

Tab 1	SB 192 by Bean ; Medicaid Eligibility
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Tab 2	CS/SB 528 by CF, Rouson ; (Similar to H 01187) Mental Health and Substance Use Disorders
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Tab 3	SB 778 by Baxley ; (Similar to H 01123) Program of All-Inclusive Care for the Elderly
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
**APPROPRIATIONS SUBCOMMITTEE ON HEALTH AND
HUMAN SERVICES**
Senator Bean, Chair
Senator Harrell, Vice Chair

MEETING DATE: Wednesday, March 13, 2019
TIME: 4:00—6:00 p.m.
PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Bean, Chair; Senator Harrell, Vice Chair; Senators Book, Diaz, Farmer, Flores, Hooper, Passidomo, Rader, and Rouson

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 192 Bean	Medicaid Eligibility; Requiring the Agency for Health Care Administration to seek authorization from the federal Centers for Medicare and Medicaid Services (CMS) to eliminate the Medicaid retroactive eligibility period for nonpregnant adults; requiring the agency to request such authorization to become effective no later than a certain date, etc. HP 03/04/2019 Favorable AHS 03/13/2019 Favorable AP	Favorable Yeas 6 Nays 4
2	CS/SB 528 Children, Families, and Elder Affairs / Rouson (Similar H 1187, Compare CS/H 369, CS/S 900)	Mental Health and Substance Use Disorders; Defining the term "peer specialist"; requiring a specific level of screening for peer specialists working in mental health programs and facilities; authorizing a person to seek certification as a peer specialist if he or she meets specified qualifications; requiring the Department of Children and Families to develop a training program for peer specialists and to give preference to trainers who are certified peer specialists; requiring recovery residences to comply with specified Florida Fire Prevention Code provisions, etc. CF 02/19/2019 Fav/CS AHS 03/13/2019 Favorable AP	Favorable Yeas 10 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Subcommittee on Health and Human Services
Wednesday, March 13, 2019, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	SB 778 Baxley (Similar H 1123)	Program of All-Inclusive Care for the Elderly; Authorizing the Agency for Health Care Administration, in consultation with the Department of Elderly Affairs, to approve entities applying to deliver Program of All-Inclusive Care for the Elderly (PACE) services in the state; requiring prospective PACE organizations that are granted initial state approval to submit a complete application to the agency and the Federal Government within a certain timeframe; exempting PACE organizations from specified provisions; specifying requirements for the agency in paying contractors providing services to eligible applicants, etc. HP 03/04/2019 Favorable AHS 03/13/2019 Temporarily Postponed 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 Appropriations Subcommittee on Health and Human Services

BILL: SB 192

INTRODUCER: Senator Bean

SUBJECT: Medicaid Eligibility

DATE: March 12, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Williams</u>	<u>Brown</u>	<u>HP</u>	Favorable
2.	<u>McKnight</u>	<u>Kidd</u>	<u>AHS</u>	Recommend: Favorable
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 192 directs the Agency for Health Care Administration (AHCA) to seek authorization from the federal government to maintain Florida’s current waiver authority that modifies the period of retroactive eligibility for certain Medicaid recipients. Pending federal approval, the current waiver authority allowing Florida’s retroactive eligibility period for a non-pregnant adult to begin on the first day of the month in which the Medicaid recipient applies for Medicaid, would continue beyond its current expiration date of July 1, 2019. Otherwise, on that date, Florida’s retroactive eligibility period will revert to 90 days, which is the norm under federal Medicaid regulations.

Consistent with the Terms and Conditions of the current Medicaid Managed Medical Assistance Program waiver, the bill also directs the AHCA to notify the federal government, before May 17, 2019, that this bill has been enacted by the Legislature during the 2019 Regular Session.

Florida’s Medicaid program estimates that if the current waiver authority to limit retroactive eligibility is not extended, the Legislature will need to appropriate an additional \$103.6 million to the AHCA for State Fiscal Year 2019-2020 to restore the reduction taken in the 2018-2019 General Appropriations Act. Of this amount, \$40.1 million is general revenue, and \$63.5 million is federal funding.

The bill is effective upon becoming law.

II. Present Situation:

The Medicaid Program

The Florida Medicaid program is a partnership between the federal and state governments. Each state operates its own Medicaid program under a state plan approved by the federal Centers for

Medicare & Medicaid Services (CMS). The state plan outlines Medicaid eligibility standards, policies, and reimbursement methodologies.

Florida Medicaid is administered by the AHCA, and financed with federal and state funds. Approximately 3.9 million Floridians are currently enrolled in Medicaid, and the program has estimated expenditures for the 2019-2020 state fiscal year of \$28.2 billion.¹

Eligibility for Florida Medicaid is based on a number of factors, including age, household or individual income, and assets. State Medicaid payment guidelines are provided in s. 409.903, F.S., (Mandatory Payments for Eligible Persons) and s. 409.904, F.S., (Optional Payments for Eligible Persons). Minimum coverage thresholds are established in federal law for certain population groups, such as children.

Medicaid Retroactive Eligibility

The Social Security Act provides the requirements under which state Medicaid programs must operate. Federal law directs state Medicaid programs to cover, and provides federal matching funds for, medical bills up to three months prior to a recipient's application date.² The federal Medicaid statute requires that Medicaid coverage for most eligibility groups include retroactive coverage for a period of 90 days prior to the date of the application for medical assistance, however, this requirement can be waived pursuant to federal regulations.

An initial analysis by the AHCA indicated that approximately 39,000 non-pregnant adults were made retroactively eligible under the 90-day requirement of federal regulations in State Fiscal Year 2015-2016.³ A more recent AHCA analysis corrects the erroneous counting of duplicate months of coverage for such recipients and indicates that 11,466 distinct individuals were granted such retroactive eligibility and utilized services during their retroactive period during State Fiscal Year 2017-2018.⁴

In compliance with the federal requirement for 90 days of retroactive eligibility, the Florida Medicaid State Plan previously provided that “[c]overage is available beginning the first day of the third month before the date of application if individuals who are aged, blind or disabled, or who are AFDC-related,⁵ would have been eligible at any time during that month, had they

¹ Social Services Estimating Conference, Medicaid Caseloads and Expenditures, November 18, 2018 and December 10, 2018--Executive Summary <http://edr.state.fl.us/Content/conferences/medicaid/execsummary.pdf> (last visited March 6, 2019).

² 42 U.S.C. s. 1396a.

³ See Agency for Health Care Administration, *Florida's 1115 Managed Medical Assistance (MMA) Prepaid Dental Health Program (PDHP), Low Income Pool (LIP), and Retroactive Eligibility Amendment Request* (March 28, 2018), Power Point presentation, available at: http://ahca.myflorida.com/medicaid/Policy_and_Quality/Policy/federal_authorities/federal_waivers/docs/MMA_PDHP_LIP-Retro_Elig_amendment_presentation_032818.pdf (last visited March 6, 2019).

⁴ Agency for Health Care Administration, *Senate Bill 192 Analysis* (February 27, 2019) (on file with Senate Committee on Health Policy).

⁵ Aid to Families with Dependent Children (AFDC) was a federal assistance program in effect from 1935 to 1996 created by the Social Security Act and administered by the United States Department of Health and Human Services that provided financial assistance to children whose families had low or no income.

applied.” These provisions had been applicable to the Florida Medicaid State Plan since at least October 1, 1991.⁶

In 2018, the Florida Legislature, via the General Appropriations Act (GAA)⁷ and the Implementing Bill accompanying the GAA⁸, approved a measure to direct the AHCA to seek a waiver from federal CMS to eliminate the 90-day retroactive eligibility period for non-pregnant adults aged 21 and older. For these adults, eligibility would become retroactively effective on the first day of the month in which their Medicaid application was filed, instead of the first day of the third month prior to the date of application.

Since this directive was enacted into law in the 2018 budget implementing bill, it is only applicable in the fiscal year for which it was enacted, State Fiscal Year 2018-2019, and does not have ongoing applicability beyond June 30, 2019.

Waiver Special Terms and Conditions

As directed by the 2018 Legislature, the AHCA sought to amend the federal waiver for Florida’s section 1115 demonstration project, titled Managed Medical Assistance (MMA) Program (Project No. 11-W-00206/4). As a waiver amendment, there were comment periods at the state level prior to submission of the waiver request and at the federal level after submission of the waiver request. The waiver request that included the retroactive eligibility item was submitted to federal CMS by the AHCA on April 27, 2018, and was approved on November 30, 2018. The approval letter from federal CMS contained the following waiver authority:

[Effective February 1, 2019], to enable Florida to not provide medical assistance for any month prior to the month in which a beneficiary’s Medicaid application is filed, for adult beneficiaries who are not pregnant or within the 60-day period after the last day of the pregnancy, and are aged 21 and older. The waiver of retroactive eligibility does not apply to pregnant women (or during the 60-day period beginning on the last day of the pregnancy), infants under one year of age, or individuals under age 21. The state currently has state legislative authority for this waiver through June 30, 2019. The state must submit a letter to CMS by May 17, 2019, if it receives state legislative authority to continue the waiver past June 30, 2019. In the event the state does not receive legislative authority to continue this waiver through June 30, 2019 and timely submit a letter to CMS to this effect, this waiver authority ends June 30, 2019.⁹

⁶ See Florida Medicaid State Plan, page 373 of 431, *available at* http://www.fdhc.state.fl.us/medicaid/stateplanpdf/Florida_Medicaid_State_Plan_Part_I.pdf (last visited March 6, 2019).

⁷ See Specific Appropriation 199 of the General Appropriations Act for Fiscal Year 2018-2019, Chapter 2018-9, Laws of Florida, *available at* <http://www.flsenate.gov/Session/Bill/2018/5001/Amendment/616813/pdf> (last visited March 6, 2019).

⁸ See section 20 of the Implementing bill for Fiscal Year 2018-2019, Chapter 2018-10, Laws of Florida, *available at* <https://www.flsenate.gov/Session/Bill/2018/5003/BillText/er/PDF> (last visited March 6, 2019).

⁹ See the November 30, 2018, CMS letter and waiver approval document, including waiver Special Terms and Conditions, *available at* <https://www.medicare.gov/Medicare-CHIP-Program-Information/By-Topics/Waivers/1115/downloads/fl/fl-mma-ca.pdf> (last visited March 6, 2019).

An objective of the waiver authority is to encourage Medicaid recipients to obtain and maintain health coverage even when they are healthy, as opposed to applying for Medicaid only after they need and have obtained health care services. Obtaining and maintaining coverage in advance of illness should increase continuity of care and reduce gaps in coverage when recipients “churn” on and off of Medicaid enrollment by enrolling only when sick. Recipients should remain healthier on an ongoing basis and expenditures for treating acute illnesses should be mitigated if recipients obtain and maintain coverage in a more continuous fashion.¹⁰

Even though the federal waiver authority became effective only on February 1, 2019, the Legislature’s direction to the AHCA to seek the waiver took effect July 1, 2018. The AHCA reports that skilled nursing facilities and hospitals have resultantly taken steps to ensure that Medicaid applications for their residents or patients are submitted expeditiously.¹¹

Medicaid Retroactive Eligibility in Other States

At the time the Legislature considered the issue of changing Medicaid retroactive eligibility during the 2018 Regular Session, several states had already reduced retroactive eligibility periods so that retroactive eligibility begins on the first day of the month in which application is made. Iowa, New Hampshire, Arkansas, and Indiana made their changes in conjunction with Medicaid program expansion under the federal Patient Protection and Affordable Care Act (PPACA). Several other states had already modified retroactive eligibility prior to the enactment of the PPACA, including Delaware, Massachusetts, Maryland, Tennessee, and Utah.¹²

Based on a more recent analysis, Florida is one of eight states that has eliminated or is proposing to eliminate or place limits on retroactive eligibility for one or more eligibility groups in 2018 or 2019. The states in addition to Florida are Arkansas, New Hampshire, Iowa, Kentucky, Maine, New Mexico, and Utah.¹³

III. Effect of Proposed Changes:

Section 1 directs the AHCA to seek approval from the CMS to maintain Florida’s current waiver authority that modifies the period of retroactive eligibility for certain Medicaid recipients. Under the bill, pending federal approval, the current waiver authority allowing Florida’s retroactive eligibility period for a non-pregnant adult to begin on the first day of the month in which the

¹⁰ *Id.*

¹¹ *Supra* note 4.

¹² Musumeci, MaryBeth, and Rudowitz, Robin, *Medicaid Retroactive Coverage Waivers; Implications for Beneficiaries, providers, and States*, Kaiser Family Foundation, available at <https://www.kff.org/medicaid/issue-brief/medicaid-retroactive-coverage-waivers-implications-for-beneficiaries-providers-and-states/> (last visited March 6, 2019).

¹³ Gifford, Kathleen, et al., *States Focus on Quality and Outcomes Amid Waiver Changes, Results from a 50-State Medicaid Budget Survey for State Fiscal Years 2018 and 2019*, October 25, 2018, available at <https://www.kff.org/medicaid/report/states-focus-on-quality-and-outcomes-amid-waiver-changes-results-from-a-50-state-medicaid-budget-survey-for-state-fiscal-years-2018-and-2019/> (last visited March 6, 2019).

Medicaid recipient applies for Medicaid, would continue beyond its current expiration date of July 1, 2019.

Section 2 directs the AHCA to notify the CMS, before May 17, 2019, that the bill has been enacted during the 2019 Regular Session of the Legislature, consistent with the Special Terms and Conditions of the current Managed Medical Assistance waiver program.

Section 3 provides for the bill to be 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:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Pending federal approval under SB 192, the retroactive eligibility waiver authority that has been in effect since February 1, 2019, will remain in effect beyond the current state fiscal year, meaning that Medicaid providers who provide services to newly-eligible, non-pregnant Medicaid recipients aged 21 or older, earlier than the first day of the month

in which the recipient applies for Medicaid, will continue to receive no Medicaid reimbursement for those services.

C. Government Sector Impact:

For the 2018-2019 state fiscal year, the AHCA originally estimated that, by reducing the period of retroactive Medicaid eligibility for non-pregnant adults from a period of 90 days prior to application to the first day of the month of application, the Medicaid program would avoid the payment of claims totaling \$98.4 million. That sum represented \$37.5 million from the General Revenue Fund and \$60.9 million from federal funds. This was the amount originally calculated by the AHCA as part of the development of its schedule VIII-B reduction proposals that accompanied the Governor's Budget Recommendations for State Fiscal Year 2018-2019.¹⁴

The AHCA has provided a more recent fiscal impact estimate. If the waiver authority for retroactive eligibility granted by federal CMS on November 30, 2018, is not continued for the 2019-2020 state fiscal year, the AHCA estimates that the Legislature will need to appropriate an additional \$103.6 million to the AHCA in order to restore the reduction made during the 2018 Regular Session. Of this total, \$40.1 million is General Revenue and \$63.5 million is federal funding.¹⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates two undesignated sections of Florida 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.

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

¹⁴ See AHCA's Schedule VIII-B reduction proposals for Fiscal Year 2018-2019, available on the Florida Fiscal Portal at <http://floridafiscalportal.state.fl.us/Document.aspx?ID=18102&DocType=PDF> (last visited Feb. 4, 2019).

¹⁵ *Supra* note 4.

By Senator Bean

4-01292-19

2019192__

1 A bill to be entitled
 2 An act relating to Medicaid eligibility; requiring the
 3 Agency for Health Care Administration to seek
 4 authorization from the federal Centers for Medicare
 5 and Medicaid Services (CMS) to eliminate the Medicaid
 6 retroactive eligibility period for nonpregnant adults;
 7 requiring the agency to request such authorization to
 8 become effective no later than a certain date;
 9 requiring the agency to provide certain notice to CMS
 10 before a specified date; providing an effective date.
 11

12 Be It Enacted by the Legislature of the State of Florida:
 13

14 Section 1. The Agency for Health Care Administration shall
 15 seek authorization from the federal Centers for Medicare and
 16 Medicaid Services to eliminate the Medicaid retroactive
 17 eligibility period for nonpregnant adults so that if a
 18 nonpregnant adult is deemed Medicaid-eligible, his or her
 19 eligibility begins on the first day of the month in which he or
 20 she applies for Medicaid. The agency shall request such federal
 21 authorization to become effective no later than July 1, 2019.

22 Section 2. In implementing this act, the Agency for Health
 23 Care Administration shall, before May 17, 2019, and in
 24 conformity with Special Term and Condition Number 20 of this
 25 state's Section 1115 demonstration project, titled Managed
 26 Medical Assistance (MMA) Program (Project No. 11-W-00206/4),
 27 officially notify the federal Centers for Medicare and Medicaid
 28 Services that this act has been enacted by the Florida
 29 Legislature as part of the 2019 Regular Session, which is

Page 1 of 2

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

4-01292-19

2019192__

30 scheduled to conclude May 3, 2019.

