

CS/CS/SB 360 by **GO, CF, Stargel**; (Similar to CS/H 0007) Public Records/Claim Settlement on Behalf of a Ward or Minor

CS/SB 476 by **HP, Grimsley**; (Similar to CS/CS/1ST ENG/H 0335) Mental Health

CS/CS/SB 614 by **RI, HP, Grimsley**; (Compare to H 0161) Drug Prescription by Advanced Registered Nurse Practitioners and Physician Assistants

395678	D	S	L	RCS	RC, Soto	Delete everything after	04/20 08:01 PM
421698	AA	S		WD	RC, Soto	Delete L.296 - 731:	04/20 12:36 PM
495086	AA	S		WD	RC, Soto	Delete L.493 - 496:	04/20 12:37 PM
850170	AA	S		WD	RC, Soto	Delete L.572 - 576:	04/20 12:38 PM
183442	AA	S	L	RCS	RC, Soto	Delete L.296 - 731:	04/20 08:01 PM
841294	AA	S	L	WD	RC, Benacquisto	btw L.830 - 831:	04/20 08:01 PM
149458	AA	S	L	RCS	RC, Gaetz	Before L.5:	04/20 08:01 PM

CS/SB 738 by **HP, Grimsley**; (Similar to CS/CS/H 0655) Clinical Laboratories

CS/SB 946 by **EP, Bullard (CO-INTRODUCERS) Soto**; (Identical to CS/H 0585) Legal Holidays and Special Observances

CS/SB 1224 by **JU, Joyner**; (Similar to CS/CS/CS/H 0889) Health Care Representatives

402896	A	S		RCS	RC, Joyner	Delete L.473:	04/20 08:02 PM
688460	A	S		RCS	RC, Joyner	Delete L.671 - 682:	04/20 08:02 PM

CS/CS/SB 564 by **GO, CM, Richter**; (Identical to CS/CS/H 0091) Trade Secrets

CS/CS/SB 566 by **GO, CM, Richter**; (Similar to CS/CS/H 0093) Public Records and Meetings/Trade Secrets

180286	A	S		RCS	RC, Richter	Delete L.415:	04/20 08:02 PM
--------	---	---	--	-----	-------------	---------------	----------------

CS/SB 678 by **BI, Diaz de la Portilla**; (Similar to H 0677) Reciprocal Insurers

CS/CS/SB 1372 by **CA, EE, Gaetz**; (Similar to CS/CS/CS/H 1063) Government Accountability

897662	A	S		RS	RC, Gaetz	btw L.382 - 383:	04/21 09:37 AM
287580	AA	S		RS	RC, Gaetz	Delete L.23 - 27:	04/21 05:22 PM
958928	SA	S	L	RCS	RC, Gaetz	btw L.382 - 383:	04/21 09:37 AM
381578	A	S		RS	RC, Gaetz	Delete L.408 - 649:	04/21 09:37 AM
533978	SA	S	L	RCS	RC, Joyner	Delete L.408 - 744:	04/21 09:37 AM
278496	AA	S	L	RCS	RC, Gaetz	Delete L.206 - 332:	04/21 09:37 AM

SB 796 by **Evers**; (Identical to H 4021) Financial Reporting

CS/HB 7111 by **JDC, HHSC, Brodeur (CO-INTRODUCERS) Ahern, Albritton, Baxley, Broxson, Drake, Porter**; Conscience Protection for Actions of Private Child-Placing Agencies

216086	A	S			RC, Soto	Delete L.53 - 58:	04/17 11:06 AM
713894	A	S			RC, Soto	btw L.78 - 79:	04/17 11:06 AM
197050	A	S	L		RC, Gibson	Delete L.72:	04/20 10:19 AM
658136	A	S	L		RC, Gibson	Delete L.72:	04/20 10:19 AM
864054	A	S	L		RC, Gibson	Delete L.72:	04/20 10:19 AM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

RULES
Senator Simmons, Chair
Senator Soto, Vice Chair

MEETING DATE: Monday, April 20, 2015
TIME: 1:00 —5:00 p.m.
PLACE: *Toni Jennings Committee Room, 110 Senate Office Building*

MEMBERS: Senator Simmons, Chair; Senator Soto, Vice Chair; Senators Benacquisto, Diaz de la Portilla, Gaetz, Galvano, Gibson, Joyner, Latvala, Lee, Montford, Negron, and Richter

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/CS/SB 360 Governmental Oversight and Accountability / Children, Families, and Elder Affairs / Stargel (Similar CS/H 7, Compare CS/CS/CS/H 5, S 366, Link CS/S 318)	Public Records/Claim Settlement on Behalf of a Ward or Minor; Providing an exemption from public records requirements for records relating to the settlement of a claim on behalf of a ward or minor; authorizing a guardian ad litem, a ward, a minor, and a minor's attorney to inspect guardianship reports and court records relating to the settlement of a claim on behalf of a ward or minor upon a showing of good cause; authorizing the court to direct disclosure and recording of an amendment to a report or court records relating to the settlement of a claim on behalf of a ward or minor, in connection with real property or for other purposes; providing a statement of public necessity, etc. CF 02/19/2015 Fav/CS GO 04/07/2015 Fav/CS RC 04/20/2015 Favorable	Favorable Yeas 13 Nays 0
2	CS/SB 476 Health Policy / Grimsley (Similar CS/CS/H 335, Compare CS/H 547, CS/CS/S 7070)	Mental Health; Adding a psychiatric nurse as a person at a receiving facility authorized to perform a required examination of certain patients; prohibiting the release of a patient from a receiving facility that is owned or operated by a hospital or health system without specified approvals; authorizing the release of a patient by a psychiatric nurse under certain circumstances; prohibiting a psychiatric nurse from releasing a patient if the involuntary examination was initiated by a psychiatrist without the psychiatrist's approval, etc. HP 03/23/2015 Fav/CS CF 04/09/2015 Favorable RC 04/20/2015 Favorable	Favorable Yeas 13 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Rules

Monday, April 20, 2015, 1:00 —5:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	CS/CS/SB 614 Regulated Industries / Health Policy / Grimsley (Compare H 161, CS/CS/H 281, CS/H 547, CS/CS/S 532, S 634)	Drug Prescription by Advanced Registered Nurse Practitioners and Physician Assistants; Expanding the categories of persons who may prescribe brand drugs under the prescription drug program when medically necessary; exempting controlled substances prescribed by an advanced registered nurse practitioner or a physician assistant from the disqualifications for certification or licensure, and for continued certification or licensure, as a deputy pilot or state pilot; applying existing penalties for violations relating to the prescribing or dispensing of controlled substances to an advanced registered nurse practitioner, etc. HP 03/17/2015 Fav/CS RI 03/31/2015 Fav/CS RC 04/20/2015 Fav/CS	Fav/CS Yeas 11 Nays 2
4	CS/SB 738 Health Policy / Grimsley (Similar CS/CS/H 655)	Clinical Laboratories; Adding a consultant pharmacist or doctor of pharmacy licensed under chapter 465, F.S., to the definition of licensed practitioner; requiring clinical laboratories to make their services available to specified licensed practitioners; prohibiting such a clinical laboratory from charging different prices for its services based upon the chapter under which a practitioner is licensed, etc. HP 03/23/2015 Fav/CS FP 04/09/2015 Favorable RC 04/20/2015 Favorable	Favorable Yeas 12 Nays 0
5	CS/SB 946 Environmental Preservation and Conservation / Bullard (Identical CS/H 585)	Legal Holidays and Special Observances; Designating the second Monday in October of each year as "Sir Lancelot Jones Day" in Miami-Dade and Monroe Counties; encouraging public officials, schools, private organizations, and citizens in Miami-Dade and Monroe Counties to commemorate the occasion, etc. GO 03/10/2015 Favorable EP 04/08/2015 Fav/CS RC 04/20/2015 Favorable	Favorable Yeas 13 Nays 0
6	CS/SB 1224 Judiciary / Joyner (Similar CS/CS/CS/H 889)	Health Care Representatives; Providing an exception for a patient who has designated a surrogate to make health care decisions and receive health information without a determination of incapacity being required; revising provisions relating to the designation of health care surrogates; providing for the designation of health care surrogates for minors, etc. JU 03/31/2015 Fav/CS HP 04/07/2015 Favorable RC 04/20/2015 Fav/CS	Fav/CS Yeas 13 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Rules

Monday, April 20, 2015, 1:00 —5:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	CS/CS/SB 564 Governmental Oversight and Accountability / Commerce and Tourism / Richter (Identical CS/CS/H 91, Compare CS/CS/H 93, Link CS/CS/S 566)	Trade Secrets; Including financial information in provisions prohibiting the theft, embezzlement, or unlawful copying of trade secrets; providing criminal penalties, etc. CM 03/30/2015 Fav/CS GO 04/07/2015 Fav/CS RC 04/20/2015 Favorable	Favorable Yeas 13 Nays 0
8	CS/CS/SB 566 Governmental Oversight and Accountability / Commerce and Tourism / Richter (Similar CS/CS/H 93, Compare CS/CS/H 91, Link CS/CS/S 564)	Public Records and Meetings/Trade Secrets; Expanding public records exemptions for certain data processing software obtained by an agency, certain information held by a county tourism promotion agency, information related to trade secrets held by specified entities, and specified data, programs, or supporting documentation held by an agency; providing for future legislative review and repeal of the exemptions; providing a statement of public necessity, etc. CM 03/30/2015 Fav/CS GO 04/07/2015 Fav/CS RC 04/20/2015 Fav/CS	Fav/CS Yeas 13 Nays 0
9	CS/SB 678 Banking and Insurance / Diaz de la Portilla (Similar H 677)	Reciprocal Insurers; Authorizing domestic reciprocal insurers to return a portion of unassigned funds to their subscribers; providing limitations, etc. BI 03/04/2015 Fav/CS CM 03/16/2015 Favorable RC 04/20/2015 Favorable	Favorable Yeas 13 Nays 0
10	CS/CS/SB 1372 Community Affairs / Ethics and Elections / Gaetz (Similar CS/CS/CS/H 1063)	Government Accountability; Specifying that the Governor, the Commissioner of Education, or the designee of the Governor or of the Commissioner of Education may notify the Legislative Auditing Committee of an entity's failure to comply with certain auditing and financial reporting requirements; revising reporting requirements applicable to the Florida Clerks of Court Operations Corporation; expanding the types of governmental entities that are subject to lobbyist registration requirements; revising the responsibilities of the governing board of a charter school to include the establishment and maintenance of internal controls, etc. EE 03/24/2015 Fav/CS CA 03/31/2015 Fav/CS RC 04/15/2015 RC 04/20/2015 Fav/CS	Fav/CS Yeas 13 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Rules

