893.02, 893.04, and 893.05.

This bill reenacts the following sections of the Florida Statutes: 112.0455(5)(i), 381.986(7)(b), 400.462(26), 401.445(1), 409.906(18), 409.9201(1)(a), 440.102(1)(l), 458.331(1)(pp), 459.015(1)(rr), 465.014(1), 465.015(2)(c), 465.015(3), 465.016(1)(s), 465.022(5)(j), 465.023(1)(h), 465.1901, 499.003(43), 499.0121(14), 766.103(3), 768.36(1)(b), 810.02(3)(f), 812.014(2)(c), 831.30(1), 856.015(1)(c), 893.0551(3)(d), 893.0551(3)(e), 944.47(1)(a), 951.22(1), 985.711(1)(a), 1003.57(1)(i), and 1006.09(8).

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS/CS/CS by Appropriations on April 23, 2015:

The CS/CS/CS creates a site selection process for new state veterans' nursing homes to be administered by the Florida Department of Veterans' Affairs. The bill also requires FDVA to contract for a study to determine the most appropriate county for construction of a nursing home.

The committee substitute provides that direct primary care agreements are not insurance products and are not subject to the Florida Insurance Code.

The committee substitute expands sovereign immunity protections currently afforded to free clinics under certain circumstances and clarifies that certain employees and agents of health care providers operating pursuant to contracts with free clinics are also afforded those sovereign immunity protections under certain conditions.

CS/CS by Finance and Tax on April 13, 2015:

The CS/CS deletes Section 1 of the bill to remove changes made to the sales and use tax exemption for medication.

CS by Health Policy on March 31, 2015:

The committee substitute amends s. 212.08, F.S., related to medical sales tax exemptions, to conform to changes made elsewhere in the bill. The CS revises the definition of "prescription" and clarifies that any medical products and supplies or medicine dispensed according to "an order for administration" are exempt from sales tax under ch. 212, F.S.

B. Amendments:

None.