31 Section 3. This act shall take effect upon becoming a law.

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

To: Senator Aaron Bean, Chair
Appropriations Subcommittee on Health and Human Services

Subject: Committee Agenda Request

Date: March 7, 2019

I respectfully request that **Senate Bill # 192**, relating to Medicaid Eligibility, be placed on the:

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

A handwritten signature in blue ink that reads "Aaron Bean".

Senator Aaron Bean
Florida Senate, District 4



Medicaid Application Process

Andrew McClenahan, Interim Assistant Secretary of Economic Self-Sufficiency

Senate Appropriations Subcommittee on Health and Human Services
March 13, 2019



Welcome to ACCESS Florida



Learn More

Welcome to Florida Department of Children and Families Automated Community Connection to Economic Self Sufficiency (ACCESS).

[Learn More](#)

Get Started Now

-  [Am I Eligible?](#)
-  [Apply for Benefits](#)
-  [Create My Access Account](#)

Returning Users

*User ID

*Password

[Sign In](#)

[Forgot your User ID?](#)

[Forgot your Password?](#)



Apply For Assistance

Before you get started, please read this information.

Apply For Assistance

You may need the following information for all individuals for whom you are applying.

- Social Security number and date of birth.
- Income information such as job, child support or any other sources.
- Resource or asset information such as checking, savings accounts, vehicles, homes, land or life insurance.
- Housing expenses such as rent or utilities.
- Health insurance information.
- All U.S. citizens applying for, or receiving Medical Assistance, including children, are required to provide proof of U.S. citizenship and identity.

Start a new application for Food Assistance (SNAP), Medical Assistance and/or Cash Assistance

Choose this option if you have not recently applied for benefits in Florida. Do not choose this if you have recently applied and are waiting for a decision. If you are waiting for a decision on an application, please login to your My ACCESS Florida account.

Finish an unfinished application.

Choose this option to continue an application that you started earlier but have not completed the Electronic Signature.

When complete, click NEXT.

Next >

Your My ACCESS Florida Account

Before you start your application, you will need to create an account. This should take a few minutes.

Do you already have an account?

If so, select the option below.

Log in using your existing account

Do you need to create an account?

With your My ACCESS Florida account, you will be able to:

- Start your application
- Save your application
- Come back to your application later
- Check on the status of your application after you submit your application
- View your account status and benefit information
- Request additional assistance
- Report changes
- Submit a review to continue to receive benefits .

Your information will be saved as you move from page to page.

The Florida Department of Children and Families(DCF) runs this website. We will keep your information private and safe.

Create an account

Click the NEXT button at the bottom of the page.

If you have problems that prevent you from continuing, you may call the Customer Call Center at **866-762-2237** during business hours for assistance.

When complete, click NEXT.

[<< Previous](#) [Next >>](#)

Setting Up An Account

To apply online, you will need to create a User ID and password. If you already have an account, [click here](#) to login.

This account will help to keep your information private and secure. It also lets you save your application and come back to work on it later. You can also log back in to check the status of your application after you submit it.

If you have problems that prevent you from continuing you may call the Customer Call Center at 866-762-2237 during business hours for assistance.

Step 1: Your Name and Email Address

Fill in your name below.

* First Name
* Last Name
Email (optional)

Step 2: User ID & Password

If you are a returning User enter your User ID and Password. If you do not have an account click on the link [Create a new User Id and Password](#).

* User ID
* Password
* Retype Password

Step 3: Security Questions

Next, please select three security questions that you can use if you ever need to recover your password. Click on each box to choose a question that only you know the answer to. Then, fill in your answers. Keep in mind that you will need to type the answer exactly the same way as when you set up your account.

* Security Question 1
* Answer
* Security Question 2
* Answer
* Security Question 3
* Answer

Step 4: User Acceptance Agreement

As the last step in creating your account, please check the box to let us know that you have read and agreed to Florida's User Acceptance Agreement. [Click here](#) to read the Agreement, which tells you more about how we will keep your personal information private and secure.

Next >



Get Started

Assets

Income

Expenses

Finish&Submit

Before You Begin

People

Choose The Programs For Which You Would Like To Apply

All Programs

All Programs includes Food Assistance (SNAP), Cash and Medical Assistance.

Food Assistance (SNAP)

The Food Assistance (SNAP) Program helps low-income households to buy nutritious food. A Food Assistance (SNAP) household is normally a group of people who live together and buy food and prepare meals together.

Cash Assistance

The Temporary Cash Assistance (TCA) program gives cash assistance to low income families with children, women in the 9th month of pregnancy, or women in the 6th month of pregnancy who are not able to work.

Cash assistance for myself or myself and my family

Cash assistance for a child the court placed with me

Cash assistance for a child that is not mine but is related to me

Cash assistance for refugees or some legal noncitizens who just came to the United States

Medical Assistance for Children, their Parents or Caretakers, Pregnant Women and individuals who aged out of Florida Foster Care who are under age 26.

An application for medical assistance includes Medicaid (for children, their parents or caretakers, pregnant women), Florida KidCare Program (for children under 19 with too much income for Medicaid) and The Insurance Affordability Program (for adults aged 18 through 64 and children that cannot be covered by either Medicaid or KidCare). The Medicaid and KidCare Programs are administered by the State of Florida and the Insurance Affordability is administered by the Federally Facilitated Marketplace.

Medical Assistance For the Aged, Blind or Disabled

Medical Assistance for individuals 65 years of age or older, blind or has been determined disabled or is claiming a disabling condition that will prevent work for twelve months or lead to death.

Medical Assistance for Individuals in Nursing Home

Medical Assistance for Individuals in Nursing Home gives medical assistance including the cost of care for individuals placed in nursing homes. Long term care programs provide eligible low income individuals in a nursing home or in danger of being placed in a nursing home with medical coverage.



Hello, **MARY**. Your ACCESS Online number is: **800155965**

Progress bar showing 2% Complete

Get Started

Assets

Income

Expenses

Finish&Submit

Before You Begin

People



Head of Household Summary

Here is the summary of what you've told us. If a section below has a checkmark, you have given us all the information we have asked for. You are not required to give all information before you submit the application.

- If you would like to change your answers, click on the "Pencil" icon under "Options".
- Once you've reviewed this summary and all the information is correct, click the "Next" button at the bottom of the page.

Review Your Answers: Head of Household Summary

Applicant	Address	Contact	Section Complete?	Options
 Mary (56 yrs)	Living Address : 1317 Winewood Blvd, Tallahassee, FL, 32399-6570			

Review Your Answers: Program selection

Here are your answers to the other questions in this section. Please take a look and make sure your answers are correct. If they are not correct, click on the edit icon to change your answers.

You have selected to apply for the following benefits:

- Medical Assistance for Children, their Parents or Caretakers, Pregnant Women and Individuals who aged out of Florida Foster Care



Hello, **MARY**. Your ACCESS Online number is: 800155965



96% Complete

Get Started Assets Income Expenses **Finish&Submit**

Finish

Submit

Incomplete Application

You may apply now. However we encourage you to answer as many questions as you can before signing your application. This will allow us to help you more quickly.

If you would like to tell us more before you sign your application, click on the **"Previous"** button below.

If you would like to sign your application now, click on the **"Next"** button below. If you click on **"Next"**, we may not have what we need to finish your application. We will contact you by phone or mail if we need more information.

When complete, click NEXT.

<< Previous Save & Exit Next >>

Get Started

Assets

Income

Expenses

Finish&Submit

Finish

Submit



Signing Your Application

You're just a few minutes away from submitting your application. To do so, you'll need to:

- Check the signature box below to sign your application.
- Save & Exit if you are not ready to submit your application. However, your application will be deleted in 60 days if it is not updated.

Florida Voter Registration

Register to vote or update your voter registration?

- Yes, I would like to apply to register to vote. (We will send you an application.)
- No, I do not want to register to vote. (You will be considered to have decided not to register to vote or update your voter registration information.)

If "Yes", we will send you an application.

If "No", you will be considered to have decided not to register to vote or update your voter registration information.

For complaints not related to voter registration, see "USDA-HHS NON-DISCRIMINATION STATEMENT".

Signature Declaration

BY MY SIGNATURE, I DECLARE:

- Clicking on the "SIGN NOW" button means that you accept responsibility that all the information given on this application is correct. Clicking on the "SIGN NOW" button allows DCF to accept and finish working on your online application. If you do not click the "SIGN NOW" button the Department has not received a completed application.
- If you do not submit the online application within 60 days, you will have to start the process over. If you have any questions about the online application, you may call or visit a DCF office for additional information. If you chose not to sign and submit your application electronically, you may file a paper application.
- I certify under penalty of perjury, the information on this application is true to the best of my knowledge, including the citizenship or noncitizen status of those applying for benefits.

Electronic Signature

I certify that the above statements are true and correct to the best of my knowledge. If I give false information, fail to report changes promptly, or obtain assistance for which I am not eligible, I may be breaking the law and could be prosecuted for perjury, larceny and/or fraud.

If I completed, or assisted in completing this application form and aided and abetted the applicant to obtain assistance for which he/she is not eligible, I may be breaking the law and could be prosecuted.

I agree to submit this application by electronic means. By signing this application electronically, I understand that an electronic signature has the same legal effect and can be enforced in the same way as a written signature.

- SIGN NOW. By checking this box, I am electronically signing my application. After signing your application click on the NEXT button below.

When complete, click NEXT.

CF-EB 2383 12/22/13, 66A-1-206, F.A.C.



Thank You

Your electronic application for assistance (800155888), dated 03/08/2019 has been received.
[Click Here for What's Next](#)

Keep Track of Your Application

You may check the status of your application online at anytime by logging into your MyACCESS account.

If you haven't heard back about this application within two weeks, please contact the department before submitting another online application for the same benefits. If you give us your ACCESS number when you call, we can give you the information more quickly.

Would you be willing to complete a survey? Yes No

Email Confirmation

Would you like to get an email confirmation? Yes No

We will send an email confirmation to the email address you entered.
By entering your email address you are saying it is okay for the department to send emails to you about your case.

Email Address

Retype email address

Eligibility

We are not able to make a decision about your Medicaid Application right now. We are sending the application to an eligibility specialist for review. They will contact you if they need any additional information. Otherwise you will receive an official notice from the Department of Children and Families-ACCESS Florida program explaining the final decision about your Medicaid Application.

Expedited Food Assistance

We are not able to determine if you are eligible for an expedited interview because information in your application is not complete.

Print Your Application

If you would like to print or save a copy of your application for your files, please click the View/Print My application button below.
If you decide to print or save, please keep in mind that your application has your private, personal information in it.

Advisory-Please read:

The account and application you just created are secure, but if you are using a computer in a Library, community Center or other public place, please take the additional steps: If you print anything, remember to get the printed copies of your application. If the printer jams or your application fails to print, contact someone at the location for help. And after you have completed your application, shut down the internet connection and if possible ask the staff to contact

Get Started Assets Income Expenses Finish&Submit

Before You Begin

People

Demographics on each household member

Income information for each household member

Asset information for each household member

Summary

Summary

Summary

Electronic Signature

I certify that the above statements are true and correct to the best of my knowledge. If I give false information, fail to report changes promptly, or obtain assistance for which I am not eligible, I may be breaking the law and could be prosecuted for perjury, larceny and/or fraud. If I completed, or assisted in completing this application form and aided and abetted the applicant to obtain assistance for which he/she is not eligible, I may be breaking the law and could be prosecuted. I agree to submit this application by electronic means. By signing this application electronically, I understand that an electronic signature has the same legal effect and can be enforced in the same way as a written signature.

SIGN NOW. By checking this box, I am electronically signing my application. After signing your application click on the NEXT button below.

When complete, click NEXT.

Previous Save & Exit Next

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Questions?



THE FLORIDA SENATE
APPEARANCE RECORD

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

3/13/2019

Meeting Date

Bill Number (if applicable)

Topic Medicaid Eligibility

Amendment Barcode (if applicable)

Name Andrew McClenahan

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City

State

Zip

Speaking: For Against Information

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

Representing Department of Children and Families

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)

3.13.19

Meeting Date

192

Bill Number (if applicable)

Topic medicaid ELIGIBILITY

Amendment Barcode (if applicable)

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Speaking: For Against Information

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

Representing Agency For HEALTH CARE Administration

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)

3/13/2019
Meeting Date

192
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name BRIAN PITTS

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Speaking: For ^{in part} Against Information

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

Representing Justice-2-Jesus

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)

SB 192

Bill Number (if applicable)

Meeting Date

Amendment Barcode (if applicable)

Topic retroactive Medicaid eligibility

Name Anne Swerlick

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Speaking: For Against Information

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

Representing Florida Policy Institute

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)

3/13/2019

Meeting Date

SB 192

Bill Number (if applicable)

Topic Retroactive Medicaid Eligibility

Amendment Barcode (if applicable)

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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)

3/13/19
Meeting Date

192
Bill Number (if applicable)

Topic Medicaid Eligibility

Amendment Barcode (if applicable)

Name Marco Paredes

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Speaking: For Against Information

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

Representing FL Conference of Catholic Bishops

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)

3/13/2019

Meeting Date

SB 192

Bill Number (if applicable)

Topic Retroactive Medicaid Eligibility

Amendment Barcode (if applicable)

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Speaking: For Against Information

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

Representing Disability Rights FL

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)

3/13/19
Meeting Date

192
Bill Number (if applicable)

Topic Medicaid Eligibility

Amendment Barcode (if applicable)

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Speaking: For Against Information

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

Representing Southern Poverty Law Center, Action Fund

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)

3/13/19

Meeting Date

192

Bill Number (if applicable)

Topic Medicaid Eligibility

Amendment Barcode (if applicable)

Name Karen Woodall

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Speaking: For Against Information

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

Representing FL Center for Fiscal & Economic Policy

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

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 Appropriations Subcommittee on Health and Human Services

BILL: CS/SB 528

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Rouson

SUBJECT: Mental Health and Substance Use Disorders

DATE: March 12, 2019 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Delia</u>	<u>Hendon</u>	<u>CF</u>	Fav/CS
2.	<u>Sneed</u>	<u>Kidd</u>	<u>AHS</u>	Recommend: Favorable
3.	_____	_____	<u>AP</u>	_____

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

I. Summary:

CS/SB 528 promotes the use of peer specialists in behavioral health care and revises requirements for recovery residences (also known as “sober homes”). Peer specialists are persons who have been in recovery from a substance use disorder or mental illness, or a family member or caregiver who supports a person with a current substance use disorder or mental illness.

The bill revises background screening requirements and codifies existing training and certification requirements for peer specialists. The bill allows individuals seeking to become peer specialists but have a disqualifying offense in their background to apply for an exemption from the Department of Children and Families or the Agency for Health Care Administration. The bill includes a grandfather clause to allow all peer specialists certified as of July 1, 2019 to be recognized as having met the requirements of this bill.

The bill expands recovery residence staff and volunteers subject to background screening and modifies requirements for licensed substance abuse service providers offering treatment to individuals living in recovery residences by allowing these providers to accept patient referrals from noncertified recovery residences.

The bill also requires certified recovery residences to comply with the Florida Fire Prevention Code.

The bill has no fiscal impact on state government.

The bill takes effect July 1, 2019.

II. Present Situation:

Behavioral Health Workforce Shortage

Workforce issues for providers of substance use disorder and mental illness services, which have been of concern for decades, have taken on a greater sense of urgency with the passage of recent parity and health reform legislation.¹ The Affordable Care Act increased the number of people who are eligible for health care coverage including behavioral health services. In addition, as screening for mental illness and substance abuse becomes more frequent in primary care, more people will need behavioral health services. Furthermore, workforce shortages will be impacted by additional demands that result from: (1) a large number of returning veterans in need of services; and (2) new state re-entry initiatives to reduce prison populations, a large majority of whom have mental or substance use disorders.²

Shortages of qualified behavioral health workers, recruitment and retention of staff and an aging workforce have long been cited as problems. Lack of workers in rural areas and the need for a workforce more reflective of the racial and ethnic composition of the U.S. population create additional barriers to accessing care for many. Recruitment and retention efforts are hampered by inadequate compensation, which discourages many from entering or remaining in the field. In addition, the misunderstanding and prejudice of persons with mental and substance use disorders can negatively affect the use of peer specialists.

Use of Peer Specialists

Research has shown that recovery from a substance use disorder or mental illness is facilitated by the use of social support provided by peers.³ The most recognized form of peer support is the 12-step programs of Alcoholics Anonymous and Narcotics Anonymous. More recently, peers or peer specialists, have been used to assist persons with serious mental illnesses.⁴

Research has identified four types of social support provided by peers:

- Emotional - where a peer demonstrates empathy, caring or concern to bolster a person's self-esteem. This is often provided by peer mentoring or peer-led support groups.
- Informational - where a peer shares knowledge and information to provide life or vocational skills training. Examples include parenting classes, job readiness training, or wellness seminars.

¹ U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration. Report to Congress on the Nation's Substance Abuse and Mental Health Workforce Issues. January 24, 2013. Available at: <https://store.samhsa.gov/shin/content/PEP13-RTC-BHWOR/PEP13-RTC-BHWOR.pdf> (last visited on Feb. 12, 2019).