Monday, April 20, 2015, 1:00 —5:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
11	SB 796 Evers (Identical H 4021)	Financial Reporting; Deleting provisions with respect to the preparation by certain condominium associations, cooperative associations, and homeowners' associations of annual reports of cash receipts and expenditures in lieu of certain financial statements, etc. RI 03/31/2015 Favorable JU 04/07/2015 Favorable RC 04/20/2015 Favorable	Favorable Yeas 12 Nays 0
12	CS/HB 7111, 1st Eng. Judiciary Committee / Health and Human Services Committee / Brodeur	Conscience Protection for Actions of Private Child-Placing Agencies; Prohibits specified actions from being taken against private child-placing agency that refuses to place child or be involved in placement of child or facilitate licensure of foster home which would violate agency's written religious or moral convictions or policies; provides that such refusal does not provide basis for claim for injunctive relief or compensatory or punitive damages. RC 04/20/2015 Temporarily Postponed	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 Committee on Rules

BILL: CS/CS/SB 360

INTRODUCER: Governmental Oversight and Accountability Committee; Children, Families and Elder Affairs Committee and Senator Stargel

SUBJECT: Public Records/Claim Settlement on Behalf of a Ward or Minor

DATE: April 17, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Preston</u>	<u>Hendon</u>	<u>CF</u>	<u>Fav/CS</u>
2.	<u>Peacock</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
3.	<u>Preston</u>	<u>Phelps</u>	<u>RC</u>	<u>Favorable</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/CS/SB 360 creates an exemption from public records requirements relating to the settlement of a claim on behalf of a ward or minor. Any document associated with the settlement is confidential and exempt from the public records provisions of s. 119.07(1), F.S., and Article I, section 24(a) of the Florida Constitution. The court may order partial or full disclosure of the confidential and exempt record to specified individuals upon a showing of good cause.

The bill provides a statement of public necessity as required by the State Constitution. Because the bill creates a new public records exemption, it requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage.

The fiscal impact of the bill on state and local government is expected to be minimal.

II. Present Situation:

Settlements in Guardianship Cases

Litigation settlement agreements routinely include a provision that the terms will be held in confidence by all parties. Because an adult may settle a lawsuit without court approval, those confidentiality clauses are effective and enforceable.

However, a minor cannot settle a case valued in excess of \$15,000 without court approval.¹ The court approval process requires a petition setting forth the terms of the settlement and an order is eventually entered that also may contain the terms of settlement, or may refer to the petition.² The petition and the order are part of a court file, and therefore, are a matter of public record and open for inspection under current law.

Public Records Requirements

The Florida Constitution specifies requirements for public access to government records. It provides every person the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or of persons acting on their behalf.³ The records of the legislative, executive, and judicial branches are specifically included.⁴

In addition to the Florida Constitution, the Florida Statutes specify conditions under which public access must be provided to government records. The Public Records Act⁵ guarantees every person's right to inspect and copy any state or local government public record⁶ at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁷

Only the Legislature may create an exemption to public records requirements.⁸ Such an exemption must be created by general law and must specifically state the public necessity justifying the exemption.⁹ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other

¹ Section 744.301(2), F.S.

² Section 744.387, F.S.

³ FLA. CONST. art. I, s. 24(a).

⁴ *Id.*

⁵ Chapter 119, F.S.

⁶ Section 119.011(12), F.S., defines "public records" to mean "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency." Section 119.011(2), F.S., defines "agency" to mean as "any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency." Chapter 119, F.S., does not apply to legislative or judicial records. See *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). The Legislature's records are public pursuant to section 11.0431, F.S.

⁷ Section 119.07(1)(a), F.S.

⁸ FLA. CONST. art. I, s. 24(c). There is a difference between records the Legislature designates as exempt from public records requirements and those the Legislature designates confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances (see *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004), review denied 892 So. 2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So. 2d 1135 (Fla. 4th DCA 2004); and *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991), review denied 575 So.2d 683 (Fla. 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption. See Op. Att'y Gen. Fla. 85-62 (1985).

⁹ FLA. CONST. art. I, s. 24(c).

substantive provisions¹⁰ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹¹

The Open Government Sunset Review Act prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions.¹² It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.¹³

Court Records

Florida courts have consistently held that the judiciary is not an “agency” for purposes of ch. 119, F.S.¹⁴ However, the Florida Supreme Court found that “both civil and criminal proceedings in Florida are public events” and that the court will “adhere to the well-established common law right of access to court proceedings and records.”¹⁵ There is a Florida constitutional guarantee of access to judicial records.¹⁶ The constitutional provision provides for public access to judicial records, except for those records expressly exempted by the State Constitution, Florida law in effect on July 1, 1993, court rules in effect on November 3, 1992, or by future acts of the legislature in accordance with the Constitution.¹⁷

III. Effect of Proposed Changes:

Section 1 amends s. 744.3701, F.S., to provide that any court record relating to the settlement of a ward’s or minor’s claim, including a petition for approval of a settlement on behalf of a ward or minor, a report of a guardian ad litem relating to a pending settlement, or an order approving a settlement on behalf of a ward or minor, is confidential and exempt from the provisions of s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution and may not be disclosed except as specifically authorized.

Because the record is made confidential and exempt, it may not be disclosed except as provided in law. Current law allows the court, the clerk of court, the guardian, the guardian’s attorney, the ward, unless the ward is a minor or has been determined to be totally incapacitated, and the ward’s attorney to review the guardianship court file. The bill amends s. 744.3701, F.S., to provide that the guardianship report or any court record relating to the settlement of a claim may also be disclosed to the guardian ad litem, if one has been appointed, related to the settlement, to the ward if he or she is 14 years of age or older and has not been declared totally incapacitated, the minor if he or she is at least 14 years of age, and to the attorney representing the minor. The record may also be disclosed as ordered by the court.

¹⁰ *Id.* The bill, however, may contain multiple exemptions that relate to one subject.

¹¹ FLA. CONST. art. I, s. 24(c).

¹² Section 119.15, F.S.

¹³ Section 119.15(3), F.S.

¹⁴ See *Times Publishing Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

¹⁵ See *Barron v. Florida Freedom Newspapers, Inc.*, 531 So. 2d 113, 116 (Fla. 1988).

¹⁶ FLA. CONST. art. I, s. 24(a).

¹⁷ FLA. CONST. art. I, ss. 24(c) and (d).

Section 2 provides a statement of public necessity as required by the Florida Constitution. The bill states that it is a public necessity to keep confidential and exempt from public disclosure any court record relating to the settlement of a ward's or minor's claim, including a petition for approval of a settlement on behalf of a ward or minor, a report of a guardian ad litem relating to a pending settlement, or an order approving a settlement on behalf of a ward or minor. The information contained in these records is of a sensitive, personal nature and its disclosure could jeopardize the physical safety and financial security of the minor or ward. In order to protect minors, wards, and others who could be at risk upon disclosure of a settlement, it is necessary to ensure that only those interested persons who are involved in settlement proceedings or the administration of the guardianship have access to reports and records.

Section 3 provides that the bill will take effect on the same date as SB 318 or similar legislation takes effect if such legislation is adopted in the same session. As filed, SB 318 has an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. The bill expands a public record exemption related to certain settlements, and therefore it requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill expands a public record exemption related to certain settlements, and it includes a public necessity statement.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires a newly created public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill creates a public record exemption related to certain settlements. The exemption does not appear to be in conflict with the constitutional requirement that the exemption be no broader than necessary to accomplish its purpose.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may lead to a minimal fiscal impact on the affected portions of the government, in this case, the court system and clerks of court. Staff responsible for complying with public record requests could require training related to expansion of the public record exemption, and court and clerk offices could incur costs associated with redacting the confidential and exempt information prior to releasing a record. The costs, however, would be absorbed, as they are part of the day-to-day responsibilities of the court system and clerks. The Office of the State Courts Administrator indicates that SB 360 will require the courts to make a determination as to whether good cause exists to release a guardianship report or record related to the settlement of a claim and this may result in an increase in judicial workload. The extent of such workload increase is not known, but it is expected to be manageable within existing resources.¹⁸

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Open Government Sunset Review Act is not applicable to an exemption that applies solely to the State Court System.¹⁹

VIII. Statutes Affected:

This bill substantially amends the following s. 744.3701 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.)

CS/CS by Governmental Oversight and Accountability on April 7, 2015:

The committee substitute amends section 3 of the bill and provides that the bill will become effective the same date that SB 318 or similar legislation takes effect.

¹⁸ Office of the State Courts Administrator 2015 Judicial Impact Statement dated April 4, 2015, on file with the Governmental Oversight and Accountability Committee.

¹⁹ Section 119.15(2), F.S.

CS by Children, Families on February 19, 2015:

The Committee Substitute:

- Clarifies that it is the court records relating to the settlement of a ward's or minor's claim that are confidential and exempt.
- Adds the bill number of the linked bill.

B. Amendments:

None.

