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 1192

INTRODUCER: Health Policy Committee; and Senator Sobel and others

SUBJECT: Palliative Care

DATE: April 8, 2014 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Lloyd	Stovall	HP	**Fav/CS**
2.	Brown	Pigott	AHS	**Pre-meeting**
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1192 establishes the Florida Palliative Care and Quality of Life Interdisciplinary Advisory Council within the Department of Health (DOH). The bill describes the council's purpose, powers, duties and meeting requirements and authorizes the governor to appoint nine members from specific backgrounds or organizations.

The bill also creates the Palliative Care Consumer and Professional Information and Education Program within the DOH and directs the DOH to house information and links on its website. The bill directs specific health care practitioners and facilities to provide patients with information about palliative care or to comply with palliative care measures as ordered by the patient's provider.

The bill has an insignificant fiscal impact that may be absorbed within existing resources.

II. Present Situation:

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

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[1] Center to Advance Palliative Care, *Defining Palliative Care*, http://www.capc.org/building-a-hospital-based-palliative-care-program/case/definingpc (last visited Mar. 22, 2014).

include cancer, cardiac diseases, kidney failure, Alzheimer's disease, HIV/AIDS, and amyotrophic lateral sclerosis (ALS).

Palliative care focuses on helping patients get relief from symptoms caused by serious illnesses. Given alone when other treatment is not working or along with curative treatment, palliative care can be given from time of diagnosis until end of life.[2]

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

Palliative Care in Florida

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

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

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[2] American Cancer Society, *Palliative or Supportive Care*, http://www.cancer.org/treatment/treatmentsandsideeffects/palliativecare/supportive-care (last visited: Mar. 22, 2014).

[3] Center to Advance Palliative Care, *Executive Summary*, *http://www.capc.org/reportcard/summary* (last visited Mar. 22, 2014).

[4] Center to Advance Palliative Care, *State by State Report Card - Florida*, http://www.capc.org/reportcard/home/FL/RC/Florida (last visited: Mar. 22, 2014).

[5] American Cancer Society, *Palliative Care at a Glance*, http://www.acscan.org/content/wp-content/uploads/2012/07/Palliative-Care-at-a-Glance.pdf (last visited Mar. 22, 2014).

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

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

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

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

The DOH is responsible for the regulation of health care professions regulated under chs. 458, 486, and 464, F.S., which includes allopathic and osteopathic physicians, physician assistants, and levels of the nursing profession.

Statutory Creation of Advisory Bodies, Commissions, or Boards

The statutory creation of any collegial body to serve as an adjunct to an executive agency is subject to certain provisions in s. 20.052, F.S. Such a body may only be created when it is found to be necessary and beneficial to the furtherance of a public purpose, and it must be terminated by the Legislature when it no longer fulfills such a purpose. The Legislature and the public must be kept informed of the numbers, purposes, memberships, activities, and expenses of any collegial or advisory bodies.

Private citizen members of any advisory body (with exceptions for members of commissions or boards of trustees) may only be appointed by the governor, the head of the executive agency to which the advisory body is adjunct, the executive director of the agency, or a Cabinet officer. Private citizen members of a commission or a board of trustees may only be appointed by the governor, must be confirmed by the Senate, and are subject to the dual-office-holding prohibition of section 5(a) of Article II of the State Constitution.

Members of agency advisory bodies serve four-year staggered terms and are ineligible for any compensation other than travel expenses, unless expressly provided otherwise in the State Constitution. Unless an exemption is specified by law, all meetings are public, and records of minutes and votes must be maintained.

III. Effect of Proposed Changes:

Section 1 creates a non-statutory section of law and establishes the Palliative Care and Quality of Life Interdisciplinary Advisory Council (council). Definitions relating to the council and associated patient education program are also provided.

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[7] Department of Elder Affairs, *Making Choices: A Guide to End of Life Planning* (2005) http://elderaffairs.state.fl.us/doea/pubs/pubs/EOL.pdf (last visited Mar. 24, 2014).

The advisory council, which is a council as defined under s. 20.03, F.S.,[8] is established within the DOH and consists of nine members. The governor is responsible for appointing five members and the appointments of the remaining four council members will be evenly split between the president of the Senate and the speaker of the House of Representatives. The primary purpose of the council is to consult with and advise the DOH on matters relating to palliative care initiatives in the state.

Council members are to include professionals with expertise in different aspects of palliative care, patient and family caregivers, or their advocates. The appointing officials, in consultation with the state surgeon general, are directed to ensure that the council's composition reflects a variety of experiences and representatives from different care settings, such as inpatient, outpatient, community, and hospice. At least one member appointed by the governor must be a representative of the American Cancer Society and at least two members, one each appointed by the president of the Senate and the speaker of the House of Representatives, must be board-certified hospital and palliative medicine physicians or nurses.

Council members' terms have a duration of four years, except that, to allow for staggered terms, the bill provides that the governor, president of the Senate, and the speaker of the House of Representatives shall each appoint one member to a two-year term and the governor shall appoint one member to a three-year term. All other initial and subsequent appointments shall be for four-year terms.

The bill directs the council to adopt organizational procedures and to elect a chair and vice chair, whose duties will be established by the council. Staff and assistance for the council will be provided by the DOH. Members will serve without compensation; however, they may be reimbursed for travel expenditures in accordance with s. 112.061, F.S. The council shall set regular meetings but is required to meet at least twice per year.

The bill directs the DOH to establish a palliative care consumer and professional information and education program. The DOH must also publish on its website information and resources about palliative care, including but not limited to, the following:

- Continuing education opportunities for health care practitioners;
- Palliative care delivery in the home and in primary, secondary and tertiary care settings;
- Best practices for palliative care delivery;
- Consumer educational materials; and,
- Referral information, including hospice.

The DOH is authorized to develop other initiatives regarding palliative care and education. In implementing the provisions of this bill, the DOH is directed to consult with the council.

Section 2 provides the act shall become effective upon becoming law.

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[8] A "council" or "advisory council" under s. 20.03, F.S., means "an advisory body created by specific statutory enactment and appointed to function on a continuing basis for the study of the problems arising in a specified functional or program area of state government and to provide recommendations and policy alternatives."

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Health care practitioners and their patients with serious illnesses may benefit from increased availability of information and resources on palliative care as generated by the council and the education program.

C. Government Sector Impact:

The DOH estimates the following state fiscal impact for costs associated with administrative support of the council, educational program, website, and travel reimbursement.[9] These costs may be absorbed within existing resources.

	1st Year 2014-2015	**2nd Year Annualized\Recur**
Salaries		
1- Part Time OPS Health Educator	$13,963	$13,963
OPS Benefits	$202	$202
Expense		
1 - OPS Position	$15,602	$11,829
Council Travel Costs	$9,000	$9,000
2 meetings per year/ 9 members		
Human Resources Services *Calculated with OPS package*	$120	$120
Total Estimated Expenditures:	**$38,887**	**$35,114**

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[9] Department of Health, *2014 Agency Legislative Bill Analysis - SB 1192*, on file with the Senate Health Policy Committee (Feb. 25, 2014).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates an undesignated section of Florida law.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Health Policy Committee on March 25, 2014:
The CS adds physician assistants to the types of health care practitioners that may provide, request, or supervise the delivery of palliative care services.

The CS modifies the Palliative Care and Quality of Life Interdisciplinary Council to provide for staggered four-year terms and to include the president of the Senate and the speaker of the House of Representatives, in addition to the governor, as appointing officials for council members.

B. Amendments:

None.