² *Id.*

³ U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment. What Are Peer Recovery Support Services? Available at <https://store.samhsa.gov/shin/content/SMA09-4454/SMA09-4454.pdf> (last visited on Feb. 12, 2019).

⁴ National Public Radio. In Texas, People with Mental Illness Are Finding Work Helping Peers. July 11, 2017. <http://www.npr.org/sections/health-shots/2017/07/11/536501069/in-texas-people-with-mental-illness-are-finding-work-helping-peers> (last visited on Feb. 12, 2019).

- Instrumental - where a peer provides concrete assistance to help others accomplish tasks. Examples include child care, transportation and help accessing health and human services.
- Affiliational - where a peer facilitates contacts with other people to promote learning of social skills, create a sense of community, and acquire a sense of belonging. Examples include staffing recovery centers, sports league participation, and alcohol or drug free socialization.⁵

The Department of Children and Families (DCF) Florida Peer Services Handbook, defines a peer as an individual who has life experience with a mental health and/or substance use condition.⁶ Current DCF guidelines recommend that an individual be in recovery for at least two years to be considered for peer training. In Florida, family members or caregivers can also work and be certified as peer specialists.⁷

The Florida Certification Board currently offers certification with three distinct endorsements for individuals with lived experience who wish to become certified as Peer Specialists. General requirements for certification include being age 18 or older, minimum education of high school diploma or equivalent, background screening, completion of a minimum of 40 hours of training, and passing a competency exam.

Barriers to the Use of Peer Specialists

Currently, there is a shortage of peers working within behavioral health services. As of June 2017, there are 418 individuals with active certification through the Florida Certification Board.⁸ There are two principal barriers to the use of peer specialists.

First, peer specialists often cannot pass background screening requirements in ss. 435.04 and 408.809, F.S. Persons who have recovered from a substance use disorder or mental illness often have a criminal history. Common offenses would include using and selling illegal substances, prostitution, or financial fraud. Section 435.07, F.S., allows persons with disqualifying offenses identified through background screening to apply to the head of the respective state agency (the DCF or the Agency for Health Care Administration) for an exemption if it has been three or more years since their conviction. The applicant must produce all court records regarding their convictions, letters of recommendation, evidence of their rehabilitation, education documents, and evidence of employment. The requirements for this exemption often deter persons from becoming peer specialists.

Second, peer specialists have only recently been reimbursed as a behavioral health care service. Medicaid billing for peer support services began in Georgia in 1999, and quickly expanded nationally in 2007 after the Center for Medicare and Medicaid Services (CMS) sent guidelines to

⁵ U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment. What Are Peer Recovery Support Services? Available at <https://store.samhsa.gov/shin/content/SMA09-4454/SMA09-4454.pdf> (last visited on Feb. 12, 2019).

⁶ Department of Children and Families, Florida Peer Services Handbook. Available at <http://www.myflfamilies.com/service-programs/substance-abuse/publications> (last visited Feb. 12, 2019).

⁷ *Id.*

⁸ *Id.*

states on how to be reimbursed for services delivered by peer providers.⁹ In 2012, Georgia was approved as the first state to bill for a peer whole health and wellness service delivered by peer providers. CMS' Clarifying Guidance on Peer Services Policy from May 2013 states that any peer provider must "complete training and certification as defined by the state" before providing billable services. Beginning January 1, 2014, CMS expanded the type of practitioners who can provide Medicaid prevention services beyond physicians and other licensed practitioners, at a state's discretion, which can include peer providers. Florida's Medicaid program currently covers peer recovery services. The DCF also allows the state's behavioral health managing entities to reimburse for these services.

Background Screening Requirements and Process under Ch. 435, F.S.

Chapter 435, F.S., addresses background screening requirements for persons seeking employment or for employees in positions that require a background screening. An employer¹⁰ may not hire, select, or otherwise allow an employee to have contact with a vulnerable person¹¹ that would place the employee in a role that requires a background screening until the screening process is completed and demonstrates the absence of any grounds for the denial or termination of employment. If the screening process shows any grounds for the denial or termination of employment, the employer may not hire, select, or otherwise allow the employee to have contact with any vulnerable person that would place the employee in a role that requires background screening unless the employee is granted an exemption for disqualification by the agency¹² as provided under s. 435.07, F.S.¹³

If an employer becomes aware that an employee has been arrested for a disqualifying offense, the employer must remove the employee from contact with any vulnerable person that places the employee in a role that requires a background screening until the arrest is resolved in a way that the employer determines that the employee is still eligible for employment under ch. 435, F.S.¹⁴ The employer must terminate the employment of any of its personnel found to be in noncompliance with the minimum standards of ch. 435, F.S., or place the employee in a position for which background screening is not required unless the employee is granted an exemption from disqualification pursuant to s. 435.07, F.S.¹⁵

An employer may hire an employee to a position that requires a background screening before the employee completes the screening process for training and orientation purposes. However, the employee may not have direct contact with vulnerable persons until the screening process is

⁹ U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services. SMDL #07-011. Aug. 15, 2007. Available at <https://downloads.cms.gov/cmsgov/archived-downloads/SMDL/downloads/SMD081507A.pdf> (last visited Feb. 12, 2019).

¹⁰ "Employer" means any person or entity required by law to conduct screening of employees pursuant to ch. 435, F.S. Section 435.02(3), F.S.

¹¹ Vulnerable persons are defined as minors in s. 1.01, F.S., or as vulnerable adults in s. 415.102, F.S.

¹² "Agency" means any state, county, or municipal agency that grants licenses or registration permitting the operation of an employer or is itself an employer or that otherwise facilitates the screening of employees pursuant to ch. 435, F.S. If there is no state agency or the municipal or county agency chooses not to conduct employment screening, "agency" means the DCF. Section 435.02(1), F.S.

¹³ Section 435.06(2)(a), F.S.

¹⁴ Section 435.06(2)(b), F.S.

¹⁵ Section 435.06(2)(c), F.S.

completed and the employee demonstrates that he or she exhibits no behaviors that warrant the denial or termination of employment.¹⁶

Sections 435.03 and 435.04, F.S., outline the screening requirements. There are two levels of background screening: level 1 and level 2:

- Level 1 screening includes, at a minimum, employment history checks and statewide criminal correspondence checks through the Florida Department of Law Enforcement (FDLE) and a check of the Dru Sjodin National Sex Offender Public Website,¹⁷ and may include criminal records checks through local law enforcement agencies.¹⁸
- Level 2 screening includes, but, is not limited to, fingerprinting for statewide criminal history records checks through the FDLE and national criminal history checks through the Federal Bureau of Investigation (FBI), and may include local criminal records checks through local law enforcement agencies.¹⁹

The security background investigations under s. 435.04, F.S., for level 2 screening must ensure that no persons subject to this section have been arrested for and are awaiting final disposition of, have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or have been adjudicated delinquent, and the record has not been sealed or expunged for, any offense listed in s. 435.04(2), F.S., or a similar law of another jurisdiction.²⁰ Additionally, such investigations must ensure that no person subject to s. 435.04, F.S., has been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to any offense that constitutes domestic violence in s. 741.28, F.S., whether such act was committed in this state or another jurisdiction.²¹

For both levels of screening, the person required to be screened pursuant to ch. 435, F.S., must submit a complete set of information necessary to conduct a screening under ch. 435, F.S.,²² and must supply any missing criminal or other necessary information upon request to the requesting employer or agency within 30 days after receiving the request for the information.²³ Every employee must attest, subject to penalty of perjury, to meeting the requirements for qualifying for employment pursuant ch. 435, F.S., and agreeing to inform the employer immediately if arrested for any of the disqualifying offenses while employed by the employer.²⁴

For level 1 screening, the employer must submit the information necessary for screening to FDLE within 5 working days after receiving it. The FDLE must conduct a search of its records and respond to the employer or agency. The employer must inform the employee whether screening has revealed any disqualifying information.²⁵

¹⁶ Section 435.06(2)(d), F.S.

¹⁷ The Dru Sjodin National Sex Offender Public Website is a U.S. government website that links public state, territorial, and tribal sex offender registries in one national search site. Available at <https://www.nsopw.gov/> (last visited on Feb. 12, 2019).

¹⁸ Section 435.03(1), F.S.

¹⁹ Section 435.04(1)(a), F.S.

²⁰ Section 435.04(2), F.S.

²¹ Section 435.04(3), F.S.

²² Section 435.05(1)(a), F.S.

²³ Section 435.05(1)(d), F.S.

²⁴ Section 435.05(2), F.S.

²⁵ Section 435.05(1)(b), F.S.

For level 2 screening, the employer or agency must submit the information necessary for screening to the FDLE within 5 working days after receiving it. The FDLE must perform a criminal history record check of its records and request that the FBI perform a national criminal history record check of its records for each employee for whom the request is made. The FDLE must respond to the employer or agency, and the employer or agency must inform the employee whether screening has revealed disqualifying information.²⁶

Each employer licensed or registered with an agency must conduct level 2 screening and must submit to the agency annually or at the time of license renewal, under penalty of perjury, a signed attestation attesting to compliance with the provisions of ch. 435, F.S.²⁷

Individuals Requiring Background Screening Under Ch. 397, F.S.

Only certain individuals affiliated with substance abuse treatment providers require background screening. Section 397.4073, F.S., requires all owners, directors, chief financial officers, and clinical supervisors of service providers, as well as all service provider personnel who have direct contact with children receiving services or with adults who are developmentally disabled receiving services to undergo level 2 background screening.

Regarding recovery residences, s. 397.487(6), F.S., and s. 397.4871(5), F.S., each require level 2 background screening for all recovery residence owners, directors, and chief financial officers, and for administrators seeking certification.

Exemptions from Disqualification for Employment

Section 435.07(1), F.S., authorizes the head of the appropriate agency to grant to any employee otherwise disqualified from employment due to disqualifying offenses revealed pursuant to a background screening required under ch. 435, F.S., an exemption from such disqualification. For a felony, three years must have elapsed since the applicant for the exemption has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed. No waiting period applies to misdemeanors.

Additionally, s. 435.07(2), F.S., provides that persons employed, or applicants for employment, by treatment providers who treat adolescents 13 years of age and older who are disqualified from employment solely because of crimes under s. 817.563, F.S. (sale of imitation controlled substance), s. 893.13, F.S. (controlled substances offenses, excluding drug trafficking), or s. 893.147, F.S. (drug paraphernalia offenses) may be exempted from disqualification from employment pursuant to ch. 435, F.S., without application of the 3-year waiting period for felony offenses in s. 435.07(1)(a)1., F.S.

Section 397.4073(4), F.S., authorizes the DCF to grant any service provider personnel an exemption from disqualification as provided in s. 435.07, F.S. The DCF may grant exemptions from disqualification to service provider personnel whose backgrounds checks indicate crimes under s. 817.563, F.S., s. 893.13, F.S. (controlled substances offenses, excluding drug

²⁶ Section 435.05(1)(c), F.S.

²⁷ Section 435.05(3), F.S.

trafficking), or s. 893.147, F.S., or grant exemptions from disqualification which would limit service provider personnel to working with adults in substance abuse treatment facilities.

Section 397.4872(1), F.S., provides that the individual exemptions to staff disqualification or administrator ineligibility may be requested if a recovery residence deems the decision will benefit the program. Requests for exemptions must be submitted in writing to the DCF within 20 days after the denial by the credentialing entity and must include a justification for the exemption. Subsection (2) provides, with some exceptions, the DCF may exempt a person from ss. 397.487(6), and 397.4871(5), F.S., if it has been at least 3 years since the person has completed or been lawfully released from confinement, supervision, or sanction for the disqualifying offense.

As previously noted, substance abuse services are governed by ch. 394, F.S., and ch. 397, F.S. “The system of care provides services to children and adults with or at-risk of substance misuse/abuse problems or co-occurring substance abuse and mental health problems [.]”²⁸ Section 394.4572(1)(a), F.S., requires a level 2 screening for mental health personnel,²⁹ and s. 394.4572(1)(a), F.S., authorizes the DCF and the Agency for Health Care Administration (AHCA) to grant exemptions from disqualification as provided in ch. 435, F.S. However, s. 394.4572, F.S., does not specifically authorize the DCF or the AHCA to grant exemptions from disqualification for service provider personnel to work solely in mental health treatment programs or facilities or in programs or facilities that treat co-occurring substance use and mental health disorders.

Recovery Residences

Recovery residences function under the premise that individuals benefit in their recovery by residing in an alcohol and drug-free environment. Recovery residences are designed to be financially self-sustaining through rent and fees paid by residents, and there is no limit on the length of stay for those who abide by the rules.³⁰

Section 397.311(37), F.S., defines a recovery residence as a residential dwelling unit, or other form of group housing, offered or advertised through any means, including oral, written, electronic, or printed means, by any person or entity as a residence that provides a peer-supported, alcohol-free, and drug-free living environment. A 2009 Connecticut study notes: “Sober houses do not provide treatment, just a place where people in similar circumstances can support one another in sobriety. Because they do not provide treatment, they typically are not subject to state regulation.”³¹

²⁸ Department of Children and Families, *Substance Abuse and Mental Health Services Plan 2014-2016*, p. 3, available at <http://www.dcf.state.fl.us/programs/samh/publications/2014-2016%20SAMH%20Services%20Plan.pdf> (last visited on Feb. 12, 2019).

²⁹ “Mental health personnel” includes all program directors, professional clinicians, staff members, and volunteers working in public or private mental health programs and facilities who have direct contact with individuals held for examination or admitted for mental health treatment. Section 394.4572(1)(a), F.S.

³⁰ Department of Children and Families, *Recovery Residence Report* (Oct. 1, 2013), available at <http://www.dcf.state.fl.us/programs/samh/docs/SoberHomesPR/DCFProvisoRpt-SoberHomes.pdf> (last visited on Feb. 12, 2019).

³¹ Office of Legislative Services, Connecticut General Assembly, *Sober Homes*, 2009-R-0316 (Sept. 2, 2009), available at <https://www.cga.ct.gov/2009/rpt/2009-R-0316.htm> (last visited on Feb. 12, 2019).

III. Effect of Proposed Changes:

Section 1 amends s. 394.455, F.S., to define “peer specialist,” as a person who has been in recovery from a substance use disorder or mental illness for the past 2 years or a family member or caregiver of such a person and is certified or is seeking certification under s. 397.417, F.S. This is consistent with the definition for peer specialists and recommended recovery time, and is consistent with national standards.

Section 2 amends s. 394.4572, F.S., relating to background screening of mental health personnel. The bill conforms this statute to the requirements of the bill to background screen peer specialists through the newly created s. 397.417, F.S.

Section 3 amends s. 394.4573, F.S., to add use of peer specialists to the list of recovery supports as an essential element of a coordinated system of behavioral health care.

Section 4 amends s. 397.311, F.S., providing definitions to Chapter 397 on Substance Abuse Services to include a definition for “peer specialist.”

Section 5 amends s. 397.4073, F.S., relating to background screening for persons working with persons with substance use disorders. The bill removes provisions authorizing agency heads to exempt persons who have recovered from a substance use disorder from drug offenses that would otherwise disqualify them from providing recovery services. This language is no longer needed as the bill revises background requirements in the newly created s. 397.417, F.S. The bill also provides that those service provider personnel who request an exemption after five or more years have elapsed since their most recent disqualifying offense may work under appropriate supervision with adults with a mental health or substance abuse disorder, or co-occurring disorders, during the pendency of their exemption request.

Section 6 creates s. 397.417, F.S., to specify legislative findings that there is a shortage of behavioral health care employees; that the state is experiencing an opioid epidemic; and that peers are often an effective support for persons with substance use disorders or mental illness because the peer shares the same life experience. The bill intends to expand the use of peer specialists as a cost-effective behavioral health care service.

The bill sets qualifications for peer specialists and responsibilities of the DCF. A peer specialist must be certified and meet the background screening requirements, as well as complete a training program approved by the DCF. Background screening requirements include that a peer specialist applying for employment with the DCF submit fingerprints to the DCF and pay for state and national fingerprint checks. The DCF must forward the fingerprints to the FDLE, who must then forward them to the FBI. The FDLE must retain the fingerprints and enroll them in the national retained fingerprint arrest notification program once the FDLE begins participation in the program, and they must identify and report and arrest record to the DCF. The DCF must develop a training program for peer specialists—with preference given to trainers who are certified peer specialists—and certify peer specialists via an approved, designated certification organization.

The bill also requires peer specialists to be supervised by a licensed behavioral health care professional or certified peer specialist.

In addition, the bill also provides that peer specialist services may be reimbursed as a recovery service through the DCF, the behavioral health managing entities, or Medicaid.