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

By the Committees on Governmental Oversight and Accountability;
and Children, Families, and Elder Affairs; and Senator Stargel

585-03640-15

2015360c2

1 A bill to be entitled
2 An act relating to public records; amending s.
3 744.3701, F.S.; providing an exemption from public
4 records requirements for records relating to the
5 settlement of a claim on behalf of a ward or minor;
6 authorizing a guardian ad litem, a ward, a minor, and
7 a minor's attorney to inspect guardianship reports and
8 court records relating to the settlement of a claim on
9 behalf of a ward or minor upon a showing of good
10 cause; authorizing the court to direct disclosure and
11 recording of an amendment to a report or court records
12 relating to the settlement of a claim on behalf of a
13 ward or minor, in connection with real property or for
14 other purposes; providing a statement of public
15 necessity; providing a contingent effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Section 744.3701, Florida Statutes, is amended
20 to read:

21 744.3701 Confidentiality Inspection of report.—

22 (1) Unless otherwise ordered by the court, upon a showing
23 of good cause, an ~~any~~ initial, annual, or final guardianship
24 report or amendment thereto, or a court record relating to the
25 settlement of a claim, is subject to inspection only by the
26 court; ~~the clerk or the clerk's representative; the guardian~~
27 and the guardian's attorney; with respect to the settlement of
28 the claim, the guardian ad litem; ~~and the ward, if, unless~~ he
29 or she is at least 14 years of age and has not ~~a minor or has~~

Page 1 of 3

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

585-03640-15

2015360c2

30 been determined to be totally incapacitated, and his or her ~~the~~
31 ward's attorney; and the minor, if he or she is at least 14
32 years of age, and the attorney representing the minor with
33 respect to his or her claim, or as otherwise provided by this
34 chapter.

35 (2) The court may direct disclosure and recording of parts
36 of an initial, annual, or final report or amendment thereto, or
37 a court record relating to the settlement of a claim, including
38 a petition for approval of a settlement on behalf of a ward or
39 minor, a report of a guardian ad litem relating to a pending
40 settlement, or an order approving a settlement on behalf of a
41 ward or minor, in connection with a ~~any~~ real property
42 transaction or for such other purpose as the court allows, ~~in~~
43 its discretion.

44 (3) A court record relating to the settlement of a ward's
45 or minor's claim, including a petition for approval of a
46 settlement on behalf of a ward or minor; a report of a guardian
47 ad litem relating to a pending settlement; or an order approving
48 a settlement on behalf of a ward or minor, is confidential and
49 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I
50 of the State Constitution and may not be disclosed except as
51 specifically authorized.

52 Section 2. The Legislature finds that it is a public
53 necessity that a court record relating to the settlement of a
54 ward's or minor's claim, including a petition for approval of a
55 settlement on behalf of a ward or minor, a report of a guardian
56 ad litem relating to a pending settlement, or an order approving
57 a settlement on behalf of a ward or minor, be made confidential
58 and exempt from s. 119.07(1), Florida Statutes, and s. 24(a),

Page 2 of 3

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

585-03640-15

2015360c2

59 Art. I of the State Constitution. The information contained in
60 these records is of a sensitive, personal nature, and its
61 disclosure could jeopardize the physical safety and financial
62 security of the minor or ward. In order to protect minors,
63 wards, and others who could be at risk upon disclosure of a
64 settlement, it is necessary to ensure that only those interested
65 persons who are involved in settlement proceedings or the
66 administration of the guardianship have access to reports and
67 records. The Legislature finds that the court retaining
68 discretion to direct disclosure of these records is a fair
69 alternative to public access.

70 Section 3. This act shall take effect on the same date that
71 SB 318 or similar legislation takes effect if such legislation
72 is adopted in the same legislative session or an extension
73 thereof and becomes law.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Higher Education, *Chair*
Appropriations Subcommittee on Education
Fiscal Policy
Judiciary
Military and Veterans Affairs, Space, and Domestic Security
Regulated Industries

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

SENATOR KELLI STARGEL
15th District

April 20, 2015

Chairman Simmons
420 Senate Office Bldg

4/20/15
ok
KTS

Dear Chair Simmons:

I am requesting permission for my LA to present my bill during the Rules Committee. During this committee timeframe, I will be attending the Fiscal Policy Committee and presenting several bills.

With your permission, Rachel Barnes or Katie Martin will be presenting SB 360, dealing with Public Records/Claim Settlement on Behalf of a Ward or Minor.
Thank you for this consideration,

Sincerely,

Kelli Stargel
State Senator, District 15

Cc: John Phelps / Rules Staff Director
Cissy DuBose / CAA

REPLY TO:
 2033 East Edgewood Drive, Suite 1, Lakeland, Florida 33803
 324 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5015

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

360
Bill Number (if applicable)

Topic Settlements of Minors

Amendment Barcode (if applicable)

Name Brittany Finkbeiner

Job Title _____

Address _____
Street

Phone _____

City _____ State _____ Zip _____

Email _____

Speaking: For Against Information

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

Representing Real Property, Probate + Trust Law Section

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

Tallahassee, Florida 32399-1100

COMMITTEES:

Higher Education, *Chair*
Appropriations Subcommittee on Education
Fiscal Policy
Judiciary
Military and Veterans Affairs, Space, and Domestic Security
Regulated Industries

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR KELLI STARGEL
15th District

April 10, 2015

The Honorable David Simmons
Senate Rules Committee, Chair
400 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Dear Chair Simmons:

I am respectfully requesting that SB 360, related to *Public Records/Claim Settlement on Behalf of a Ward or Minor*, be placed on the committee agenda at your earliest convenience.

Thank you for your consideration and please do not hesitate to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Kelli Stargel".

Kelli Stargel
State Senator, District 15

Cc: John Phelps/ Staff Director
Cissy DuBose/ AA

REPLY TO:

- 2033 East Edgewood Drive, Suite 1, Lakeland, Florida 33803
- 324 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5015

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/SB 476

INTRODUCER: Health Policy Committee and Senator Grimsley

SUBJECT: Mental Health

DATE: April 17, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harper	Stovall	HP	Fav/CS
2.	Crosier	Hendon	CF	Favorable
3.	Harper	Phelps	RC	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 476 increases the qualifications for a psychiatric nurse acting pursuant to the Baker Act. The bill requires a psychiatric nurse to be an advanced registered nurse practitioner certified under s. 464.012, F.S., and to hold a national advanced practice certification as a psychiatric-mental health advanced practice nurse.

The bill authorizes expanded practice for a psychiatric nurse performing within the framework of a protocol with a psychiatrist. Such psychiatric nurses may examine a patient for whom involuntary examination has been initiated at a receiving facility.

The bill authorizes psychiatric nurses to release Baker Act patients from involuntary examination in a receiving facility only if the receiving facility is owned or operated by a hospital or health system and the psychiatric nurse is performing within the framework of an established protocol with a psychiatrist. A psychiatric nurse may only release a patient whose involuntary examination was initiated by a psychiatrist upon approval of that psychiatrist.

These modifications to the Baker Act are expected to ease staffing constraints at receiving facilities so that patients who are appropriate for release are timely released, thereby expanding capacity for others needing involuntary examination.

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

II. Present Situation:

The Florida Mental Health Act

In 1971, the Florida Legislature passed the Florida Mental Health Act (also known as “The Baker Act”) to address mental health needs in the state.¹ Part I of ch. 394, F.S., provides authority and process for the voluntary and involuntary examination of persons with evidence of a mental illness and the subsequent inpatient or outpatient placement of individuals for treatment.

Current law provides that an involuntary examination may be initiated for a person if there is reason to believe the person has a mental illness and because of the illness:²

- The person has refused a voluntary examination after explanation of the purpose of the exam, or is unable to determine for themselves that an examination is needed; and
- The person is likely to suffer from self-neglect, cause substantial harm to himself or herself, or be a danger to himself or herself or others.

An involuntary examination may be initiated by a circuit court or a law enforcement officer.³ A circuit court may enter an ex parte order stating a person meets the criteria for involuntary examination. A law enforcement officer, as defined in s. 943.10, F.S., may take a person into custody who appears to meet the criteria for involuntary examination and transport that person to a receiving facility for examination. In addition, the following professionals, when they have examined a person within the preceding 48 hours, may issue a certificate stating that the person meets the criteria for involuntary examination:⁴

- A physician licensed under ch. 458, F.S., or ch. 459, F.S., who has experience in the diagnosis and treatment of mental and nervous disorders.
- A physician employed by a facility operated by the United States Department of Veterans Affairs which qualifies as a receiving or treatment facility.
- A clinical psychologist, as defined in s. 490.003(7), F.S., with 3 years of postdoctoral experience in the practice of clinical psychology, inclusive of the experience required for licensure, or a psychologist employed by a facility operated by the United States Department of Veterans Affairs that qualifies as a receiving or treatment facility.
- A psychiatric nurse licensed under part I of ch. 464, F.S., who has a master’s degree or a doctorate in psychiatric nursing and 2 years of post-master’s clinical experience under the supervision of a physician.
- A mental health counselor licensed under ch. 491, F.S.
- A marriage and family therapist licensed under ch. 491, F.S.
- A clinical social worker licensed under ch. 491, F.S.

The Department of Children and Families (DCF) administers the Baker Act through receiving facilities which provide for the examination of persons with evidence of a mental illness.

¹ Section 1, ch. 71-131, L.O.F.

² Section 394.463(1), F.S.

³ Section 394.463(2)(a), F.S.

⁴ *Id.* and s. 394.455, F.S.