The bill specifies revised background screening requirements. Under current law and department rule, peers working with persons suffering from substance use disorders must meet background screening requirements in s. 435.04, F.S. Peers working with persons suffering from mental illness must meet the screening requirements in s. 435.04 F.S., as well as those in s. 408.409, F.S. The new screening requirements of the bill eliminate the following disqualifying offenses from current law for peer specialists:

- Misdemeanor assault, or battery (Ch. 784, F.S.),
- Prostitution (Ch. 796, F.S.),
- Lower level burglary offenses (s. 810.02, F.S.),
- Lower level theft and robbery offenses (Ch. 812, F.S.),
- Lower level drug abuse offenses (s. 817.563 and Ch. 893, F.S.),
- Mail or wire fraud (s. 817.034, F.S.),
- Insurance fraud (s. 817.234, F.S.),
- Credit card fraud (ss. 817.481, 817.60, and 817.61, F.S.),
- Identification fraud (s. 817.568, F.S.), and
- Forgery (ss. 831.01, 831.02, 831.07 and 831.09, F.S.).

The bill allows individuals who wish to become peer specialists but have a disqualifying offense in their background to request an exemption from disqualification pursuant to s. 435.07, F.S., from the department or the Agency for Health Care Administration, as applicable.

Finally, the bill offers a grandfather clause to allow all peer specialists certified as of July 1, 2019 to be recognized as having met the requirements of this bill.

Section 7 amends s. 397.487, F.S., relating to recovery residences, to require that all certified recovery residences comply with the provisions of the Florida Fire Prevention Code which apply to one-family and two-family dwellings, public lodging establishments or rooming houses, or other housing facilities as applicable. The bill also expands staff and volunteers who are subject to a level 2 background screening to include anyone with direct contact with individuals receiving treatment, and requires these personnel to undergo a background screening under s. 408.809, F.S.

Section 8 amends s. 397.4873, F.S., relating to referrals to or from recovery residences, to modify existing restrictions on referrals to or from recovery residences to allow referrals by a recovery residence to a licensed service provider when a resident has experienced a recurrence of substance use and, in the best judgment of the recovery residence administrator, it appears that the resident may benefit from clinical treatment services. The bill also provides that a recovery residence or its owners, directors, operators, employees, or volunteers may not benefit from referrals made pursuant to provisions of s. 397.4873, F.S.

Section 9 amends s. 435.07, F.S., relating to exemptions from employment disqualification, to modify current requirements relating to background screening and exemptions from disqualification from employment to add the following crimes for which service provider personnel may be exempted from employment disqualification:

- Prostitution-related offenses under s. 796.07(2)(e), F.S.;
- Unarmed burglary of a conveyance or structure under s. 810.02(4), F.S.;
- Third degree grand theft under s. 812.014(2)(c), F.S.;
- Forgery under s. 831.01, F.S.;
- Offenses involving uttering or publishing a forged instrument under s. 832.02, F.S.; and
- Any attempt, solicitation, or conspiracy to commit any of these offenses or any offense currently listed in the section.

Section 10 amends s. 212.055, F.S., relating to the county public hospital surtax to correct a cross reference to a definition in chapter 397, F.S. relating to substance abuse.

Section 11 amends s. 394.495, F.S., relating to children's mental health care to correct a cross reference to definitions.

Section 12 amends s. 394.496, F.S., relating to mental health service planning to correct a cross reference to definitions.

Section 13 amends s. 394.9085, F.S., relating to behavioral health service provider liability to correct a cross reference to definitions.

Section 14 amends s. 397.416, F.S., relating to substance use disorder treatment services to correct a cross reference to a definition.

Section 15 amends s. 409.972, F.S., relating to enrollment in Medicaid to correct a cross reference to a definition.

Section 16 amends s. 440.102, F.S., relating to the drug-free workplace program to correct a cross reference to a definition.

Section 17 amends s. 464.012, F.S., relating to the scope of practice for advanced registered nurse practitioners to correct a cross reference to a definition.

Section 18 amends s. 744.2007, F.S., relating to public guardians to correct a cross reference to a definition.

Section 19 provides an effective date of July 1, 2019.

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:

CS/SB 528 will allow additional peer specialists to be employed to provide recovery services to persons suffering from substance use disorders or mental illness. Private insurers and Medicaid managed care plans may see a reduction in the cost of behavioral health care services if more health insurance providers use peer specialists in lieu of other more costly behavioral health care services. However, if such services are provided in addition to current behavioral health care services, then total costs may increase.

The bill may have an impact on recovery residences which need to modify features of existing physical structures or move to new locations in order to comply with relevant provisions of the Florida Fire Prevention Code. The fiscal impact is indeterminate.

C. Government Sector Impact:

The bill has no fiscal impact on state government. A peer specialist applying for employment with the DCF would be responsible for the state and federal costs of fingerprint processing.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 394.455, 394.4572, 394.4573, 397.311, 397.4073, 397.487, 397.4873, 435.07, 212.055, 394.495, 394.496, 394.9085, 397.416, 409.972, 440.102, 464.012, and 744.2007.

This bill creates section 397.417 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 Children, Families, and Elder Affairs on February 19, 2019:

The committee substitute:

- Requires a peer specialist applying for employment with the DCF to submit a full set of fingerprints to the DCF or an authorized vendor or entity, who must then forward them to the FDLE for state processing. The FDLE must then forward them to the FBI for national processing.
- Specifies that the applicant must bear the state and federal costs of fingerprint processing.
- Requires that the FDLE retain the fingerprints and enroll them in the national retained fingerprint arrest notification program once the FDLE begins participation in the program.
- Directs the FDLE to identify and report any arrest record to the DCF.

- B. **Amendments:**

None.

By the Committee on Children, Families, and Elder Affairs; and
Senator Rouson

586-02488-19

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1 A bill to be entitled
2 An act relating to mental health and substance use
3 disorders; amending s. 394.455, F.S.; defining the
4 term "peer specialist"; amending s. 394.4572, F.S.;
5 requiring a specific level of screening for peer
6 specialists working in mental health programs and
7 facilities; amending s. 394.4573, F.S.; specifying
8 that the use of peer specialists for recovery support
9 is an essential element of a coordinated system of
10 behavioral health care; amending s. 397.311, F.S.;
11 defining the term "peer specialist"; amending s.
12 397.4073, F.S.; conforming provisions to changes made
13 by the act; creating s. 397.417, F.S.; providing
14 legislative findings and intent; authorizing a person
15 to seek certification as a peer specialist if he or
16 she meets specified qualifications; requiring a
17 background screening, completion of a training
18 program, and a passing score on a competency exam for
19 a qualified person to obtain certification as a peer
20 specialist; requiring the Department of Children and
21 Families to develop a training program for peer
22 specialists and to give preference to trainers who are
23 certified peer specialists; requiring the training
24 program to coincide with a competency exam and to be
25 based on current practice standards; requiring the
26 department to certify peer specialists directly or by
27 designating a nonprofit certification organization;
28 requiring that a person providing peer specialist
29 services be certified or supervised by a licensed

Page 1 of 25

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586-02488-19

2019528c1

30 behavioral health care professional or a certified
31 peer specialist; authorizing the department, a
32 behavioral health managing entity, or the Medicaid
33 program to reimburse a peer specialist service as a
34 recovery service; encouraging Medicaid managed care
35 plans to use peer specialists in providing recovery
36 services; requiring peer specialists to meet the
37 requirements of a background screening as a condition
38 of employment and continued employment; requiring the
39 department to forward fingerprints to the Department
40 of Law Enforcement; requiring that fees for state and
41 federal fingerprint processing be borne by the peer
42 specialist applying for employment; providing that any
43 arrest record identified through background screening
44 be forwarded to the department; authorizing the
45 Department of Children and Families or the agency to
46 contract with certain vendors for fingerprinting;
47 specifying requirements for vendors; specifying
48 offenses to be considered in the background screening
49 of a peer specialist; authorizing a person who does
50 not meet background screening requirements to request
51 an exemption from disqualification from the department
52 or the agency; providing that all peer specialists
53 certified as of the effective date of this act are
54 recognized as having met the requirements of this act;
55 amending s. 397.487, F.S.; revising legislative
56 findings relating to voluntary certification of
57 recovery residences; requiring recovery residences to
58 comply with specified Florida Fire Prevention Code

Page 2 of 25

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586-02488-19

2019528c1

59 provisions; revising background screening requirements
 60 for owners, directors, and chief financial officers of
 61 recovery residences; amending s. 397.4873, F.S.;
 62 providing exceptions to limitations on referrals by
 63 recovery residences to licensed service providers;
 64 prohibiting recovery residences and specified
 65 affiliated individuals from benefiting from certain
 66 referrals; amending s. 435.07, F.S.; authorizing the
 67 exemption of certain persons from disqualification
 68 from employment; amending ss. 212.055, 394.495,
 69 394.496, 394.9085, 397.416, 409.972, 440.102, 464.012,
 70 and 744.2007, F.S.; conforming cross-references;
 71 making technical changes; providing an effective date.

72
 73 Be It Enacted by the Legislature of the State of Florida:

74
 75 Section 1. Present subsections (32) through (48) of section
 76 394.455, Florida Statutes, are redesignated as subsections (33)
 77 through (49), respectively, and a new subsection (32) is added
 78 to that section, to read:

79 394.455 Definitions.—As used in this part, the term:
 80 (32) "Peer specialist" means a person who has been in
 81 recovery from a substance use disorder or mental illness for the
 82 past 2 years or a family member or caregiver of a person with a
 83 substance use disorder or mental illness and who is certified
 84 under s. 397.417.

85 Section 2. Paragraph (a) of subsection (1) of section
 86 394.4572, Florida Statutes, is amended to read:
 87 394.4572 Screening of mental health personnel.—

Page 3 of 25

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586-02488-19

2019528c1

88 (1) (a) The department and the Agency for Health Care
 89 Administration shall require level 2 background screening
 90 pursuant to chapter 435 for mental health personnel. "Mental
 91 health personnel" includes all program directors, professional
 92 clinicians, staff members, and volunteers working in public or
 93 private mental health programs and facilities who have direct
 94 contact with individuals held for examination or admitted for
 95 mental health treatment. For purposes of this chapter,
 96 employment screening of mental health personnel also includes,
 97 but is not limited to, employment screening as provided under
 98 chapter 435 and s. 408.809. The department and the Agency for
 99 Health Care Administration shall require a level 2 background
 100 screening pursuant to s. 397.417(5) for persons working as peer
 101 specialists in public or private mental health programs or
 102 facilities and who have direct contact with individuals held for
 103 involuntary examination or admitted for mental health treatment.

104 Section 3. Paragraph (1) of subsection (2) of section
 105 394.4573, Florida Statutes, is amended to read:

106 394.4573 Coordinated system of care; annual assessment;
 107 essential elements; measures of performance; system improvement
 108 grants; reports.—On or before December 1 of each year, the
 109 department shall submit to the Governor, the President of the
 110 Senate, and the Speaker of the House of Representatives an
 111 assessment of the behavioral health services in this state. The
 112 assessment shall consider, at a minimum, the extent to which
 113 designated receiving systems function as no-wrong-door models,
 114 the availability of treatment and recovery services that use
 115 recovery-oriented and peer-involved approaches, the availability
 116 of less-restrictive services, and the use of evidence-informed

Page 4 of 25

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586-02488-19 2019528c1

117 practices. The department's assessment shall consider, at a
 118 minimum, the needs assessments conducted by the managing
 119 entities pursuant to s. 394.9082(5). Beginning in 2017, the
 120 department shall compile and include in the report all plans
 121 submitted by managing entities pursuant to s. 394.9082(8) and
 122 the department's evaluation of each plan.

123 (2) The essential elements of a coordinated system of care
 124 include:

125 (1) Recovery support, including, but not limited to, the
 126 use of peer specialists as described in s. 397.417 to assist in
 127 the individual's recovery from a substance use disorder or
 128 mental illness, support for competitive employment, educational
 129 attainment, independent living skills development, family
 130 support and education, wellness management and self-care, and
 131 assistance in obtaining housing that meets the individual's
 132 needs. Such housing may include mental health residential
 133 treatment facilities, limited mental health assisted living
 134 facilities, adult family care homes, and supportive housing.
 135 Housing provided using state funds must provide a safe and
 136 decent environment free from abuse and neglect.

137 Section 4. Present subsections (30) through (49) of section
 138 397.311, Florida Statutes, are redesignated as subsections (31)
 139 through (50), respectively, and a new subsection (30) is added
 140 to that section, to read:

141 397.311 Definitions.—As used in this chapter, except part
 142 VIII, the term:

143 (30) "Peer specialist" means a person who has been in
 144 recovery from a substance use disorder or mental illness for the
 145 past 2 years or a family member or caregiver of a person with a

586-02488-19 2019528c1

146 substance use disorder or mental illness and who is certified
 147 under s. 397.417.

148 Section 5. Paragraph (f) of subsection (1) and paragraphs
 149 (b) and (c) of subsection (4) of section 397.4073, Florida
 150 Statutes, are amended to read:

151 397.4073 Background checks of service provider personnel.—

152 (1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND
 153 EXCEPTIONS.—

154 (f) Service provider personnel who request an exemption
 155 from disqualification must submit the request within 30 days
 156 after being notified of the disqualification. If 5 years or more
 157 have elapsed since the most recent disqualifying offense,
 158 service provider personnel may work with adults with mental
 159 health or substance use disorders or co-occurring disorders
 160 under the supervision of a qualified professional licensed under
 161 chapter 490 or chapter 491 or a master's-level-certified
 162 addictions professional until the agency makes a final
 163 determination regarding the request for an exemption from
 164 disqualification.

165 (4) EXEMPTIONS FROM DISQUALIFICATION.—

166 (b) ~~Since rehabilitated substance abuse impaired persons~~
 167 ~~are effective in the successful treatment and rehabilitation of~~
 168 ~~individuals with substance use disorders, for service providers~~
 169 ~~which treat adolescents 13 years of age and older, service~~
 170 ~~provider personnel whose background checks indicate crimes under~~
 171 ~~s. 817.563, s. 893.13, or s. 893.147 may be exempted from~~
 172 ~~disqualification from employment pursuant to this paragraph.~~

173 (e) The department may grant exemptions from
 174 disqualification which would limit service provider personnel to

586-02488-19 2019528c1

175 working with adults in substance use disorder ~~abuse~~ treatment
176 facilities.

177 Section 6. Section 397.417, Florida Statutes, is created to
178 read:

179 397.417 Behavioral health peer specialists.-

180 (1) LEGISLATIVE FINDINGS AND INTENT.-

181 (a) The Legislature finds that:

182 1. The ability to provide adequate behavioral health
183 services is limited by a shortage of professionals and
184 paraprofessionals.

185 2. The state is experiencing an increase in opioid
186 addictions, which prove fatal to persons in many cases.

187 3. Peer specialists provide effective support services
188 because they share common life experiences with the persons they
189 assist.

190 4. Peer specialists promote a sense of community among
191 those in recovery.

192 5. Research has shown that peer support facilitates
193 recovery and reduces health care costs.

194 6. Peer specialists may have a criminal history that
195 prevents them from meeting background screening requirements.

196 (b) The Legislature intends to expand the use of peer
197 specialists as a cost-effective means of providing services by
198 ensuring that peer specialists meet specified qualifications,
199 meet modified background screening requirements, and are
200 adequately reimbursed for their services.

201 (2) QUALIFICATIONS.-

202 (a) A person may seek certification as a peer specialist if
203 he or she has been in recovery from a substance use disorder or

586-02488-19 2019528c1

204 mental illness for the past 2 years or if he or she is a family
205 member or caregiver of a person with a substance use disorder or
206 mental illness.

207 (b) To obtain certification as a peer specialist, a person
208 must meet the background screening requirements of subsection
209 (5), complete the training program, and achieve a passing score
210 on the competency exam described in paragraph (3)(a).

211 (3) DUTIES OF THE DEPARTMENT.-

212 (a) The department shall develop a training program for
213 persons seeking certification as peer specialists. The
214 department must give preference to trainers who are certified
215 peer specialists. The training program must coincide with a
216 competency exam and be based on current practice standards.

217 (b) The department shall certify peer specialists. The
218 department may certify peer specialists directly or may
219 designate a private, nonprofit certification organization to
220 certify peer specialists, implement the training program, and
221 administer the competency exam.

222 (c) The department must require that a person providing
223 peer specialist services be certified or be supervised by a
224 licensed behavioral health care professional or a certified peer
225 specialist.

226 (4) PAYMENT.-Peer specialist services may be reimbursed as
227 a recovery service through the department, a behavioral health
228 managing entity, or the Medicaid program. Medicaid managed care
229 plans are encouraged to use peer specialists in providing
230 recovery services.

231 (5) BACKGROUND SCREENING.-

232 (a) A peer specialist must have completed or have been

586-02488-19

2019528c1

233 lawfully released from confinement, supervision, or any
 234 nonmonetary condition imposed by the court for any felony and
 235 must undergo a background screening as a condition of employment
 236 and continued employment. The applicant must submit a full set
 237 of fingerprints to the department or to a vendor, entity, or
 238 agency authorized by s. 943.053(13). The department, vendor,
 239 entity, or agency shall forward the fingerprints to the
 240 Department of Law Enforcement for state processing and the
 241 Department of Law Enforcement shall forward the fingerprints to
 242 the Federal Bureau of Investigation for national processing.
 243 Fees for state and federal fingerprint processing and retention
 244 shall be borne by the applicant. The state cost for fingerprint
 245 processing shall be as provided in s. 943.053(3)(e) for records
 246 provided to persons or entities other than those specified as
 247 exceptions therein. Fingerprints submitted to the Department of
 248 Law Enforcement pursuant to this paragraph shall be retained as
 249 provided by s. 435.12 and, when the Department of Law
 250 Enforcement begins participation in the program, enrolled in the
 251 Federal Bureau of Investigation's national retained fingerprint
 252 arrest notification program, as provided in s. 943.05(4). Any
 253 arrest record identified shall be reported to the department.

254 (c) The department or the Agency for Health Care
 255 Administration, as applicable, may contract with one or more
 256 vendors to perform all or part of the electronic fingerprinting
 257 pursuant to this section. Such contracts must ensure that the
 258 owners and personnel of the vendor performing the electronic
 259 fingerprinting are qualified and will ensure the integrity and
 260 security of all personal identifying information.

261 (d) Vendors who submit fingerprints on behalf of employers

Page 9 of 25

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586-02488-19

2019528c1

262 must:

263 1. Meet the requirements of s. 943.053; and
 264 2. Have the ability to communicate electronically with the
 265 department or the Agency for Health Care Administration, as
 266 applicable, and to accept screening results from the Department
 267 of Law Enforcement and provide the applicant's full first name,
 268 middle initial, and last name; social security number or
 269 individual taxpayer identification number; date of birth;
 270 mailing address; sex; and race.

271 (e) The background screening under this section must ensure
 272 that a peer specialist has not, during the previous 3 years,
 273 been arrested for and is awaiting final disposition of, been
 274 found guilty of, regardless of adjudication, or entered a plea
 275 of nolo contendere or guilty to, or been adjudicated delinquent
 276 and the record has not been sealed or expunged for, any felony.

277 (f) The background screening under this section must ensure
 278 that a peer specialist has not been found guilty of, regardless
 279 of adjudication, or entered a plea of nolo contendere or guilty
 280 to, or been adjudicated delinquent and the record has not been
 281 sealed or expunged for, any offense prohibited under any of the
 282 following state laws or similar laws of another jurisdiction:

283 1. Section 393.135, relating to sexual misconduct with
 284 certain developmentally disabled clients and reporting of such
 285 sexual misconduct.

286 2. Section 394.4593, relating to sexual misconduct with
 287 certain mental health patients and reporting of such sexual
 288 misconduct.

289 3. Section 409.9201, relating to Medicaid fraud.

290 4. Section 415.111, relating to adult abuse, neglect, or

Page 10 of 25

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586-02488-19 2019528c1

291 exploitation of aged persons or disabled adults.

292 5. Section 741.28, relating to domestic violence.

293 6. Section 777.04, relating to attempts, solicitation, and

294 conspiracy to commit an offense listed in this section.

295 7. Section 782.04, relating to murder.

296 8. Section 782.07, relating to manslaughter, aggravated

297 manslaughter of an elderly person or disabled adult, aggravated

298 manslaughter of a child, or aggravated manslaughter of an

299 officer, a firefighter, an emergency medical technician, or a

300 paramedic.

301 9. Section 782.071, relating to vehicular homicide.

302 10. Section 782.09, relating to killing of an unborn child

303 by injury to the mother.

304 11. Chapter 784, relating to assault, battery, and culpable

305 negligence, if the offense was a felony.

306 12. Section 787.01, relating to kidnapping.

307 13. Section 787.02, relating to false imprisonment.

308 14. Section 787.025, relating to luring or enticing a

309 child.

310 15. Section 787.04(2), relating to leading, taking,

311 enticing, or removing a minor beyond the state limits, or

312 concealing the location of a minor, with criminal intent pending

313 custody proceedings.

314 16. Section 787.04(3), relating to leading, taking,

315 enticing, or removing a minor beyond the state limits, or

316 concealing the location of a minor, with criminal intent pending

317 dependency proceedings or proceedings concerning alleged abuse

318 or neglect of a minor.

319 17. Section 790.115(1), relating to exhibiting firearms or

586-02488-19 2019528c1

320 weapons within 1,000 feet of a school.

321 18. Section 790.115(2)(b), relating to possessing an

322 electric weapon or device, destructive device, or other weapon

323 on school property.

324 19. Section 794.011, relating to sexual battery.

325 20. Former s. 794.041, relating to prohibited acts of

326 persons in familial or custodial authority.

327 21. Section 794.05, relating to unlawful sexual activity

328 with certain minors.

329 22. Section 794.08, relating to female genital mutilation.

330 23. Section 798.02, relating to lewd and lascivious

331 behavior.

332 24. Chapter 800, relating to lewdness and indecent

333 exposure.

334 25. Section 806.01, relating to arson.

335 26. Section 810.02, relating to burglary, if the offense

336 was a felony of the first degree.

337 27. Section 810.14, relating to voyeurism, if the offense

338 was a felony.

339 28. Section 810.145, relating to video voyeurism, if the

340 offense was a felony.

341 29. Section 812.13, relating to robbery.

342 30. Section 812.131, relating to robbery by sudden

343 snatching.

344 31. Section 812.133, relating to carjacking.

345 32. Section 812.135, relating to home-invasion robbery.

346 33. Section 817.50, relating to fraudulently obtaining

347 goods or services from a health care provider and false reports

348 of a communicable disease.

586-02488-19 2019528c1

- 349 34. Section 817.505, relating to patient brokering.
 350 35. Section 825.102, relating to abuse, aggravated abuse,
 351 or neglect of an elderly person or disabled adult.
 352 36. Section 825.1025, relating to lewd or lascivious
 353 offenses committed upon or in the presence of an elderly person
 354 or disabled person.
 355 37. Section 825.103, relating to exploitation of an elderly
 356 person or disabled adult, if the offense was a felony.
 357 38. Section 826.04, relating to incest.
 358 39. Section 827.03, relating to child abuse, aggravated
 359 child abuse, or neglect of a child.
 360 40. Section 827.04, relating to contributing to the
 361 delinquency or dependency of a child.
 362 41. Former s. 827.05, relating to negligent treatment of
 363 children.
 364 42. Section 827.071, relating to sexual performance by a
 365 child.
 366 43. Section 831.30, relating to fraud in obtaining
 367 medicinal drugs.
 368 44. Section 831.31, relating to sale, manufacture,
 369 delivery, possession with intent to sell, manufacture, or
 370 deliver any counterfeit controlled substance if the offense was
 371 a felony.
 372 45. Section 843.01, relating to resisting arrest with
 373 violence.
 374 46. Section 843.025, relating to depriving a law
 375 enforcement, correctional, or correctional probation officer of
 376 the means of protection or communication.
 377 47. Section 843.12, relating to aiding in an escape.

Page 13 of 25

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586-02488-19 2019528c1

- 378 48. Section 843.13, relating to aiding in the escape of
 379 juvenile inmates of correctional institutions.
 380 49. Chapter 847, relating to obscene literature.
 381 50. Section 874.05, relating to encouraging or recruiting
 382 another to join a criminal gang.
 383 51. Chapter 893, relating to drug abuse prevention and
 384 control, if the offense was a felony of the second degree or
 385 greater severity.
 386 52. Section 895.03, relating to racketeering and collection
 387 of unlawful debts.
 388 53. Section 896.101, relating to the Florida Money
 389 Laundering Act.
 390 54. Section 916.1075, relating to sexual misconduct with
 391 certain forensic clients and reporting of such sexual
 392 misconduct.
 393 55. Section 944.35(3), relating to inflicting cruel or
 394 inhuman treatment on an inmate resulting in great bodily harm.
 395 56. Section 944.40, relating to escape.
 396 57. Section 944.46, relating to harboring, concealing, or
 397 aiding an escaped prisoner.
 398 58. Section 944.47, relating to introduction of contraband
 399 into a correctional facility.
 400 59. Section 985.701, relating to sexual misconduct in
 401 juvenile justice programs.
 402 60. Section 985.711, relating to contraband introduced into
 403 detention facilities.
 404 (6) EXEMPTION REQUESTS.—A person who wishes to become a
 405 peer specialist and is disqualified under subsection (5) may
 406 request an exemption from disqualification pursuant to s. 435.07

Page 14 of 25

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586-02488-19

2019528c1

407 from the department or the Agency for Health Care
 408 Administration, as applicable.

409 (7) GRANDFATHER CLAUSE.—All peer specialists certified as
 410 of the effective date of this act are recognized as having met
 411 the requirements of this act.

412 Section 7. Subsection (1), paragraph (m) of subsection (3),
 413 and subsection (6) of section 397.487, Florida Statutes, are
 414 amended to read:

415 397.487 Voluntary certification of recovery residences.—

416 (1) The Legislature finds that a person suffering from
 417 addiction has a higher success rate of achieving long-lasting
 418 sobriety when given the opportunity to build a stronger
 419 foundation by living in a recovery residence while receiving
 420 treatment or after completing treatment. The Legislature further
 421 finds that this state and its subdivisions have a legitimate
 422 state interest in protecting these persons, who represent a
 423 vulnerable consumer population in need of adequate housing. It
 424 is the intent of the Legislature to protect persons who reside
 425 in a recovery residence.

426 (3) A credentialing entity shall require the recovery
 427 residence to submit the following documents with the completed
 428 application and fee:

429 (m) Proof of satisfactory fire, safety, and health
 430 inspections. A recovery residence must comply with the
 431 provisions of the Florida Fire Prevention Code which apply to
 432 one-family and two-family dwellings, public lodging
 433 establishments, rooming houses, or other housing facilities, as
 434 applicable.

435 (6) All owners, directors, and chief financial officers of

586-02488-19

2019528c1

436 an applicant recovery residence are subject to level 2
 437 background screening as provided under chapter 435 and s.
 438 408.809. A recovery residence is ineligible for certification,
 439 and a credentialing entity shall deny a recovery residence's
 440 application, if any owner, director, or chief financial officer
 441 has been found guilty of, or has entered a plea of guilty or
 442 nolo contendere to, regardless of adjudication, any offense
 443 listed in s. 408.809(4) or s. 435.04(2) unless the department
 444 has issued an exemption under s. 397.4073 or s. 397.4872. In
 445 accordance with s. 435.04, the department shall notify the
 446 credentialing agency of an owner's, director's, or chief
 447 financial officer's eligibility based on the results of his or
 448 her background screening.

449 Section 8. Section 397.4873, Florida Statutes, is amended
 450 to read:

451 397.4873 Referrals to or from recovery residences;
 452 prohibitions; penalties.—

453 (1) A service provider licensed under this part may not
 454 make a referral of a prospective, current, or discharged patient
 455 to, or accept a referral of such a patient from, a recovery
 456 residence unless the recovery residence holds a valid
 457 certificate of compliance as provided in s. 397.487 and is
 458 actively managed by a certified recovery residence administrator
 459 as provided in s. 397.4871.

460 (2) Subsection (1) does not apply to:

461 (a) A licensed service provider under contract with a
 462 managing entity as defined in s. 394.9082.

463 (b) Referrals by a recovery residence to a licensed service
 464 provider when a resident has experienced a recurrence of

586-02488-19

2019528c1

465 substance use and, in the best judgment of the recovery
 466 residence administrator, it appears that the resident may
 467 benefit from clinical treatment services ~~the recovery residence~~
 468 ~~or its owners, directors, operators, or employees do not~~
 469 ~~benefit, directly or indirectly, from the referral.~~

470 (c) Referrals made before January 1, 2020 ~~July 1, 2018~~, by
 471 a licensed service provider to that licensed service provider's
 472 wholly owned subsidiary, if applications and associated fees are
 473 submitted by July 1, 2019.

474 (3) A recovery residence or its owners, directors,
 475 operators, employees, or volunteers may not receive a pecuniary
 476 benefit, directly or indirectly, from a licensed service
 477 provider for a referral made pursuant to subsection (1) or
 478 subsection (2).

479 (4)~~(3)~~ For purposes of this section, a licensed service
 480 provider or recovery residence shall be considered to have made
 481 a referral if the provider or recovery residence has informed a
 482 patient by any means about the name, address, or other details
 483 of a recovery residence or licensed service provider, or
 484 informed a licensed service provider or a recovery residence of
 485 any identifying details about a patient.

486 (5)~~(4)~~ A licensed service provider shall maintain records
 487 of referrals to or from recovery residences as may be prescribed
 488 by the department in rule.

489 (6)~~(5)~~ After June 30, 2019, a licensed service provider
 490 violating this section shall be subject to an administrative
 491 fine of \$1,000 per occurrence. Repeat violations of this section
 492 may subject a provider to license suspension or revocation
 493 pursuant to s. 397.415.

586-02488-19

2019528c1

494 (7)~~(6)~~ Nothing in this section requires a licensed service
 495 provider to refer a patient to or to accept a referral of a
 496 patient from a recovery residence.

497 Section 9. Subsection (2) of section 435.07, Florida
 498 Statutes, is amended to read:

499 435.07 Exemptions from disqualification.—Unless otherwise
 500 provided by law, the provisions of this section apply to
 501 exemptions from disqualification for disqualifying offenses
 502 revealed pursuant to background screenings required under this
 503 chapter, regardless of whether those disqualifying offenses are
 504 listed in this chapter or other laws.

505 (2) Persons employed, or applicants for employment, by
 506 treatment providers who treat adolescents 13 years of age and
 507 older, and who are disqualified from employment solely because
 508 of crimes under s. 796.07(2)(e), s. 810.02(4), s. 812.014(2)(c),
 509 s. 817.563, s. 831.01, s. 831.02, s. 893.13, or s. 893.147, and
 510 any related criminal attempt, solicitation, or conspiracy under
 511 s. 777.04, may be exempted from disqualification from employment
 512 pursuant to this chapter without application of the waiting
 513 period in subparagraph (1)(a)1.

514 Section 10. Paragraph (e) of subsection (5) of section
 515 212.055, Florida Statutes, is amended to read:

516 212.055 Discretionary sales surtaxes; legislative intent;
 517 authorization and use of proceeds.—It is the legislative intent
 518 that any authorization for imposition of a discretionary sales
 519 surtax shall be published in the Florida Statutes as a
 520 subsection of this section, irrespective of the duration of the
 521 levy. Each enactment shall specify the types of counties
 522 authorized to levy; the rate or rates which may be imposed; the

586-02488-19

2019528c1

523 maximum length of time the surtax may be imposed, if any; the
 524 procedure which must be followed to secure voter approval, if
 525 required; the purpose for which the proceeds may be expended;
 526 and such other requirements as the Legislature may provide.
 527 Taxable transactions and administrative procedures shall be as
 528 provided in s. 212.054.

529 (5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined in
 530 s. 125.011(1) may levy the surtax authorized in this subsection
 531 pursuant to an ordinance either approved by extraordinary vote
 532 of the county commission or conditioned to take effect only upon
 533 approval by a majority vote of the electors of the county voting
 534 in a referendum. In a county as defined in s. 125.011(1), for
 535 the purposes of this subsection, “county public general
 536 hospital” means a general hospital as defined in s. 395.002
 537 which is owned, operated, maintained, or governed by the county
 538 or its agency, authority, or public health trust.

539 (e) A governing board, agency, or authority shall be
 540 chartered by the county commission upon this act becoming law.
 541 The governing board, agency, or authority shall adopt and
 542 implement a health care plan for indigent health care services.
 543 The governing board, agency, or authority shall consist of no
 544 more than seven and no fewer than five members appointed by the
 545 county commission. The members of the governing board, agency,
 546 or authority shall be at least 18 years of age and residents of
 547 the county. A ~~No~~ member may not be employed by or affiliated
 548 with a health care provider or the public health trust, agency,
 549 or authority responsible for the county public general hospital.
 550 The following community organizations shall each appoint a
 551 representative to a nominating committee: the South Florida

586-02488-19

2019528c1

552 Hospital and Healthcare Association, the Miami-Dade County
 553 Public Health Trust, the Dade County Medical Association, the
 554 Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade
 555 County. This committee shall nominate between 10 and 14 county
 556 citizens for the governing board, agency, or authority. The
 557 slate shall be presented to the county commission and the county
 558 commission shall confirm the top five to seven nominees,
 559 depending on the size of the governing board. Until such time as
 560 the governing board, agency, or authority is created, the funds
 561 provided for in subparagraph (d)2. shall be placed in a
 562 restricted account set aside from other county funds and not
 563 disbursed by the county for any other purpose.

564 1. The plan shall divide the county into a minimum of four
 565 and maximum of six service areas, with no more than one
 566 participant hospital per service area. The county public general
 567 hospital shall be designated as the provider for one of the
 568 service areas. Services shall be provided through participants’
 569 primary acute care facilities.