Receiving facilities are designated by DCF and may be public or private facilities which provide the examination and short-term treatment of persons who meet criteria under the Baker Act.⁵

A patient taken to a receiving facility must be examined by a physician or clinical psychologist. Upon the order of a physician, the patient may be given emergency treatment if it is determined that such treatment is necessary.⁶ Subsequent to examination at a receiving facility, a person who requires further treatment may be transported to a treatment facility. Treatment facilities designated by DCF are state hospitals (e.g., Florida State Hospital) which provide extended treatment and hospitalization beyond what is provided in a receiving facility.⁷

To be released by the receiving facility, the patient must have documented approval from a psychiatrist, clinical psychologist, or, if the receiving facility is a hospital, by an attending emergency department physician.⁸ The statute does not allow the release of a patient by a psychiatric nurse. However, receiving facilities are prohibited from holding a patient for involuntary examination for longer than 72 hours.⁹

Psychiatric Nurses

In Florida, a psychiatric nurse is a registered nurse licensed under part I of ch. 464, F.S., who has a master's degree or a doctorate in psychiatric nursing and 2 years of post-master's clinical experience under the supervision of a physician.¹⁰ Currently, there are 590 psychiatric nurses in Florida.¹¹

Psychiatric–Mental Health Nurse Practitioner Certification

In Florida, psychiatric nurses are not required to hold a national advanced practice certification. However, if a nurse chooses to become certified as a Psychiatric–Mental Health Nurse Practitioner, he or she must meet certain eligibility requirements as determined by the American Nurses Credentialing Center (ANCC). To be eligible for national certification an individual must:¹²

- Hold a current, active RN license;
- Hold a master's, postgraduate, or doctoral degree from an accredited family psychiatric-mental health nurse practitioner program;
- Have a minimum of 500 faculty-supervised clinical hours in the nursing program;
- Complete specified graduate-level courses; and
- Complete clinical training in at least two psychotherapeutic treatment modalities.

⁵ Section 394.455(26), F.S.

⁶ Section 394.463(2)(f), F.S.

⁷ Section 394.455(32), F.S.

⁸ Section 394.463(2)(f), F.S.

⁹ *Id.*

¹⁰ Section 394.455(23), F.S.

¹¹ Florida House of Representatives, Health & Human Services Committee, *CS/CS/HB 335 Staff Analysis*, (Mar. 16, 2015), available at <http://www.flsenate.gov/Session/Bill/2015/0335/?Tab=Analyses> (last visited April 5, 2015).

¹² American Nurses Credentialing Center; Psychiatric-Mental Health Nurse Practitioner Certification Eligibility Criteria, (2014), available at <http://www.nursecredentialing.org/FamilyPsychNP-Eligibility.aspx> (last visited April 5, 2015).

Eligible candidates may take a national certification examination developed by the ANCC. If certified, the individual must provide 1,000 clinical hours of patient care and log 75 hours of continuing education every 5 years. Certified psychiatric nurses must be recertified every 5 years.¹³

Advanced Registered Nurse Practitioners

Part I of ch. 464, F.S., governs the licensure and regulation of nurses in Florida. Nurses are licensed by the Department of Health (DOH) and are regulated by the Board of Nursing (board). Licensure requirements to practice advanced and specialized nursing include completion of education requirements,¹⁴ demonstration of passage of a DOH approved examination, a clean criminal background screening, and payment of applicable fees. Renewal is biennial and contingent upon completion of certain continuing medical education requirements. For an applicant to be eligible to be certified as an ARNP, the applicant must:¹⁵

- Hold a current, active registered nurse (RN) license;
- Hold a master's degree in a nursing clinical specialty area with preparation in specialized practitioner skills; and
- Submit proof to the board that the applicant holds a current national advanced practice certification from a board-approved nursing specialty board.

Current law defines three categories of ARNPs: certified registered nurse anesthetists, certified nurse midwives, and nurse practitioners.¹⁶ All ARNPs, regardless of practice category, may only practice within the framework of an established protocol and under the supervision of an allopathic or osteopathic physician or a dentist.¹⁷

ARNPs may carry out treatments as specified in statute, including:¹⁸

- Monitoring and altering drug therapies;
- Initiating appropriate therapies for certain conditions;
- Performing additional functions as may be determined by rule in accordance with s. 464.003(2), F.S.; and
- Ordering diagnostic tests and physical and occupational therapy.

In addition to the above allowed acts, ARNPs may also perform other acts as authorized by statute and within his or her specialty.¹⁹ Further, if it is within the ARNPs established protocol, the ARNP may evaluate behavioral problems, diagnose, and make treatment recommendations.²⁰

¹³ American Nurses Credentialing Center, *FAQs about Advanced Practice Psychiatric Nurses*, (2009) available at <http://www.apna.org/i4a/pages/index.cfm?pageid=3866> (last visited April 5, 2015).

¹⁴ Rule 64B9-4.003, F.A.C., provides that an Advanced Nursing Program shall be at least 1 year long and shall include theory in the biological, behavioral, nursing and medical sciences relevant to the area of advanced practice in addition to clinical expertise with a qualified preceptor.

¹⁵ Section 464.012(1), F.S., and Rule 64B9-4.002, F.A.C.

¹⁶ Section 464.012(2), F.S.

¹⁷ Section 464.012(3), F.S.

¹⁸ *Id.*

¹⁹ Section 464.012(4), F.S.

²⁰ Section 464.012(4)(c)5, F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 394.455, F.S., by redefining “psychiatric nurse” to mean:

An advanced registered nurse practitioner certified under s. 464.012, F.S., who has a master’s degree or doctoral degree in psychiatric nursing, holds a national advanced practice certification as a psychiatric-mental health advanced practice nurse, and has 2 years of post-master’s clinical experience under the supervision of a physician.

A psychiatric nurse is currently authorized in part I of ch. 394, F.S., to perform:

- Assessment of a mental health resident and determination of appropriateness for the mental health resident to reside in an assisted living facility that holds a limited mental health license.²¹
- Initiation of an involuntary examination by executing a certificate stating that he or she has examined a person within the preceding 48 hours and finds that the person appears to meet the criteria for involuntary examination and stating the observations upon which that conclusion is based.²²
- Providing a second opinion in support of a recommendation for involuntary outpatient placement of a patient if the receiving facility is in a county having a population of fewer than 50,000 and a facility administrator certifies that a psychiatrist or clinical psychologist is not available to provide the second opinion.²³
- Deeming services in an involuntary outpatient treatment plan to be clinically appropriate.²⁴
- Providing a second opinion in support of a recommendation for involuntary inpatient placement of a patient if the receiving facility is in a county having a population of fewer than 50,000 and a facility administrator certifies that a psychiatrist or clinical psychologist is not available to provide the second opinion.²⁵

These functions will now be performed by an ARNP who holds a national advanced practice certification as a psychiatric-mental health advanced practice nurse.

Section 2 amends s. 394.463, F.S., to authorize psychiatric nurses to examine patients at a receiving facility and to approve the release of patients from a receiving facility within the framework of a protocol with a psychiatrist. This provision adds psychiatric nurses to the limited group of health care providers who may release a patient from a receiving facility.

A psychiatric nurse may approve the release of a patient from a receiving facility only if the receiving facility is owned or operated by a hospital or health system and the psychiatric nurse is performing within the framework of an established protocol with a psychiatrist. A psychiatric nurse may not approve the release of a patient when the involuntary examination has been initiated by a psychiatrist unless the release is approved by the initiating psychiatrist.

²¹ Section 394.4574, F.S.

²² Section 394.463, F.S.

²³ Section 394.4655(2)(a)1, F.S.

²⁴ Section 394.4655(2)(a)3, F.S.

²⁵ Section 394.467(2), F.S.

Section 3 provides an effective date of July 1, 2015.

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:

Current psychiatric nurses who are not ARNPs and/or not certified as psychiatric-mental health advanced practice nurses will incur costs in order to attain the required certification(s).

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 394.455 and 394.463.

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 on March 23, 2015

The CS reinstates the term “psychiatric nurse” and revises the definition of “psychiatric nurse.” The CS authorizes a psychiatric nurse performing within the framework of an established protocol with a psychiatrist to examine a patient in a receiving facility and approve release of a patient from a receiving facility if the receiving facility is owned and operated by a hospital or a health system. The CS provides that a psychiatric nurse may not approve the release of a patient when the involuntary examination has been initiated by a psychiatrist unless the release is approved by the initiating psychiatrist.

- B. **Amendments:**

None.

By the Committee on Health Policy; and Senator Grimsley

588-02741A-15

2015476c1

1 A bill to be entitled
 2 An act relating to mental health; amending s. 394.455,
 3 F.S.; redefining the term "psychiatric nurse";
 4 amending s. 394.463, F.S.; adding a psychiatric nurse
 5 as a person at a receiving facility authorized to
 6 perform a required examination of certain patients;
 7 prohibiting the release of a patient from a receiving
 8 facility that is owned or operated by a hospital or
 9 health system without specified approvals; authorizing
 10 the release of a patient by a psychiatric nurse under
 11 certain circumstances; prohibiting a psychiatric nurse
 12 from releasing a patient if the involuntary
 13 examination was initiated by a psychiatrist without
 14 the psychiatrist's approval; providing an effective
 15 date.
 16
 17 Be It Enacted by the Legislature of the State of Florida:
 18
 19 Section 1. Subsection (23) of section 394.455, Florida
 20 Statutes, is amended to read:
 21 394.455 Definitions.—As used in this part, unless the
 22 context clearly requires otherwise, the term:
 23 (23) "Psychiatric nurse" means an advanced a registered
 24 nurse practitioner certified under s. 464.012 who has a master's
 25 or doctoral degree in psychiatric nursing, holds a national
 26 advanced practice certification as a psychiatric-mental health
 27 advanced practice nurse, licensed under part I of chapter 464
 28 who has a master's degree or a doctorate in psychiatric nursing
 29 and has 2 years of post-master's clinical experience under the

Page 1 of 2

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

588-02741A-15

2015476c1

30 supervision of a physician.
 31 Section 2. Paragraph (f) of subsection (2) of section
 32 394.463, Florida Statutes, is amended to read:
 33 394.463 Involuntary examination.—
 34 (2) INVOLUNTARY EXAMINATION.—
 35 (f) A patient shall be examined by a physician, ~~a~~ ~~or~~
 36 clinical psychologist, or a psychiatric nurse performing within
 37 the framework of an established protocol with a psychiatrist at
 38 a receiving facility without unnecessary delay and may, upon the
 39 order of a physician, be given emergency treatment if it is
 40 determined that such treatment is necessary for the safety of
 41 the patient or others. The patient may not be released by the
 42 receiving facility or its contractor without the documented
 43 approval of a psychiatrist, a clinical psychologist, or, if the
 44 receiving facility is owned or operated by a hospital or health
 45 system, the release may also be approved by a psychiatric nurse
 46 performing within the framework of an established protocol with
 47 a psychiatrist or an attending emergency department physician
 48 with experience in the diagnosis and treatment of mental and
 49 nervous disorders and after completion of an involuntary
 50 examination pursuant to this subsection. A psychiatric nurse may
 51 not approve the release of a patient when the involuntary
 52 examination has been initiated by a psychiatrist unless the
 53 release is approved by the initiating psychiatrist. However, a
 54 patient may not be held in a receiving facility for involuntary
 55 examination longer than 72 hours.
 56 Section 3. This act shall take effect July 1, 2015.

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

To: Senator David Simmons, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: April 9, 2015

I respectfully request that **Senate Bill #476**, relating to the Florida Mental Health Act, be placed on the:

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

A handwritten signature in cursive script that reads "Denise Grimsley".

Senator Denise Grimsley
Florida Senate, District 21

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/CS/CS/SB 614

INTRODUCER: Rules Committee, Regulated Industries Committee, Health Policy Committee and Senator Grimsley

SUBJECT: Health Care

DATE: April 22, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Stovall</u>	<u>Stovall</u>	<u>HP</u>	<u>Fav/CS</u>
2.	<u>Kraemer</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</u>
3.	<u>Stovall</u>	<u>Phelps</u>	<u>RC</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 614 authorizes physician assistants (PAs) and advanced registered nurse practitioners (ARNPs) to prescribe controlled substances under current supervisory standards for PAs and protocols for ARNPs, as well as additional conditions. Prescriptions for controlled substances in Schedule II are limited to a 7-day supply, limitations are imposed on prescribing psychotropic medications to children under 18 years of age, and additional limitations may be imposed pursuant to a formulary applicable to practice as a PA or an ARNP. A PA and ARNP may not prescribe controlled substances in a pain management clinic and the practice of interventional pain medicine, as defined in the bill, is limited. The bill requires PAs and ARNPs to complete three hours of continuing education biennially on the safe and effective prescribing of controlled substances.

The bill also facilitates access to medications through an expedited override process for or bypass of step-therapy or fail-first protocols that are imposed by Medicaid managed care plans, health insurers, and health maintenance organizations. Beginning January 1, 2016, health insurers and pharmacy benefits managers which do not use an online prior authorization form must use a standardized prior authorize form that has been adopted by rules of the Financial Services Commission. If a health insurer or health maintenance organization verified the eligibility of an insured at the time of treatment, it may not retroactively deny a claim because of the insured's ineligibility.

A hospital is required to notify each obstetrical physician with privileges at that hospital at least 90 days before it closes its obstetrical department or ceases to provide obstetrical services. The bill repeals a provision designating certain hospitals as provider hospitals, which have special requirements for cesarean section operations that are paid for by the state, including a review board for such operations.

The bill has an insignificant fiscal impact on governmental entities arising from rulemaking and potential disciplinary action.

Most of the bill becomes effective upon becoming law. However, the authority for a PA or an ARNP to prescribe controlled substances in accordance with the bill becomes effective January 1, 2016,

II. Present Situation:

Unlike all other states, Florida does not allow ARNPs to prescribe controlled substances and is one of two states that does not allow PAs to prescribe controlled substances.¹ The states have varying permissions with respect to the Schedules² from which an ARNP or PA may prescribe as well as the additional functions which may be performed, such as dispensing, administering, or handling samples.

According to a recent study commissioned by the Safety Net Hospital Alliance of Florida:³

Florida's total current supply of primary care physicians falls short of the number needed to provide a national average level of care by approximately 6 percent. Under a traditional definition of primary care specialties (i.e., general and family practice, general internal medicine, general pediatrics and geriatric medicine) supply falls short of demand by approximately 3 percent. [Based on simulation models, the report concludes that] over the next several years, this shortfall will grow slightly as more people obtain insurance coverage as mandated by the federal Affordable Care Act. However, if current trends continue, this shortfall should disappear within a decade. While supply may be adequate at the state level to provide a national average level of care, there is substantial geographic variation in adequacy of care.

Regulation of Physician Assistants in Florida

Chapter 458, F.S., sets forth the provisions for the regulation of the practice of medicine by the Board of Medicine. Chapter 459, F.S., similarly sets forth the provisions for the regulation of the practice of osteopathic medicine by the Board of Osteopathic Medicine. Physician assistants are

¹ DEA Diversion Control, U.S. Department of Justice, *Mid-Level Practitioners Authorization by State*, (last updated March 12, 2015), available at http://www.deadiversion.usdoj.gov/drugreg/practioners/mlp_by_state.pdf, (last visited Mar. 28, 2015). Kentucky does not allow PAs to prescribe controlled substances.

² Controlled substances are assigned to Schedules I - V based on their accepted medical use and potential for abuse.

³ IHS Global Inc., *Florida Statewide and Regional Physician Workforce Analysis: Estimating Current and Forecasting Future Supply and Demand*, (January 28, 2015), as presented to the Senate Health Policy Committee on Feb. 17, 2015). The report is available in the committee meeting packet at: http://www.flsenate.gov/PublishedContent/Committees/2014-2016/HP/MeetingRecords/MeetingPacket_2854_4.pdf, at page 139 (last visited Mar. 28, 2015).

regulated by both boards. Licensure of PAs is overseen jointly by the boards through the Council on Physician Assistants.⁴ During Fiscal Year 2013-2014, there were 6,118 in-state, actively licensed PAs in Florida.⁵

Physician assistants are trained and required by statute to work under the supervision and control of medical physicians or osteopathic physicians.⁶ The Board of Medicine and the Board of Osteopathic Medicine have adopted rules that set out the general principles a supervising physician must use in developing the scope of practice of the PA under both direct⁷ and indirect⁸ supervision. A supervising physician's decision to permit a PA to perform a task or procedure under direct or indirect supervision must be based on reasonable medical judgment regarding the probability of morbidity and mortality to the patient. The supervising physician must be certain that the PA is knowledgeable and skilled in performing the tasks and procedures assigned.⁹ Each physician or group of physicians supervising a licensed PA must be qualified in the medical areas in which the PA is to perform and is individually or collectively responsible and liable for the performance and the acts and omissions of the PA.¹⁰

Current law allows a supervisory physician to delegate authority to prescribe or dispense any medication used in the physician's practice, except controlled substances, general anesthetics, and radiographic contrast materials.¹¹ However, the law allows a supervisory physician to delegate authority to a PA to order any medication, which would include controlled substances, general anesthetics, and radiographic contrast materials, during the period a physician's patient stays in a hospital, ambulatory surgical center, or mobile surgical facility licensed under ch. 395, F.S.¹²

Regulation of Advanced Registered Nurse Practitioners in Florida

Chapter 464, F.S., governs the licensure and regulation of nurses in Florida. Nurses are licensed by the Department of Health and are regulated by the Board of Nursing.¹³ During Fiscal Year

⁴ The council consists of three physicians who are members of the Board of Medicine; one physician who is a member of the Board of Osteopathic Medicine; and a physician assistant appointed by the State Surgeon General. *See* s. 458.347(9), F.S., and s. 459.022(9), F.S.

⁵ Florida Department of Health, Division of Medical Quality Assurance, *Annual Report and Long Range Plan Fiscal Year 2013-2014*, p. 14, available at: <http://mqawebteam.com/annualreports/1314/#1/z>, (last visited Mar. 28, 2015).

⁶ *See* s. 458.347(4), F.S., and s. 459.022(4), F.S.

⁷ "Direct supervision" requires the physician to be on the premises and immediately available. *See* Rules 64B8-30.001(4) and 64B15-6.001(4), F.A.C.

⁸ "Indirect supervision" requires the physician to be within reasonable physical proximity and available to communicate by telecommunications. *See* Rules 64B8-30.001(5) and 64B15-6.001(5), F.A.C.

⁹ Rules 64B8-30.012(2) and 64B15-6.010(2), F.A.C.

¹⁰ *See* s. 458.347(3) and (15), F.S., and s. 459.022(3) and (15), F.S.

¹¹ *See* s. 458.347(4)(e) and (f)1., F.S., and s. 459.022(4)(e), F.S.

¹² *See* s. 395.002(16), F.S.

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

2013-2014, there were 16,887 in-state, actively licensed ARNPs in Florida.¹⁴

An ARNP is a licensed nurse who is certified in advanced or specialized nursing.¹⁵ Florida recognizes three types of ARNPs: nurse practitioner (NP), certified registered nurse anesthetist (CRNA), and certified nurse midwife (CNM).¹⁶ To be certified as an ARNP, a nurse must hold a current license as a registered nurse¹⁷ and submit proof to the Board of Nursing that he or she meets one of the following requirements:¹⁸

- Satisfactory completion of a formal post basic educational program of specialized or advanced nursing practice;
- Certification by an appropriate specialty board;¹⁹ or
- Completion of a master's degree program in the appropriate clinical specialty with preparation in specialty-specific skills.

Advanced or specialized nursing acts may only be performed under protocol of a supervising physician. Within the established framework of the protocol, an ARNP may:²⁰

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

The statute further describes additional acts that may be performed within an ARNP's specialty certification (CRNA, CNM, and NP).²¹

ARNPs must meet financial responsibility requirements, as determined by rule of the Board of Nursing, and the practitioner profiling requirements.²² The Board of Nursing requires professional liability coverage of at least \$100,000 per claim with a minimum annual aggregate

¹⁴ See *supra* note 5. Twenty-four ARNPs are also actively licensed as Certified Nurse Specialists (ARNP/CNS).

¹⁵ Section 464.003(2), F.S., defines advanced specialized nursing practice as the performance of advanced-level nursing acts approved by the Board of Nursing which, by virtue of postbasic specialized education, training and experience, are appropriately performed by an ARNP.