570 2. The plan and subsequent amendments to it shall fund a
 571 defined range of health care services for both indigent persons
 572 and the medically poor, including primary care, preventive care,
 573 hospital emergency room care, and hospital care necessary to
 574 stabilize the patient. For the purposes of this section,
 575 “stabilization” means stabilization as defined in s. 397.311 ~~or~~
 576 ~~397.311(45)~~. Where consistent with these objectives, the plan
 577 may include services rendered by physicians, clinics, community
 578 hospitals, and alternative delivery sites, as well as at least
 579 one regional referral hospital per service area. The plan shall
 580 provide that agreements negotiated between the governing board,

586-02488-19

2019528c1

581 agency, or authority and providers shall recognize hospitals
 582 that render a disproportionate share of indigent care, provide
 583 other incentives to promote the delivery of charity care to draw
 584 down federal funds where appropriate, and require cost
 585 containment, including, but not limited to, case management.
 586 From the funds specified in subparagraphs (d)1. and 2. for
 587 indigent health care services, service providers shall receive
 588 reimbursement at a Medicaid rate to be determined by the
 589 governing board, agency, or authority created pursuant to this
 590 paragraph for the initial emergency room visit, and a per-member
 591 per-month fee or capitation for those members enrolled in their
 592 service area, as compensation for the services rendered
 593 following the initial emergency visit. Except for provisions of
 594 emergency services, upon determination of eligibility,
 595 enrollment shall be deemed to have occurred at the time services
 596 were rendered. The provisions for specific reimbursement of
 597 emergency services shall be repealed on July 1, 2001, unless
 598 otherwise reenacted by the Legislature. The capitation amount or
 599 rate shall be determined before program implementation by an
 600 independent actuarial consultant. In no event shall such
 601 reimbursement rates exceed the Medicaid rate. The plan must also
 602 provide that any hospitals owned and operated by government
 603 entities on or after the effective date of this act must, as a
 604 condition of receiving funds under this subsection, afford
 605 public access equal to that provided under s. 286.011 as to any
 606 meeting of the governing board, agency, or authority the subject
 607 of which is budgeting resources for the retention of charity
 608 care, as that term is defined in the rules of the Agency for
 609 Health Care Administration. The plan shall also include

Page 21 of 25

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586-02488-19

2019528c1

610 innovative health care programs that provide cost-effective
 611 alternatives to traditional methods of service and delivery
 612 funding.
 613 3. The plan's benefits shall be made available to all
 614 county residents currently eligible to receive health care
 615 services as indigents or medically poor as defined in paragraph
 616 (4) (d).
 617 4. Eligible residents who participate in the health care
 618 plan shall receive coverage for a period of 12 months or the
 619 period extending from the time of enrollment to the end of the
 620 current fiscal year, per enrollment period, whichever is less.
 621 5. At the end of each fiscal year, the governing board,
 622 agency, or authority shall prepare an audit that reviews the
 623 budget of the plan, delivery of services, and quality of
 624 services, and makes recommendations to increase the plan's
 625 efficiency. The audit shall take into account participant
 626 hospital satisfaction with the plan and assess the amount of
 627 poststabilization patient transfers requested, and accepted or
 628 denied, by the county public general hospital.
 629 Section 11. Subsection (3) of section 394.495, Florida
 630 Statutes, is amended to read:
 631 394.495 Child and adolescent mental health system of care;
 632 programs and services.—
 633 (3) Assessments must be performed by:
 634 (a) A professional as defined in s. 394.455(5), (7), (33)
 635 ~~(32)~~, (36) ~~(35)~~, or (37) ~~(36)~~;
 636 (b) A professional licensed under chapter 491; or
 637 (c) A person who is under the direct supervision of a
 638 qualified professional as defined in s. 394.455(5), (7), (33)

Page 22 of 25

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586-02488-19 2019528c1

639 ~~(32)~~, (36) ~~(35)~~, or (37) ~~(36)~~ or a professional licensed under
640 chapter 491.

641 Section 12. Subsection (5) of section 394.496, Florida
642 Statutes, is amended to read:

643 394.496 Service planning.—

644 (5) A professional as defined in s. 394.455(5), (7), (33)
645 ~~(32)~~, (36) ~~(35)~~, or (37) ~~(36)~~ or a professional licensed under
646 chapter 491 must be included among those persons developing the
647 services plan.

648 Section 13. Subsection (6) of section 394.9085, Florida
649 Statutes, is amended to read:

650 394.9085 Behavioral provider liability.—

651 (6) For purposes of this section, the term terms
652 “detoxification services,” has the same meaning as
653 detoxification in s. 397.311(26) (a), “addictions receiving
654 facility,” has the same meaning as provided in s.
655 397.311(26) (a), and “receiving facility” has have the same
656 meaning meanings as those provided in s. 394.455 ~~se-~~
657 397.311(26) (a)4., 397.311(26) (a)1., and 394.455(39),
658 respectively.

659 Section 14. Section 397.416, Florida Statutes, is amended
660 to read:

661 397.416 Substance use disorder ~~abuse~~ treatment services;
662 qualified professional.—Notwithstanding any other provision of
663 law, a person who was certified through a certification process
664 recognized by the former Department of Health and Rehabilitative
665 Services before January 1, 1995, may perform the duties of a
666 qualified professional with respect to substance use ~~abuse~~
667 treatment services as defined in this chapter, and need not meet

586-02488-19 2019528c1

668 the certification requirements contained in s. 397.311(35) ~~se-~~
669 397.311(34).

670 Section 15. Paragraph (b) of subsection (1) of section
671 409.972, Florida Statutes, is amended to read:

672 409.972 Mandatory and voluntary enrollment.—

673 (1) The following Medicaid-eligible persons are exempt from
674 mandatory managed care enrollment required by s. 409.965, and
675 may voluntarily choose to participate in the managed medical
676 assistance program:

677 (b) Medicaid recipients residing in residential commitment
678 facilities operated through the Department of Juvenile Justice
679 or in a treatment facility as defined in s. 394.455 ~~se-~~
680 394.455(47).

681 Section 16. Paragraphs (d) and (g) of subsection (1) of
682 section 440.102, Florida Statutes, are amended to read:

683 440.102 Drug-free workplace program requirements.—The
684 following provisions apply to a drug-free workplace program
685 implemented pursuant to law or to rules adopted by the Agency
686 for Health Care Administration:

687 (1) DEFINITIONS.—Except where the context otherwise
688 requires, as used in this act:

689 (d) “Drug rehabilitation program” means a service provider
690 as defined in s. 397.311 which, established pursuant to s.
691 397.311(43), that provides confidential, timely, and expert
692 identification, assessment, and resolution of employee drug
693 abuse.

694 (g) “Employee assistance program” means an established
695 program capable of providing expert assessment of employee
696 personal concerns; confidential and timely identification

586-02488-19

2019528c1

697 services with regard to employee drug abuse; referrals of
698 employees for appropriate diagnosis, treatment, and assistance;
699 and followup services for employees who participate in the
700 program or require monitoring after returning to work. If, in
701 addition to the above activities, an employee assistance program
702 provides diagnostic and treatment services, these services shall
703 in all cases be provided by service providers as defined in s.
704 397.311 ~~pursuant to s. 397.311(43)~~.

705 Section 17. Paragraph (e) of subsection (4) of section
706 464.012, Florida Statutes, is amended to read:

707 464.012 Licensure of advanced practice registered nurses;
708 fees; controlled substance prescribing.-

709 (4) In addition to the general functions specified in
710 subsection (3), an advanced practice registered nurse may
711 perform the following acts within his or her specialty:

712 (e) A psychiatric nurse, who meets the requirements in s.
713 394.455(36) ~~s. 394.455(35)~~, within the framework of an
714 established protocol with a psychiatrist, may prescribe
715 psychotropic controlled substances for the treatment of mental
716 disorders.

717 Section 18. Subsection (7) of section 744.2007, Florida
718 Statutes, is amended to read:

719 744.2007 Powers and duties.-

720 (7) A public guardian may not commit a ward to a treatment
721 facility, as defined in s. 394.455 ~~s. 394.455(47)~~, without an
722 involuntary placement proceeding as provided by law.

723 Section 19. This act shall take effect July 1, 2019.



The Florida Senate

Committee Agenda Request

To: Senator Aaron Bean, Chair
Appropriations on Health and Human Services Subcommittee

Subject: Committee Agenda Request

Date: February 13, 2019

I respectfully request that **Senate Bill # 528**, relating to Mental Health and Substance Use Disorders, be placed on the:

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

A handwritten signature in blue ink that reads "Darryl Rouson".

Senator Darryl Rouson
Florida Senate, District 19

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/13/2019
Meeting Date

SB 528
Bill Number (if applicable)

Topic Mental Health

Amendment Barcode (if applicable)

Name Olivia Babis

Job Title Public Policy Analyst

Address 2473 Care Dr. Suite 200
Street
Tallahassee FL 32308
City State Zip

Phone 850-488-9071

Email oliviab@drf.org

Speaking: For Against Information

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

Representing Disability Rights FL

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)

3-13-19

Meeting Date

SB 528

Bill Number (if applicable)

Topic Mental Health + Substance Abuse

Amendment Barcode (if applicable)

Name MARK FONTAINE

Job Title DIRECTOR

Address 2868 Mahan Drive

Phone 878-2196

Street

Tallahassee FL 32308

City

State

Zip

Email mfontaine@fadaa.org

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.

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)

3/13/19

Meeting Date

528

Bill Number (if applicable)

Topic Substance Abuse/Mental Health

Amendment Barcode (if applicable)

Name Alisa LaPolT

Job Title Lobbyist

Address PO Box 1344

Phone 850-443-1319

Street

TLH

FL

32302

Email alisa@go topsail.com

City

State

Zip

Speaking: For Against Information

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

Representing National Alliance on Mental Illness - Palm Beach

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)

3/13/2019
Meeting Date

528
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name BRIAN PITTS

Job Title Trustee

Address 1119 Newton Ave S

Phone 727/897-9291

Street

St Petersburg

City

FL

State

33705

Zip

Email justice2jesus@yahoo.com

Speaking: For Against Information

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

Representing Justice-2-Jesus

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 Appropriations Subcommittee on Health and Human Services

BILL: SB 778

INTRODUCER: Senator Baxley

SUBJECT: Program of All-Inclusive Care for the Elderly

DATE: March 12, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Lloyd</u>	<u>Brown</u>	<u>HP</u>	Favorable
2.	<u>McKnight</u>	<u>Kidd</u>	<u>AHS</u>	Pre-meeting
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 778 codifies the Program of All-Inclusive Care for the Elderly (PACE) in s. 430.84, F.S. First authorized in 1998, the PACE became operational in Miami-Dade County in 2003, but has not yet been codified in state law. With almost 2,000 Medicaid managed care eligible recipients already enrolled in seven counties, the bill establishes a statutory process for the review, approval, and oversight of future and current PACE organizations, including:

- Specifying funding and enrollment requirements;
- Providing notification requirements for PACE organization applications;
- Requiring the Agency for Health Care Administration (AHCA) and the Department of Elder Affairs (DOEA) to provide monitoring and oversight of PACE organizations;
- Directing PACE organizations to enroll participants at levels funded by the General Appropriations Act (GAA);
- Permitting retroactive enrollment at the discretion of a PACE organization; and
- Providing other eligibility guidelines and requirements for Medicaid recipients enrolled in PACE organizations.

The bill exempts all PACE organizations from the requirements of chapter 641, which regulates health maintenance organizations, prepaid health clinics, and other health care service programs.

The bill has a negative fiscal impact to the Florida Medicaid Program, of which the extent is unknown. The AHCA and the DOEA currently perform many of the tasks described in the bill. If additional funding were provided to expand the number of PACE sites, then the AHCA and the DOEA may require additional resources to adapt to the related, increased volume of applications and necessary oversight at the additional sites.

The effective date of the bill is July 1, 2019.

II. Present Situation:

Program of All-Inclusive Care for the Elderly

The Program of All-Inclusive Care for the Elderly (PACE) is a capitated benefit model authorized by the federal Balanced Budget Act of 1997 (BBA)¹ that features a comprehensive service delivery system and integrated federal Medicare and state Medicaid financing. The model, which was tested through the federal Centers for Medicare and Medicaid Services (CMS) demonstration projects beginning in the mid-1980s,² was developed to address the needs of long-term care clients, providers, and payers. The PACE operates as a three-way agreement between the federal government, the state administering agency, and a PACE organization. In Florida, the PACE is a Florida Medicaid long-term care managed care plan option providing comprehensive long-term and acute care services which support Medicaid and Medicare enrollees who would otherwise qualify for Medicaid nursing facility services.³

The PACE is a unique federal/state partnership. The BBA established the PACE model of care as a permanent entity within the Medicare program and enabled states to provide PACE services to Medicaid beneficiaries as an optional state plan service without a Medicaid waiver.

The federal government established the PACE organization requirements and application process, however, the state is responsible for oversight of the application process, which includes reviewing the initial application and providing an on-site readiness review before a PACE organization can be authorized to serve patients. An approved PACE organization must sign a contract with the CMS and the state Medicaid agency.

The PACE is administered by the Department of Elder Affairs (DOEA) in consultation with the Agency for Health Care Administration (AHCA). The DOEA oversees the contracted PACE organizations, but is not a party to the contract between the CMS, the AHCA, and the PACE organizations.⁴ The DOEA, the AHCA, and the CMS must approve any applications for new PACE organizations if expansion is authorized by the Legislature through the necessary appropriation of the state matching funds.

A PACE organization must be part of either a city, county, state, or tribal government; a private not-for-profit 501(c)(3) organization; or for-profit entity that is primarily engaged in providing PACE services and must also:

- Have a governing board that includes participant representation;
- Be able to provide the complete service package regardless of frequency or duration of services;

¹ Specifically, services under the PACE program are authorized under Section 1905(a)(26) of the Social Security Act.

² United States Department of Health and Human Services, Centers for Medicare and Medicaid Services, *CMS Manual System: Pub. 100-11 Programs of All-Inclusive Care for the Elderly (PACE) Manual* (issued June 9, 2011), available at <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/pace111c01.pdf> (last visited March 5, 2019).

³ Department of Elder Affairs and Agency for Health Care Administration, *Program of All-Inclusive Care for the Elderly and Statewide Medicaid Managed Care Long-term Care Program Comparison Report* (January 14, 2014), p. 3, available at http://ahca.myflorida.com/docs/PACE_Evaluation_2014.pdf (last visited March 5, 2019).

⁴ *Id.*

- Have a physical site to provide primary care, social services, restorative therapies, personal care and supportive services, nutritional counseling, recreational therapy, and meals;
- Have a defined service area;
- Have safeguards against conflicts of interest;
- Have a demonstrated fiscal soundness;
- Have a formal participant bill of rights; and
- Have a process to address grievances and appeals.⁵

Eligibility and Benefits

PACE participants must be at least 55 years of age, live in the PACE center service area, meet eligibility requirements for nursing home care, pursuant to a Comprehensive Assessment and Review for Long-Term Care Services (CARES) pre-admission screening, and be able to live safely in the community. The PACE becomes the sole source of services for these Medicare and Medicaid eligible enrollees. Additionally, by electing to enroll in the PACE, the participant agrees to forgo other options for medical services and receive all of their services through the PACE organization.⁶

Under the PACE, an interdisciplinary team consisting of professional and paraprofessional staff assesses participants' needs, develops care plans, and delivers all services, including acute care and nursing facility services when necessary, which are integrated to provide a seamless delivery model. In most cases, a PACE organization provides social and medical services in a health center with supplemental services through in-home and referral services as necessary. The PACE service package must include all Medicare and Medicaid covered services and other services determined necessary by the multidisciplinary team for the care of the PACE participant.⁷

Before being approved to operate and deliver services, PACE organizations are required to provide evidence of the necessary financial capital to deliver the benefits and services, which include a combined adult day care center and primary care clinic, transportation, and full range of clinical and support staff with the interdisciplinary team of professionals.⁸

By federal law, the first three contract years for a PACE organization are considered a trial period, and the PACE organization is subject to annual reviews to ensure compliance.⁹ The site visit reviews include:

- A comprehensive assessment of an organization's fiscal soundness;
- A comprehensive assessment of the organization's capacity to provide all PACE services to all enrolled participants;
- A detailed analysis of the PACE organization's substantial compliance with all the federal statutory requirements and accompanying federal regulations; and

⁵ *Supra* note 2.

⁶ *Id.*

⁷ *Id.*

⁸ *Supra* note 3, at 4.

⁹ *See* 42 U.S.C. s. 1395eee(e)(4)(A)(2019).

- Compliance with any other elements the Secretary of the United States Department of Health and Human Services (secretary) or the state's administering agency considers necessary and appropriate.¹⁰

Review of the PACE organization may continue after the trial period by the secretary or the administering state agency as appropriate, depending upon the PACE organization's performance and compliance with requirements and regulations.