¹⁶ See s. 464.003(3), F.S. Florida certifies clinical nurse specialists as a category distinct from ARNPs. (See s. 464.003(7), F.S., and s. 464.0115, F.S.).

¹⁷ Section 464.003(20), F.S., defines the practice of professional nursing as actions requiring substantial specialized knowledge, judgment, and nursing skill, based upon psychological, biological, physical, and social sciences principles, including but not limited to the:

- (a) Observation, assessment, diagnosis, planning, intervention, and evaluation of care; health teaching and counseling of the ill, injured, or infirm; and the promotion of wellness, maintenance of health, and prevention of illness of others;
- (b) Administration of medications and treatments as prescribed or authorized by a duly licensed practitioner authorized by the laws of this state to prescribe such medications and treatments; and
- (c) Supervision and teaching of other personnel in the theory and performance of any of these acts.

¹⁸ See s. 464.012(1), F.S.

¹⁹ Specialty boards expressly recognized by the Board of Nursing include: Council on Certification of Nurse Anesthetists, or Council on Recertification of Nurse Anesthetists; American College of Nurse Midwives; American Nurses Association (American Nurses Credentialing Center); National Certification Corporation for OB/GYN, Neonatal Nursing Specialties; National Board of Pediatric Nurse Practitioners and Associates; National Board for Certification of Hospice and Palliative Nurses; American Academy of Nurse Practitioners; Oncology Nursing Certification Corporation; and the American Association of Critical-Care Nurses Adult Acute Care Nurse Practitioner Certification. See Rule 64B9-4.002(3), F.A.C.

²⁰ See Section 464.012(3), F.S.

²¹ See Section 464.012(4), F.S.

²² See s. 456.048, F.S., and s. 456.041, F.S.

of at least \$300,000 or an unexpired irrevocable letter of credit in the same amounts payable to the ARNP.²³

Florida does not authorize ARNPs to prescribe controlled substances.²⁴ However, s. 464.012(4)(a), F.S., provides express authority for a CRNA to order certain controlled substances “to the extent authorized by established protocol approved by the medical staff of the facility in which the anesthetic service is performed”

Educational Preparation

Physician Assistants

The American Academy of Physician Assistants has summarized physician assistant education as follows:²⁵

PA program applicants must complete at least two years of college courses in basic science and behavioral science as prerequisites to PA training. This is analogous to premedical studies required of medical students. PA students often take classes and do clinical rotations side by side with medical students.

The average length of PA education programs is about 26 months. Students begin their course of study with a year of basic medical science classes (anatomy, pathophysiology, pharmacology, physical diagnosis, etc.) After the science classroom work, PA students enter the clinical phase of training. This includes classroom instruction and clinical rotations in medical and surgical specialties (family medicine, internal medicine, obstetrics and gynecology, pediatrics, general surgery, emergency medicine and psychiatry). Due to these demanding rotation requirements, PA students will have completed at least 2,000 hours of supervised clinical practice by the time they graduate.

PA education is well-structured and focused; it is recognized as highly innovative, efficient and effective. It is competency-based, meaning that students must demonstrate proficiency in various areas of medical knowledge and must meet behavioral and clinical learning objectives. Many other professions also offer competency-based degrees, including the MD, DO and DDS.

PA programs are accredited by the independent Accreditation Review Commission on Education for the Physician Assistant (ARC-PA), which is sponsored by the American Medical Association, American Academy of Family Physicians, American College of Surgeons, American Academy of Pediatrics, American College of Physicians, Physician Assistant Education Association and American Academy of Physician Assistants.

²³ See Rule 64B9-4.002(5), F.A.C.

²⁴ See s. 93.02(21), F.S., and s. 893.05(1), F.S.

²⁵ See American Academy of Physician Assistants, *PA Education - Preparation for Excellence – Issue Brief* (March 2014), (on file with the Senate Committee on Regulated Industries), and American Academy of Physician Assistants, *PAs as Prescribers of Controlled Medications – Issue Brief* (June 2014), (on file with the Senate Committee on Regulated Industries).

Accreditation standards are rigorous, and although all accredited PA programs must meet the same educational standards, they have the flexibility to offer a variety of academic degrees. More than ninety percent of PA programs offer a master's degree. However, graduation from an accredited PA education program remains the definitive credential. Regardless of the degree awarded, only graduates of accredited programs are eligible to sit for the Physician Assistant National Certifying Examination administered by the independent National Commission on Certification of Physician Assistants (NCCPA). PAs must recertify with NCCPA every ten years.

All PA educational programs have pharmacology courses and, nationally, the average amount of required formal classroom instruction in pharmacology is 75 hours. This does not include instruction in pharmacology that students receive during clinical medicine coursework and clinical clerkships. Based on national data, the mean amount of total instruction in clinical medicine (the course focus is patient evaluation and management in cardiology, pediatric medicine, obstetrics and gynecology, orthopedics, etc.) is 358.9 hours, and the average length of required clinical clerkships in PA programs is 48.5 weeks. A significant percentage of time is focused on patient management, including pharmacotherapeutics.

Advanced Registered Nurse Practitioners²⁶

Applicants for Florida licensure who graduated on or after October 1, 1998, must have completed requirements for a master's degree or post-master's degree.²⁷ Applicants who graduated before that date, may be or may have been eligible through a certificate program.²⁸

The curriculum of a program leading to an advanced degree must include, among other things:²⁹

- Theory and directed clinical experience in physical and biopsychosocial assessment;
- Interviewing and communication skills relevant to obtaining and maintaining a health history;
- Pharmacotherapeutics, including selecting, prescribing, initiating, and modifying medications in the management of health and illness;
- Selecting, initiating and modifying diets and therapies in the management of health and illness;
- Performance of specialized diagnostic tests that are essential to the area of advanced practice.
- Differential diagnosis pertinent to the specialty area;
- Interpretation of laboratory findings;
- Management of selected diseases and illnesses;
- Professional socialization and role realignment;
- Legal implications of the advanced nursing practice and nurse practitioner role;
- Health delivery systems, including assessment of community resources and referrals to appropriate professionals or agencies; and
- Providing emergency treatments.

²⁶ See Rule 64B9-4.003, F.A.C. for the program guidelines.

²⁷ See Florida Board of Nursing, *ARNP Licensure Requirements* <http://floridasnursing.gov/licensing/advanced-registered-nurse-practitioner/>, (last visited Mar. 28, 2015).

²⁸ *Id.*, and see s. 464.012(1), F.S.

²⁹ See Rule 64B9-4.003, F.A.C. respecting all of the program requirements described in this section.

The program must provide a minimum of 500 hours of preceptorship/supervised clinical experience³⁰ in the performance of the specialized diagnostic procedures that are essential to practice in that specialty area.

The curriculum of a nurse practitioner certificate program is based on the philosophy and objectives of the program. It must be at least one academic year in length and include theory in the biological, behavioral, nursing, and medical sciences relevant to the area of advanced practice. It must also include clinical experience with a qualified preceptor. At a minimum, the program must include:

- Theory and directed clinical experience in comprehensive physical and biopsychosocial assessment;
- Interviewing and communication skills;
- Eliciting, recording, and maintaining a health history;
- Interpretation of laboratory findings;
- Pharmacotherapeutics, to include the initiation, selection, and modification of selected medications;
- Initiation and modification of selected therapies;
- Nutrition, including modifications of diet;
- Providing emergency treatments;
- Assessment of community resources and referrals to appropriate professionals or agencies;
- Role realignment;
- Legal implications of the ARNP role;
- Health care delivery systems; and
- Management of selected diseases and illnesses.

The program must provide a minimum of 500 hours of supervised clinical experience in the performance of the specialized diagnostic procedures that are essential to practice in that specialty area.

Drug Enforcement Agency Registration

The Drug Enforcement Agency (DEA) registration grants practitioners federal authority to handle controlled substances. However, the DEA-registered practitioner may only engage in those activities that are authorized under state law for the jurisdiction in which the practice is located.³¹

According to requirements of the DEA, a prescription for a controlled substance may only be issued by a physician, dentist, podiatrist, veterinarian, mid-level practitioner,³² or other registered practitioner who is:

³⁰ Preceptorship/supervised clinical experience must be under the supervision of a qualified preceptor, who is defined as a practicing certified ARNP, a licensed medical doctor, osteopathic physician, or a dentist. See Rule 64B9-4.001(13), F.A.C.

³¹ See U.S. Department of Justice, Drug Enforcement Administration, *Practitioner's Manual*, 27 (2006), p. 7, available at http://www.deadiversion.usdoj.gov/pubs/manuals/pract/pract_manual012508.pdf (last visited Mar. 28, 2015).

³² Examples of mid-level practitioners include, but are not limited to: nurse practitioners, nurse midwives, nurse anesthetists, clinical nurse specialists, and physician assistants.

- Authorized to prescribe controlled substances by the jurisdiction in which the practitioner is licensed to practice;
- Registered with DEA or exempted from registration (that is, Public Health Service, Federal Bureau of Prisons, or military practitioners); or
- An agent or employee of a hospital or other institution acting in the normal course of business or employment under the registration of the hospital or other institution which is registered in lieu of the individual practitioner being registered, provided that these additional requirements are met:³³
 - The dispensing, administering, or prescribing is in the usual course of professional practice;
 - The practitioner is authorized to do so by the state in which he or she practices;
 - The hospital or other institution has verified that the practitioner is permitted to administer, dispense, or prescribe controlled substances within the state;
 - The practitioner acts only within the scope of employment in the hospital or other institution;
 - The hospital or other institution authorizes the practitioner to administer, dispense, or prescribe under its registration and assigns a specific internal code number for each practitioner; and
 - The hospital or other institution maintains a current list of internal codes and the corresponding practitioner.³⁴

III. Effect of Proposed Changes:

The bill expresses Legislative recognition of the status of access to primary health care in this state. The Legislature recognizes the importance of access to primary health care, especially for those citizens residing in medically underserved areas of the state. The Legislature further recognizes the shortage of primary care providers, both statewide and nationally, which necessitates the removal of regulatory barriers that prevent physician assistants and advanced registered nurse practitioners from practicing to the full extent of their education, training, and certification.

Prescribing Controlled Substances by PAs and ARNPs

CS/CS/CS/SB 614 authorizes physician assistants (PAs) licensed under the Medical Practice Act³⁵ or the Osteopathic Medical Practice Act³⁶ and advanced registered nurse practitioners (ARNPs) certified under the Nurse Practice Act³⁷ to prescribe controlled substances under current supervisory standards for PAs and protocols for ARNPs, effective January 1, 2016. Conditions for such prescribing are included in the bill and those as well as other restrictions are authorized to be adopted in rule as recommended by formulary committees.

³³ See *supra* note 31, at p. 18.

³⁴ See *supra* note 31, at p. 12.

³⁵ See ch. 458, F.S.

³⁶ See ch. 459, F.S.

³⁷ See part I, ch. 464, F.S.

For PAs, the authorization is accomplished by removing controlled substances generally from the formulary³⁸ of medicinal drugs that a PA is prohibiting from prescribing.³⁹ However, the bill requires the formulary to limit the prescription of Schedule II controlled substances to a 7-day supply.⁴⁰ The formulary must also restrict the prescribing of psychiatric mental health controlled substances for children under 18 years of age.

The Osteopathic Medical Practice Act refers to the formulary in the Medical Practice Act, so no changes are made to that act.⁴¹ Also, a PA licensed under either medical practice act is added to the definition of practitioner in ch. 893, F.S., which requires practitioners to hold a valid federal controlled substance registry number.⁴²

The bill imposes practice and disciplinary standards on PAs and ARNPs similar to those applicable to physicians. Disciplinary standards that are applicable to physicians are already applicable to PAs,⁴³ so no additional amendments are needed for violations relating to controlled substances.

For ARNPs, the authorization to prescribe controlled substances is effective January 1, 2016, and is accomplished through revision of existing authority pertaining to drug therapies. The bill authorizes an ARNP to “prescribe, dispense, administer, or order any” drug if the ARNP has a master’s degree in a clinical nursing specialty area with training in specialized practitioner skills, and as described below, is not included in the formulary of controlled substances applicable to ARNPs.⁴⁴ In addition, the term ARNP is added to the definition of practitioner in ch. 893, F.S., which requires practitioners to hold a valid federal controlled substance registry number.⁴⁵

The bill requires the appointment of a committee⁴⁶ to recommend an evidence-based formulary of controlled substances (controlled substances formulary) that an ARNP may not prescribe, or may prescribe under limited circumstances, as needed to protect the public interest. The committee may recommend a controlled substances formulary applicable to all ARNPs that may be limited by specialty certification, approved uses of controlled substances, or other similar restrictions deemed necessary to protect the public interest. At a minimum, the formulary must restrict the prescribing of psychiatric mental health controlled substances for children under 18 years of age to psychiatric nurses as defined in the Baker Act.⁴⁷ The formulary must also limit

³⁸ See s. 458.347(4)(f), F.S. A formulary is a list of medicines.

³⁹ See section 14 of the bill.

⁴⁰ A controlled substances in Schedule II has a high potential for abuse, has a currently accepted but severely restricted medical use in treatment, and abuse of the substance may lead to severe psychological or physical dependence. Oxycodone, hydrocodone, and fentanyl are examples of substances in Schedule II. See s. 893.03(2), F.S.

⁴¹ See Section 459.022(4)(e), F.S.

⁴² See section 25 of the bill.

⁴³ See s. 458.347(7)(g), F.S., and s. 459.022(7)(g), F.S.

⁴⁴ See sections 16 and 17 of the bill.

⁴⁵ See *supra* note 41.

⁴⁶ The committee membership is: three ARNPs, including a certified registered nurse anesthetist, a certified nurse midwife, and a nurse practitioner; at least one physician recommended by the Board of Medicine and one physician recommended by the Board of Osteopathic Medicine, who have experience working with APRNs; and a pharmacist licensed under ch. 465, F.S., who is not also licensed as a physician under ch. 458, F.S., an osteopathic physician under ch. 459, F.S., or an ARNP under ch. 464, F.S. The committee members are selected by the State Surgeon General.

⁴⁷ The Baker Act is also known as the Florida Mental Health Act and the definition of a psychiatric nurse is found in s. 394.455, F.S.

the prescribing of controlled substances in Schedule II to a 7-day supply, similar to the limitation imposed for PAs, except this limitation does not apply to a psychiatric medication prescribed by a psychiatric nurse under the Baker Act.

The committee formed to recommend the controlled substances formulary is a replacement to a joint committee that was established in law for other purposes but which has been dormant for many years. The formulary committee consists of three Florida-certified ARNPs who are recommended by the Board of Nursing (board), three physicians licensed under ch. 458 or ch. 459 who have had work experience with ARNPs and who are recommended by the Board of Medicine, and a Florida-licensed pharmacist who holds a Doctor of Pharmacy degree who is recommended by the Board of Pharmacy.

The board shall establish the controlled substances formulary for ARNPs by January 1, 2016. The board shall adopt recommendations for the formulary that are made by the committee and which are supported by evidence-based clinical findings presented by the Board of Medicine, the Board of Osteopathic Medicine, or the Board of Dentistry.

The controlled substances formulary adopted by board rule does not apply to the following acts performed within the ARNP's specialty under the established protocol approved by the medical staff of the facilities in which the service is performed, which are currently authorized under s. 464.012(4)(a)(3. and 4., F.S.:

- Orders for preanesthetic medications; or
- Ordering and administering regional, spinal, and general anesthesia, inhalation agents and techniques, intravenous agents and techniques, hypnosis, and other protocol procedures commonly used to render the patient insensible to pain during surgical, obstetrical, therapeutic, or diagnostic clinical procedures.

Section 456.072(7), F.S. is revised to include disciplinary sanctions against ARNPs which mirror sanctions against physician for prescribing or dispensing a controlled substance other in the course of professional practice or for failing to meet practice standards. Additional acts added to s. 464.018(1)(p), F.S., for which discipline relating to controlled substances may be sought against an ARNP include:

- Presigning blank prescription forms;
- Prescribing a Schedule II drug for office use;
- Prescribing, dispensing, or administering an amphetamine or sympathomimetic amine drug, except for specified conditions;
- Prescribing, dispensing, or administering certain hormones for muscle-building or athletic performance;
- Promoting or advertising a pharmacy on a prescription form unless the form also states that the prescription may be filled at the pharmacy of your choice;
- Prescribing, dispensing, or administering drugs, including controlled substances, other than in the course of his or her professional practice.;
- Prescribing, dispensing, or administering a controlled substance to himself or herself;
- Prescribing, dispensing, or administering laetrile;
- Dispensing a controlled substance listed in Schedule II or Schedule III in violation of the requirements for dispensing practitioners in the Pharmacy Practice Act; or

- Promoting or advertising controlled substances.

Both PAs and ARNPs are required to complete three hours of their mandatory hours of continuing education on a course addressing the safe and effective prescribing of controlled substances. The required course shall be offered by a statewide professional association of physicians in Florida accredited to provide educational activities by specified entities.⁴⁸

A PA or ARNP who prescribes any controlled substance that is listed in Schedule II, Schedule III, or Schedule IV, for the treatment of chronic nonmalignant pain is required to designate himself or herself as a controlled substance prescribing practitioner on his or her practitioner profile maintained by the Department of Health.⁴⁹ Currently, PAs do not have practitioner profiles, so the capacity for a PA to establish and update practitioner profiles must be developed by the Department of Health so that compliance with this requirement will be possible.⁵⁰

The statutes regulating pain-management clinics under the Medical Practice Act and the Osteopathic Medical Practice Act are amended to limit the prescribing of controlled substances in a pain-management clinic to physicians licensed under those acts (ch. 458, F.S. and ch. 459, F.S.). Accordingly, PAs and ARNPs are prohibited from prescribing controlled substances in pain-management clinics.⁵¹

The term “interventional pain medicine” is defined in the bill to mean the practice of medicine devoted to the diagnosis and treatment of pain-related disorders, principally with the application of interventional techniques in managing chronic, intractable pain, independently or in conjunction with other treatment modalities. The bill describes these interventional techniques to include several minimally invasive procedures and surgical techniques. The bill prohibits a person from practicing or offering to practice interventional pain medicine unless the practice is performed in a hospital, ambulatory surgical center, or mobile surgical facility or under the direct supervision of a licensed physician.⁵²

Under current law, a medical specialist who is board certified or board eligible in pain medicine by certain boards is exempted from the statutory standards of practice in s. 456.44, F.S., relating to prescribing controlled substances for the treatment of chronic nonmalignant pain. Two additional boards are added to that list. The boards are the American Board of Interventional Pain Physicians and the American Association of Physician Specialists.⁵³

Sections 1 – 4 and Section 26 of the bill amend these statutes to authorize or recognize that a PA or an ARNP may be a prescriber of controlled substances:

⁴⁸ See sections 13 and 18 of the bill.

⁴⁹ See section 9 of the bill.

⁵⁰ See Department of Health, *Senate Bill 614 Analysis* (Feb. 13, 2015) (on file with the Senate Committee on Regulated Industries).

⁵¹ See sections 11 and 12 of the bill.

⁵² See section 10 of the bill.

⁵³ See section 9 of the bill.