No deductibles, copayments, coinsurance, or other cost-sharing can be charged by a PACE organization. No other limits relating to amount, duration, or scope of services that might otherwise apply in Medicaid are permitted.¹¹ The PACE enrollee must accept the PACE center physician as his or her new Medicare primary care physician, if enrolled in Medicare.¹²

Quality of Care Requirements

Each PACE organization is required to develop, implement, maintain, and evaluate an effective data-driven Quality Assurance and Performance Improvement (QAPI) program. The program must incorporate all aspects of the PACE organization's operations, which allows for the identification of areas that need performance improvement. The organization's written QAPI plan must be reviewed by the PACE organization's governing body at least annually. At a minimum, the plan should address the following areas:

- Utilization of services in the PACE organization, especially in key services;
- Participant and caregiver satisfaction with services;
- Data collected during patient assessments to determine if individual and organizational-level outcomes were achieved within a specified time period;
- Effectiveness and safety of direct and contracted services delivered to participants; and
- Outcomes in the organization's non-clinical areas.¹³

Florida PACE

The Florida PACE project was initially authorized in ch. 98-327, Laws of Florida, under the administration of the DOEA operating in consultation with the AHCA.¹⁴ Florida's first PACE organization, located in Miami-Dade County, began serving enrollees in February 2003 with a total of 150 slots. Since then, the Legislature has approved additional slots either as part of the General Appropriations Act (GAA) or general law. Currently, PACE organizations with funded slots exist in 13 Florida counties: Baker, Broward, Charlotte, Clay, Collier, Duval, Lee, Martin, Miami-Dade, Nassau, Palm Beach, Pinellas, and St. John's.

In 2011, the Legislature moved administrative responsibility for the PACE program from the DOEA to the AHCA as part of the expansion of Medicaid managed care into the Statewide

¹⁰ *Id.*

¹¹ *Supra* note 2.

¹² Department of Elder Affairs and Agency for Health Care Administration, *Program of All-Inclusive Care for the Elderly and Statewide Medicaid Managed Care Long-term Care Program Comparison Report* (January 14, 2014), available at http://ahca.myflorida.com/docs/PACE_Evaluation_2014.pdf (last visited March 5, 2019).

¹³ *Id.*

¹⁴ Chapter 2011-135, s. 24, L.O.F., repeals s. 430.707, F.S., effective October 1, 2013, as part of the expansion of Medicaid managed care.

Medicaid Managed Care (SMMC) program.¹⁵ Participation by the PACE in the SMMC program is not subject to the procurement requirements or regional plan number limits normally applicable to SMMC plans. Instead, PACE plans may continue to provide services to individuals at such levels and enrollment caps as authorized by the GAA.¹⁶

The 2013 Legislature also directed the AHCA and the DOEA to provide a comprehensive report describing the PACE's organizational structure, scope of services, utilization, and costs, comparing those findings with similar information for managed long-term care, and evaluating alternative methods for integrating PACE with SMMC Long-Term Care (LTC).¹⁷ The report's findings noted a difference in the average age (81.1 years in SMMC LTC versus 75.5 in PACE),¹⁸ prevalence of severe emotional problems (PACE enrollees are more likely to report), and affliction with cognitive impairments such as dementia (higher in SMMC LTC).¹⁹

The current PACE approval process requires any entity interested in becoming a PACE organization to submit a comprehensive PACE application to the AHCA, which sets forth details about the adult day care center, staffing, provider network, financial solvency and pro forma financial projections, and policies and procedures, among other elements. The application is similar in detail to the provider applications submitted by managed care plans seeking to provide medical care to Medicaid recipients. Providers operating in the same geographic region must establish that there is adequate demand for services so that each provider will be viable. The application requires that documentation be submitted demonstrating that neither provider is competing for the same potential enrollees.

The AHCA and the DOEA review the application and, when the entity has satisfied all requirements, conduct an on-site survey of the entity's readiness to serve PACE enrollees. Once all requirements are met, including full licensure of the center, staffing for key positions, and signed provider network contracts, the AHCA certifies to the CMS that the PACE site is ready. At that time, the CMS reviews the application and readiness certification and, if all requirements are satisfied, executes a three-way agreement with the PACE provider and the AHCA. The PACE provider may then begin enrolling members, subject to an appropriation to fund the slots.

Enrollment and Organizational Slots

Slots are authorized by the Legislature for a specific PACE area, however, slots may not always be fully funded in the same year the program is authorized. Some PACE providers need additional time to complete the application process, obtain necessary licensures, or to finalize operations. The chart below summarizes the current status of approved PACE organizations.

¹⁵ Chapter 2011-135, s. 24, L.O.F., repeals s. 430.707, F.S., effective October 1, 2013.

¹⁶ Section 409.981(4), F.S.

¹⁷ Chapter 2013-40, L.O.F., line 424.

¹⁸ Department of Elder Affairs, *Supra* note 2, at 20.

¹⁹ *Id* at 19.

SUMMARY OF PACE PROGRAMS ²⁰					
PACE ORGANIZATION			SLOT INFORMATION		
Area	Year	Organization	Auth. Slots	Funded Slots	Current Enrollment ²¹ (Jan. 2019)
Broward	2014	Florida PACE	150	125	65
Charlotte	2010	Hope Select	150	150	66
Collier	2010	Hope Select	120	120	37
Desoto, Manatee, and Sarasota	NA	Tidewell	150	0	0
Gadsden, Jefferson, Leon and Wakulla	NA	Elder Care Services	300	0	0
Hillsborough	2011	Suncoast Neighborly PACE	150	0	0
Lee	2010	Hope Select	380	380	213
Martin	2018	Morse PACE	150	75	0
Miami-Dade	2003	Miami-Dade	809	809	759
Northeast Florida (Clay, Duval, St. Johns, Baker, Nassau)	2018	Northeast Florida PACE	300	100	0
Orange, Osceola, Lake and Sumter	NA	Cornerstone PACE	150	0	0
Palm Beach	2013	Morse PACE	656	656	493
Panhandle	NA	Covenant	100	100	0
Pinellas	2009	Suncoast Neighborly PACE	325	325	316
Seminole	NA	Cornerstone PACE	150	0	0
Total Enrollees - Statewide:			4,040	2,740	1,949

Funding and Rates

Each year since the PACE's inception, the Legislature has appropriated funds for PACE organizations through proviso language in the GAA or through one of the appropriation implementing or conforming bills.²² These directives provide specific slot increases or decreases by county or authorization for a county to implement a new program. In 2013, Governor Scott vetoed all county allocations with exception of Palm Beach County, noting that the state's focus should be on the implementation of the SMMC and that effectiveness and the need for additional PACE slots should be re-evaluated after that transition was completed.²³

PACE organizations receive a capitated Medicaid payment for each enrolled Medicaid long-term care recipient and an enhanced Medicare payment for Medicare enrollees for acute care services

²⁰ Agency for Health Care Administration and Department of Elder Affairs, *SPB 7124 - Relating to the Program of All-Inclusive Care for the Elderly (PACE) Bill Analysis and Background Information* (March 28, 2014) on file with the Senate Health Policy Committee.

²¹ Agency for Health Care Administration, *Florida Statewide Medicaid Monthly Enrollment Report Program Enrollment by Region* (January 2019) available at http://ahca.myflorida.com/medicaid/Finance/data_analytics/enrollment_report/index.shtml (last visited March 5, 2019).

²² Chapter 2013-40, L.O.F.

²³ Governor Rick Scott, *Veto Message - SB 1500* (May 20, 2013), p. 28, available at <http://www.flgov.com/wp-content/uploads/2013/05/Message1.pdf> (last visited March 5, 2019).

from the federal government. The payment amount is established in the GAA and is based on estimates that have been forecast by the Social Services Estimating Conference (SSEC) for the PACE. The SSEC principals from the Office of Economic and Demographic Research, the Governor's Office of Planning and Budget, and the budget staff of the House of Representatives and the Florida Senate, seek a consensus on an appropriate risk-adjusted rate for the program which takes into account the current membership, any statutory or regulatory changes that may affect health care utilization, and any other changes that may impact costs positively or negatively.

The current cost per eligible per month for the PACE is \$2,681.76.²⁴ In comparison, according to a 2016 survey by Genworth Financial, the national average cost for nursing home care cost \$92,000 per year for a private room or \$82,125 for a semi-private room.²⁵

Medicaid

Medicaid is the health care safety net for low-income Floridians. The Florida Medicaid Program serves approximately 3.9 million individuals, with over half of those being children and adolescents 19 years of age or younger.²⁶ Medicaid is a partnership between the federal and state governments where the federal government establishes the structure for the program and pays a share of the cost. Each state operates its own Medicaid program under a state plan that must be approved by the CMS. The plan outlines current Medicaid eligibility standards, policies, and reimbursement methodologies.

To qualify for nursing home care under Medicaid, both an individual's income and assets are reviewed. Additionally, a personal needs allowance is applied as part of the eligibility determination process.²⁷ The current standard income limit in Florida for institutional care or services under the home and community based services waiver is \$2,313 for an individual and \$4,626 for a couple. There is also an asset limit for either category of \$2,000 for an individual or \$3,000 for a couple.²⁸

In Florida, the Medicaid program is administered by the AHCA. The AHCA, however, delegates certain functions to other state agencies, including the Department of Children and Families (DCF), the Agency for Persons with Disabilities (APD), and the DOEA. The AHCA has overall responsibility for the program and qualifies providers, sets payment levels, and pays for services.

²⁴ Office of Economic and Demographic Research, *Social Services Estimating Conference –Long Term Medicaid Services and Expenditures Forecast* (December 2018), p. 22, <http://edr.state.fl.us/Content/conferences/medicaid/medltexp.pdf> (last visited March 5, 2019).

²⁵ Emily Mullin and Lisa Esposito, *How to Pay for Nursing Home Costs*, U.S. NEWS AND WORLD REPORT (November 16, 2016) available at <https://health.usnews.com/wellness/articles/2016-11-16/how-to-pay-for-nursing-home-costs> (last visited March 5, 2019).

²⁶ Social Services Estimating Conference, *Medicaid Caseloads and Expenditures*, November 18, 2018 and December 10, 2018--Executive Summary <http://edr.state.fl.us/Content/conferences/medicaid/execsummary.pdf> (last visited March 6, 2019).

²⁷ The personal needs allowance (PNA) of an individual is defined as that portion of an individual's income that is protected to meet the individual's personal needs while in an institution. See Department of Children and Families, *Glossary (Chapter 4600) "Personal Needs Allowance,"* pg. 19, <http://www.dcf.state.fl.us/programs/access/docs/esspolicymanual/4600.pdf> (last visited March 5, 2019).

²⁸ Department of Children and Families, *SSI-Related Program-Financial Eligibility Standards: January 2019*, http://www.dcf.state.fl.us/programs/access/docs/esspolicymanual/a_09.pdf (last visited March 5, 2019).

The DCF is responsible for determining financial eligibility for Medicaid recipients. The APD operates one of the larger waiver programs under Medicaid, the Home and Community Based (HCBS) Waiver program serving individuals with developmental disabilities.

The DOEA assesses Medicaid recipients to determine if they require nursing home care. Specifically, the DOEA determines whether an individual:

- Requires nursing home placement as evidenced by the need for medical observation throughout a 24-hour period and requires medically complex care to be performed on a daily basis under the direct supervision of a health professional because of mental or physical incapacitation;
- Requires or is at imminent risk of nursing home placement as evidenced by the need for observation throughout a 24-hour period and requires care to be performed on a daily basis under the supervision of a health professional because of mental or physical incapacitation; or
- Requires or is at imminent risk of nursing home placement as evidenced by the need for observation throughout a 24-hour period and requires limited care to be performed on a daily basis under the supervision of a health professional because of mild mental or physical incapacitation.

Floridians who need nursing home care, but do not qualify for Medicaid, must pay from their own funds or through insurance.

Long-Term Care Managed Care

In 2011, HB 7107²⁹ was signed into law, increasing the use of managed care in Medicaid. The law required both Medicaid (LTC services and Managed Medical Assistance (MMA) services to be provided through managed care plans.

LTC Managed Care plans participating in SMMC are required to provide minimum benefits that include nursing home care as well as home and community based services. The minimum benefits include:

- Nursing home care;
- Services provided in assisted living facilities;
- Hospice;
- Adult day care;
- Medical equipment and supplies, including incontinence supplies;
- Personal care;
- Home accessibility adaptation;
- Behavior management;
- Home delivered meals;
- Case management;
- Therapies, including physical, respiratory, speech, and occupational;
- Intermittent and skilled nursing;

²⁹ Chapter 2011-134, L.O.F.

- Medication administration;
- Medication management;
- Nutritional assessment and risk reduction;
- Caregiver training;
- Respite care;
- Transportation; and
- Personal emergency response system

III. Effect of Proposed Changes:

Section 1 creates s. 430.84, F.S., and codifies the PACE. Currently, the program does not have an implementing statute and has been operationalized through annual appropriations, proviso, or bills designed to implement the state budget or conform statute to provisions of the state budget.

Definitions

The bill creates the following definitions for the PACE:

- Agency;
- Applicant;
- CMS;
- Department;
- PACE organization; and
- Participant;

Program Creation

The bill authorizes the AHCA, in consultation with the DOEA, to approve entities that have submitted the required application and data to the CMS as PACE organizations pursuant to 42 U.S.C. s. 1395eee (2019). Applications, as required by the CMS, will be reviewed by the AHCA on an ongoing basis, in consultation with the DOEA for initial approval as PACE organizations. Notice of applications must also be published in the Florida Administrative Register.

A prospective PACE organization must submit an application to the AHCA before submitting a request for program funding. An applicant for a PACE program must meet the following requirements:

- Provide evidence that the applicant can meet all of the federal regulations and requirements established by the CMS by the proposed implementation date;
- Provide market studies which include an estimate of the potential number of participants and which show the geographic area the applicant proposes to serve;
- Develop a business plan of operation, including pro forma financial statement and projections based on the planned implementation date;
- Show evidence of regulatory compliance and meet market studies requirements, if the applicant is an existing PACE organization which seeks to expand to an additional service area; and
- Implement the program within 12 months after date of initial state approval if granted authorization as a prospective PACE organization or the approval of the application is void.

Funding and Enrollment

The bill directs PACE organizations to enroll participants at the level funded through the GAA which must reflect a reasonable level of growth to meet the needs of the community and be consistent with the financial projections periodically submitted by PACE organizations. The AHCA is directed to consult with the DOEA and the SSEC and to submit a report to the Legislature requesting the necessary funding for prospective PACE participants to have the PACE as an option in all authorized service areas.

The bill also permits the use of funds within any PACE organization's authorized geographic area, regardless of county lines. The DOEA is required to notify individuals who are determined eligible for nursing level of care under Medicaid that the PACE organization is an available service option and that enrollment in the PACE is voluntary.

Quality and Reporting

All PACE organizations are required to meet specific quality and performance standards established by the CMS. The AHCA has the responsibility to oversee and monitor Florida's PACE and the contracted organizations through the data and reports submitted periodically to the AHCA and the CMS.

The bill exempts all PACE organizations from the requirements of chapter 641, the chapter of Florida law which regulates health maintenance organizations, prepaid health clinics, and other health care service programs.

Section 2 amends s. 409.981, F.S., relating to eligible LTC plans in the Medicaid program, particularly the PACE. The bill modifies this section of law to provide a cross reference to the new section of law created by Section 1 of the bill and to change the language from permissive participation in the Medicaid managed care program to mandatory participation in the program.

Additionally, new language is added to allow prospective participants who have applied for the PACE and are determined medically eligible by the CARES program, but have not yet received their financial eligibility determination from the DCF, to be enrolled if the PACE organization agrees to enroll participants pending this final determination.

The bill requires the CARES program to determine each applicant's medical eligibility within 21 days after receiving a complete application packet and requires the DCF to determine eligibility within state and federal requirements.³⁰ If the applicant is determined eligible, the AHCA is directed to pay the PACE organization the applicable Medicaid rate retroactive to the first day of the month in which the financial eligibility was determined. If the applicant is not eligible for the PACE as a Medicaid recipient, the applicant may continue as a private-pay PACE participant or may terminate services. In the latter case, the PACE organization may seek reimbursement from the applicant.

Section 3 provides an effective date of July 1, 2019.

³⁰ The timeliness standard for the processing of applications under Medicaid is found under 42 CFR 435.912 (a), (b), and (c). The federal requirement for processing of a Medicaid application based on a disability is 90 days; for all other applicants, it is 45 days.

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:

Subject to the availability of funds and slots, additional private sector providers that meet the criteria to be a PACE organization and achieve eligibility confirmation status could be approved as PACE sites. Expansion of PACE sites would also mean additional individuals in the community would have access to these services.

PACE organizations represent 0.05 percent of the market share of Medicaid enrollees as of January 2019.³¹ Current managed care plans that participate in the SMMC program may experience a loss of market share and/or profit margin if enrollment in PACE organizations were to grow beyond a certain percentage or if certain, less risky or less costly segments of their current SMMC population were to depart SMMC enrollment and enroll in the PACE.

C. Government Sector Impact:

SB 778 codifies an existing program. If the bill were to result in the expansion of the PACE, then it may result in an increased workload for the AHCA and the DOEA. The

³¹ Agency for Health Care Administration, *Medicaid SMMC Market Share Report, SMMC-MMA Assignment* (as of January 31, 2019) available at http://ahca.myflorida.com/medicaid/Finance/data_analytics/enrollment_report/index.shtml (last visited March 5, 2019).

bill reflects the structure and many of the current processes required of both entities to review applications, monitor performance, and make annual recommendations to the Legislature and the federal oversight agency which are undertaken today. By formalizing the process, some potential PACE organizations may be more likely to consider pursuing this option, leading to an increased workload and request for additional funding.

The bill has a negative fiscal impact to the Florida Medicaid Program, of which the extent is unknown. If additional funding were provided to expand the number of PACE sites, then additional resources may be necessary at the affected state agencies to adapt to the related, increased volume of applications and necessary oversight.

VI. Technical Deficiencies:

Section 1 of the bill creates s. 430.34(4)(a), F.S. which, at lines 108 through 119, provides:

(a) PACE organizations shall enroll participants at such levels as funded by the General Appropriations Act, *which must reflect a reasonable growth of capacity sufficient to meet community needs and which must be consistent with the pro forma or other projections submitted pursuant to paragraph (3)(a) or projections of PACE census and demand growth that are periodically submitted by PACE organizations*. The agency, in consultation with the department and the Social Services Estimating Conference, shall submit a report to the Legislature requesting the amount of funding necessary for prospective PACE participants to have access to PACE services as a program service option in all authorized geographic service areas.

The highlighted text from the bill appears to create a statutory requirement that funding for PACE organizations in the General Appropriations Act **must** reflect “a reasonable growth of capacity sufficient to meet the community needs” and **must** be consistent with information submitted by PACE organizations, and PACE census and demand growth projections periodically submitted by PACE organizations. Additionally, the proposed language appears to require that the AHCA submit a request for funding for PACE organizations outside of the legislative budget process prescribed in chapter 216, F.S.

Accordingly, consideration should be given to revising lines 108 through 119 to read:

- (a) 1. PACE organizations shall enroll participants at the levels funded each fiscal year in the General Appropriations Act.
2. Each PACE organization must annually submit information to the agency which reflects its reasonable capacity for growth to meet demonstrated community needs and which must be consistent with the pro forma or other projections submitted pursuant to paragraph (3)(2) or other projections of PACE census and demand growth. The agency, in consultation with the department, shall submit a report to the Social Services Estimating Conference summarizing such information.

3. The agency shall include in its legislative budget request submitted pursuant to chapter 216, F.S., the amount of funding estimated by the Social Services Estimating Conference needed to fund demonstrated growth in community needs, consistent with PACE census and demand growth.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 409.981 of the Florida Statutes.

This bill creates section 430.84 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Baxley

12-01151A-19

2019778__

1 A bill to be entitled
 2 An act relating to the Program of All-Inclusive Care
 3 for the Elderly; creating s. 430.84, F.S.; defining
 4 terms; authorizing the Agency for Health Care
 5 Administration, in consultation with the Department of
 6 Elderly Affairs, to approve entities applying to
 7 deliver Program of All-Inclusive Care for the Elderly
 8 (PACE) services in the state; requiring the agency, in
 9 consultation with the department, to review and
 10 consider applications; requiring that notice of such
 11 applications be published in the Florida
 12 Administrative Register; specifying application
 13 requirements; requiring prospective PACE organizations
 14 that are granted initial state approval to submit a
 15 complete application to the agency and the Federal
 16 Government within a certain timeframe; specifying
 17 funding and enrollment requirements for PACE
 18 organizations; requiring the agency, in consultation
 19 with the department and the Social Services Estimating
 20 Conference, to submit a certain report to the
 21 Legislature; requiring the agency and department to
 22 provide certain notices to certain individuals;
 23 requiring PACE organizations to meet certain
 24 standards; requiring the agency to oversee and monitor
 25 the PACE program based on certain information;
 26 exempting PACE organizations from ch. 641, F.S.;
 27 amending s. 409.981, F.S.; conforming a provision to
 28 changes made by the act; providing that specified
 29 individuals may be enrolled in the PACE program under

Page 1 of 6

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

12-01151A-19

2019778__

30 certain circumstances; requiring the Comprehensive
 31 Assessment and Review for Long-Term Care Services
 32 program to determine a PACE applicant's eligibility
 33 within a certain timeframe; requiring the Department
 34 of Children and Families to determine a PACE
 35 applicant's financial eligibility; specifying
 36 requirements for the agency in paying contractors
 37 providing services to eligible applicants; authorizing
 38 certain actions by a contractor with respect to
 39 certain applicants; providing an effective date.

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

42
 43 Section 1. Section 430.84, Florida Statutes, is created to
 44 read:

45 430.84 Program of All-Inclusive Care for the Elderly.-

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

47 (a) "Agency" means the Agency for Health Care

48 Administration.

49 (b) "Applicant" means an entity that has filed an
 50 application with the agency for consideration as a Program of
 51 All-Inclusive Care for the Elderly (PACE) organization.

52 (c) "CMS" means the Centers for Medicare and Medicaid
 53 Services within the United States Department of Health and Human
 54 Services.

55 (d) "Department" means the Department of Elderly Affairs.

56 (e) "PACE organization" means an entity under contract with
 57 the agency to deliver PACE services.

58 (f) "Participant" means an individual receiving PACE

Page 2 of 6

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

12-01151A-19 2019778__

59 services who the department has determined needs the level of
60 care required under the state Medicaid plan for coverage of
61 nursing facility services.

62 (2) PROGRAM CREATION.—The agency, in consultation with the
63 department, may approve entities that have submitted the
64 application the CMS requires to the agency for review and
65 consideration. An entity must submit the data and information
66 required in subsection (3) to provide benefits pursuant to the
67 PACE program as established in 42 U.S.C. s. 1395eee and in
68 accordance with the requirements set forth in this section.

69 (3) PACE ORGANIZATION SELECTION.—The agency, in
70 consultation with the department, shall review and consider on a
71 continuous basis applications the CMS requires for PACE which
72 have been submitted to the agency by entities seeking initial
73 state approval to become PACE organizations. Notice of such
74 applications must be published in the Florida Administrative
75 Register.

76 (a) A prospective PACE organization shall submit
77 application documents to the agency before requesting program
78 funding. Application documents submitted to and reviewed by the
79 agency, in consultation with the department, must include all of
80 the following:

81 1. Evidence that the applicant is able to meet all of the
82 applicable federal regulations and requirements established by
83 the CMS for participation as a PACE organization by the proposed
84 implementation date.

85 2. Market studies, including an estimate of the number of
86 potential participants and the geographic service area the
87 applicant proposes to serve.

12-01151A-19 2019778__

88 3. A business plan of operation, including pro forma
89 financial statements and projections, based on the proposed
90 implementation date.

91 (b) Each applicant must propose to serve a unique and
92 defined geographic service area without duplication of services
93 or target populations. No more than one PACE organization may be
94 authorized to provide services within any unique and defined
95 geographic service area.

96 (c) An existing PACE organization seeking authority to
97 serve an additional geographic service area not previously
98 authorized by the agency or Legislature must meet the
99 requirements set forth in paragraphs (a) and (b).

100 (d) A prospective PACE organization granted initial state
101 approval by the agency, in consultation with the department,
102 shall submit its complete federal PACE application, in
103 accordance with the application process and guidelines
104 established by the CMS, to the agency and the CMS within 12
105 months after the date of initial state approval, or such
106 approval is void.

107 (4) FUNDING AND ENROLLMENT.—

108 (a) PACE organizations shall enroll participants at such
109 levels as funded by the General Appropriations Act, which must
110 reflect a reasonable growth of capacity sufficient to meet
111 community needs and which must be consistent with the pro forma
112 or other projections submitted pursuant to paragraph (3) (a) or
113 projections of PACE census and demand growth that are
114 periodically submitted by PACE organizations. The agency, in
115 consultation with the department and the Social Services
116 Estimating Conference, shall submit a report to the Legislature

12-01151A-19 2019778__

117 requesting the amount of funding necessary for prospective PACE
 118 participants to have access to PACE services as a program
 119 service option in all authorized geographic service areas.

120 (b) Funds may be used within any PACE organization's
 121 authorized geographic service area, regardless of county lines.

122 (c) The department shall notify individuals who are
 123 determined to need the level of care required under the state
 124 Medicaid plan for coverage of nursing facility services that the
 125 PACE program is a service plan option and that enrollment in the
 126 PACE program is voluntary.

127 (d) The agency shall notify individuals who are determined
 128 eligible for managed long-term care that the PACE program is
 129 available as a choice for a managed care plan pursuant to s.
 130 409.969 in statewide Medicaid managed care regions wherein a
 131 PACE organization operates.

132 (5) ACCOUNTABILITY.-All PACE organizations must meet
 133 specific quality and performance standards established by the
 134 CMS for the PACE program. The agency shall oversee and monitor
 135 the PACE program and organizations based upon data and reports
 136 PACE organizations submit periodically to the agency and the
 137 CMS. A PACE organization is exempt from the requirements of
 138 chapter 641.

139 Section 2. Subsection (4) of section 409.981, Florida
 140 Statutes, is amended to read:

141 409.981 Eligible long-term care plans.-

142 (4) PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY.-

143 (a) Participation by the Program of All-inclusive Care for
 144 the Elderly (PACE) shall be pursuant to a contract with the
 145 agency and not subject to the procurement requirements or

12-01151A-19 2019778__

146 regional plan number limits of this section. PACE organizations
 147 shall ~~plans may continue to~~ provide services to participants
 148 individuals at such levels and ~~enrollment caps~~ as authorized by
 149 the General Appropriations Act pursuant to s. 430.84.

150 (b) A prospective participant who applies for the PACE
 151 program and has been determined by the Comprehensive Assessment
 152 and Review for Long-Term Care Services (CARES) program to be
 153 medically eligible but has not been determined financially
 154 eligible for Medicaid by the Department of Children and
 155 Families, or who has been determined financially eligible for
 156 Medicaid by the Department of Children and Families but has not
 157 been determined medically eligible by the CARES program, may be
 158 enrolled in the PACE program if contractors elect to provide
 159 services to PACE program applicants pending final determination
 160 of eligibility. The CARES program shall determine each
 161 applicant's medical eligibility within 21 days after receiving
 162 the complete application packet. The Department of Children and
 163 Families shall determine each applicant's financial eligibility
 164 according to federal and state requirements. If the applicant is
 165 determined eligible, the Agency for Health Care Administration
 166 shall pay the contractor that provided the services the
 167 applicable Medicaid rate, retroactive to the first day of the
 168 month following the CARES program eligibility determination. If
 169 the applicant is not eligible for the PACE program with Medicaid
 170 as the payor, the contractor may continue to provide services as
 171 a private-pay PACE participant or terminate services and seek
 172 reimbursement from the applicant.

173 Section 3. This act shall take effect July 1, 2019.



THE FLORIDA SENATE

COMMITTEES:
Ethics and Elections, Chair
Appropriations Subcommittees on Education
Education
Finance and Tax
Health Policy
Judiciary

JOINT COMMITTEE:
Joint Legislative Auditing Committee

SENATOR DENNIS BAXLEY
12th District

March 7, 2019

The Honorable Chair Aaron Bean
405 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Bean,

I would like to request that SB 778 Program of All-Inclusive Care for the Elderly (PACE) be heard in your next committee meeting.

This bill codifies the Program of All-Inclusive Care for the elderly (PACE). PACE was first authorized in 1998 and became operational in Miami-Dade County, but has not been codified in state law.

With almost 2,000 Medicaid managed care eligible recipients already enrolled in seven counties, the bill establishes a statutory process for the review, approval, and oversight of future and current PACE organizations.

I appreciate your favorable consideration.

Onward & Upward,


Senator Dennis Baxley
Senate District 12

DKB/dd

cc: Tonya Kidd, Staff Director

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Email: baxley.dennis@flsenate.gov

Bill Galvano
President of the Senate

David Simmons
President Pro Tempore

CourtSmart Tag Report

Room: KN 412

Case No.:

Type:

Caption: Senate Appropriations Subcommittee on Health and Human Services

Judge:

Started: 3/13/2019 4:02:18 PM

Ends: 3/13/2019 5:15:31 PM

Length: 01:13:14

4:02:18 PM	Sen. Bean (Chair)
4:04:45 PM	S 192
4:06:00 PM	Andrew McClenahan, Director of Public Benefits & Integrity, Dep. of Children and Families
4:06:05 PM	Sen. Bean
4:06:11 PM	A. McClenahan
4:06:23 PM	Sen. Bean
4:06:28 PM	A. McClenahan
4:06:40 PM	Sen. Bean
4:06:44 PM	A. McClenahan
4:06:52 PM	Sen. Bean
4:07:01 PM	A. McClenahan
4:07:52 PM	Sen. Bean
4:08:21 PM	A. McClenahan
4:08:27 PM	Sen. Bean
4:08:29 PM	A. McClenahan
4:08:40 PM	Sen. Bean
4:08:49 PM	A. McClenahan
4:09:13 PM	Sen. Bean
4:09:24 PM	A. McClenahan
4:10:53 PM	Sen. Bean
4:10:56 PM	A. McClenahan
4:10:59 PM	Sen. Bean
4:11:34 PM	A. McClenahan
4:12:15 PM	Sen. Bean
4:12:18 PM	A. McClenahan
4:12:20 PM	Sen. Bean
4:12:50 PM	A. McClenahan
4:12:55 PM	Sen. Bean
4:13:03 PM	A. McClenahan
4:13:08 PM	Sen. Bean
4:13:32 PM	Sen. Rader
4:14:26 PM	A. McClenahan
4:14:31 PM	A. McClenahan
4:14:38 PM	Sen. Rader
4:15:30 PM	A. McClenahan
4:16:18 PM	Sen. Bean
4:16:19 PM	Sen. Rader
4:16:20 PM	Sen. Bean
4:16:47 PM	A. McClenahan
4:16:52 PM	Sen. Bean
4:16:59 PM	A. McClenahan
4:17:11 PM	Sen. Rader
4:17:55 PM	A. McClenahan
4:18:09 PM	Sen. Rader
4:18:37 PM	A. McClenahan
4:18:47 PM	Sen. Rader
4:19:12 PM	A. McClenahan
4:19:34 PM	Sen. Harrell
4:20:07 PM	A. McClenahan
4:20:36 PM	Sen. Harrell
4:21:05 PM	A. McClenahan
4:21:35 PM	Sen. Harrell (Chair)

4:21:55 PM Sen. Bean
4:26:08 PM Sen. Rader
4:26:53 PM Sen. Bean
4:27:09 PM A. McClenahan
4:27:21 PM Sen. Rader
4:28:11 PM A. McClenahan
4:28:16 PM Sen. Rader
4:28:55 PM Sen. Bean
4:29:47 PM Sen. Rader
4:30:09 PM Sen. Bean
4:30:41 PM Beth Kidder, Deputy Secretary, Agency for Health Care Administration
4:31:12 PM Sen. Rader
4:31:33 PM B. Kidder
4:32:17 PM Sen. Rader
4:32:51 PM B. Kidder
4:33:51 PM Sen. Farmer
4:34:32 PM Sen. Bean
4:35:00 PM Sen. Farmer
4:35:18 PM Sen. Bean
4:35:25 PM B. Kidder
4:35:41 PM Sen. Farmer
4:36:25 PM B. Kidder
4:36:53 PM Sen. Farmer
4:37:15 PM B. Kidder
4:37:46 PM A. McClenahan
4:38:24 PM Sen. Farmer
4:38:50 PM A. McClenahan
4:39:54 PM Karen Woodall, Executive Director, FL Center for Fiscal and Economic Policy
4:41:26 PM Sen. Bean
4:41:40 PM Scott McCoy, Policy Director, Southern Poverty Law Center Action Fund (waives in opposition)
4:42:22 PM Olivia Babis, Public Policy Analyst, Disability Rights FL
4:48:24 PM Marco Paredes, Associate Director for Health, FL Conference of Catholic Bishops (waives in opposition)
4:48:30 PM Dorene Barker, Associate State Director, AARP (waives in opposition)
4:48:51 PM Anne Swerlick, Health Policy Analyst, Florida Policy Institute
4:50:27 PM Brian Pitts, Trustee, Justice-2-Jesus
4:53:33 PM Sen. Rader
4:59:00 PM Sen. Farmer
5:04:57 PM Sen. Bean
5:09:07 PM Sen. Bean (Chair)
5:09:21 PM S 528
5:09:49 PM Sen. Rouson
5:11:01 PM Sen. Bean
5:11:34 PM Brian Pitts, Trustee, Justice-2-Jesus
5:13:54 PM Alisa LaPolt, Lobbyist, National Alliance on Mental Illness - Palm Beach (waives in support)
5:14:06 PM Mark Fontaine, Director, Mental Health and Substance Abuse (waives in support)
5:14:15 PM Olivia Babis, Public Policy Analyst, Disability Rights FL (waives in support)