- Section 110.12315, F.S., relating to the state employees' prescription drug program, to authorize ARNPs and PAs to prescribe brand name drugs which are medically necessary or are included on the formulary of drugs which may not be interchanged.
- Section 310.071, F.S., relating to deputy pilot certification; s. 310.073, F.S. relating to state pilot licensing; and s. 310.081, F.S., relating to licensed state pilots and certified deputy pilots, regarding the zero tolerance for any controlled substance other than those prescribed by an authorized practitioner, to allow the presence of a controlled substance in the pilot's drug test results, if prescribed by an ARNP or PA whose care the pilot is under, as a part of the annual physical examination required for initial certification, initial licensure, and certification and licensure retention.
- Section 948.03, F.S., relating to terms and condition of criminal probation, to include an ARNP and PA as an authorized prescriber of drugs or narcotics that a person on probation may lawfully possess.

Step Therapy / Fail First / Prior Authorization

The bill facilitates access to medications through an expedited override process for or bypass of step-therapy or fail-first protocols that are imposed by Medicaid managed care plans, other health insurers, and health maintenance organizations (referred to collectively as insurer). Typically a step-therapy or fail-first protocol requires a patient to use certain medication therapies which may be more cost efficient, have fewer side effects for the general population, or the like. These provisions will allow a patient to receive recommended treatment more expeditiously without undergoing known or medically-determined ineffective therapy first. This may be especially helpful for a patient that is stabilized on a medication but who changes health plans.

The bill amends ss. 409.967, 627.6466, and 641.393, F.S., to require insurers to provide a clear and convenient process for prescribing providers to request an override of a step-therapy or fail-first protocol. The insurer is required to grant an override of the protocol within 24 hours when the prescribing provider determines the treatment has been ineffective for the patient's disease or medical condition, is expected to be ineffective given the specific characteristics and medical history of the patient, or will likely cause an adverse reaction or other physical harm to the patient.

If a prescribing provider allows a patient to enter a step-therapy or fail-first protocol, the duration of participation may not exceed the period determined appropriate by the prescribing provider. If the prescribing provider determines the treatment to be clinically ineffective, the patient may receive the recommended therapy without the prescribing provider seeking approval from the insurer.

Health insurers, managed care plans, health maintenance organizations, and pharmacy benefits managers which do not use an online prior authorization form must use a standardized prior authorize form that has been adopted by rules of the Financial Services Commission beginning January 1, 2016.

Hospital Regulation

The bill requires a hospital to notify each obstetrical physician with privileges at that hospital at least 90 days before it closes its obstetrical department or ceases to provide obstetrical services. This notification period will allow for the physician and patient to make alternate plans for delivery within a safer time of pregnancy. The bill repeals a provision designating certain hospitals as provider hospitals, which have special requirements for cesarean section operations that are paid for by the state, including a review board for such operations.

Technical Revisions & Effective Date

Additional conforming and grammatical changes are made in the bill. Various sections are re-enacted for the purpose of incorporating amendments made by the bill to those sections.

Except as otherwise expressly provided in the bill, the bill takes effect upon becoming law.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

PAs and ARNPs who are authorized by the supervising physician or under a protocol to prescribe controlled substances may be able to care for more patients due to reduced coordination with the supervising physician each time a controlled substance is recommended for a patient. Patients may see reduced health care costs and efficiencies in health care delivery as a result of having their health care needs more fully addressed by the PA or ARNP without specific involvement of a physician prescribing a needed controlled substance for treatment. Any such impacts are indeterminate.

Patients who are able to initiate therapy recommended by their health care provider more quickly, may see a reduction in overall health care costs through among other things, improved health status more quickly.

Limiting paper prior authorization forms to a single format may expedite completion of the forms for greater efficiencies in a medical practice.

C. Government Sector Impact:

The Department of Health indicates that it will incur costs for rulemaking, modifications to develop a profile for PAs, and workload impacts related to additional complaints and investigations. These costs can be absorbed within current resources and budget authority.⁵⁴

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill does not require physician assistants under the Osteopathic Medical Practice Act (ch. 459, F.S.) to obtain 3 hours of continuing education on the safe and effective prescribing of controlled substances on a comparable basis to that required of physician assistants under the Medical Practice Act (ch. 458, F.S.). Similar general continuing education language is found in s. 459.022(4)(e)3, F.S.

The bill limits the prescribing of psychiatric mental health controlled substances for children under 18 years of age. This term is not defined.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 110.12315, 310.071, 310.073, 310.081, 395.1051, 409.967, 456.072, 456.44, 458.326, 458.3265, 458.347, 458.348, 459.0137, 459.025, 464.003, 464.012, 464.013, 464.018, 627.6131, 627.6466, 641.3155, 641.393, 893.02, and 948.03.

The bill creates section 627.42392 of the Florida Statutes.

This bill re-enacts the following sections of the Florida Statutes: 310.071, 320.0848, 456.041, 456.072, 458.303, 458.331, 458.347, 458.3475, 458.348, 459.015, 459.022, 459.023, 459.025, 464.008, 464.009, 464.018, 464.0205, 465.0158, 466.02751, 775.051, 944.17, 948.001, and 948.101.

This bill repeals section 383.336 of the Florida Statutes.

⁵⁴ See *supra* note 46.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

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

CS/CS/CS by Rules on April 20, 2015:

- Reduces the advance notice requirement from 120 days to 90 for a hospital to notify obstetrical physicians with privileges at the hospital that the hospital will be closing its obstetrical department.
- Restricts certain practices relating to interventional pain medicine to persons under direct supervision of a physician, or to acts performed within a facility licensed under ch. 395, F.S., which includes a hospital, ambulatory surgical center, or mobile surgical facility.
- Requires PAs and ARNPs to attend at least 3 hours of continuing education on the safe and effective prescription of controlled substances.
- Effective January 1, 2016, authorizes PAs to prescribe controlled substances in accordance with limitations in the bill, including prescriptions for Schedule II controlled substances may not exceed a 7-day supply and prohibiting the prescribing of controlled substances that are psychotropic medications to children under age 18.
- Changes the representatives on the formulary committee for ARNPs practices with controlled substances to be made up of 3 ARNPs (removes representation from each sub-classification); 3 physicians licensed under ch. 458 or ch. 459, all of whom are appointed by the Board of Medicine; and a pharmacist.
- Effective January 1, 2016, authorizes ARNPs to prescribe, dispense, administer, or order controlled substances if the ARNP has graduated from a program with a master's degree in a clinical nursing specialty area with training in specialized practitioner skills.
- Limits ARNP-issued prescriptions for Schedule II controlled substances to a 7-day supply, except for a psychiatric nurse, and only a psychiatric nurse under the Baker Act may prescribe a controlled substance that is a psychotropic medication to a child under age 18.
- Requires a convenient process for a prescribing provider to request an override to a step-therapy or fail-first protocol, receive a response within 24 hours under specified circumstances, and proceed directly to the preferred medication if a step-therapy or fail-first treatment is clinically ineffective.
- Requires insurers that do not use online prior authorization forms to use a prior authorization form adopted by the Financial Services Commission beginning January 1, 2016.
- Prohibits an insurer from retroactively denying a claim for ineligibility if the insurer or health maintenance organization verified the eligibility of the insured at the time of treatment.
- Changes the effective date of the bill from July 1, 2105, to upon becoming a law and to reflect alternate effective dates for specific provisions.

CS/CS by Regulated Industries on March 31, 2015:

CS/CS/SB 614 requires the appointment of a committee by the State Surgeon General to recommend a listing (formulary) of controlled substances that may not be prescribed by

ARNPs, or may only be prescribed for certain uses or in limited circumstances. It provides the membership of the committee. If establishment of a formulary is recommended, the Board of Nursing (board) must adopt a formulary by rule. Future changes to the formulary must be justified to the board. If adopted, the formulary will not apply to certain services that an ARNP is currently authorized to perform under limited conditions when authorized by the staff of a medical facility, such as the ordering and administration of medication, regional, spinal, and general anesthesia.

The committee substitute requires a hospital to notify each obstetrical physician with privileges at that hospital at least 120 days before it closes its obstetrical department or ceases to provide obstetrical services. The committee substitute repeals a provision designating certain hospitals as provider hospitals, which have special requirements for cesarean section operations that are paid for by the state, including a review board for such operations.

CS by Health Policy on March 17, 2015:

The committee substitute limits the prescribing of controlled substances in a pain-management clinic to physicians, removes the term “certified” before a reference to nurse practitioner, and makes other technical changes.

B. Amendments:

None.



395678

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/20/2015	.	
	.	
	.	
	.	

The Committee on Rules (Soto) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (7) of section 110.12315, Florida
Statutes, is amended to read:

110.12315 Prescription drug program.—The state employees'
prescription drug program is established. This program shall be
administered by the Department of Management Services, according
to the terms and conditions of the plan as established by the
relevant provisions of the annual General Appropriations Act and



12 implementing legislation, subject to the following conditions:

13 (7) The department shall establish the reimbursement
14 schedule for prescription pharmaceuticals dispensed under the
15 program. Reimbursement rates for a prescription pharmaceutical
16 must be based on the cost of the generic equivalent drug if a
17 generic equivalent exists, unless the physician, advanced
18 registered nurse practitioner, or physician assistant
19 prescribing the pharmaceutical clearly states on the
20 prescription that the brand name drug is medically necessary or
21 that the drug product is included on the formulary of drug
22 products that may not be interchanged as provided in chapter
23 465, in which case reimbursement must be based on the cost of
24 the brand name drug as specified in the reimbursement schedule
25 adopted by the department.

26 Section 2. Paragraph (c) of subsection (1) of section
27 310.071, Florida Statutes, is amended, and subsection (3) of
28 that section is republished, to read:

29 310.071 Deputy pilot certification.—

30 (1) In addition to meeting other requirements specified in
31 this chapter, each applicant for certification as a deputy pilot
32 must:

33 (c) Be in good physical and mental health, as evidenced by
34 documentary proof of having satisfactorily passed a complete
35 physical examination administered by a licensed physician within
36 the preceding 6 months. The board shall adopt rules to establish
37 requirements for passing the physical examination, which rules
38 shall establish minimum standards for the physical or mental
39 capabilities necessary to carry out the professional duties of a
40 certificated deputy pilot. Such standards shall include zero



395678

41 tolerance for any controlled substance regulated under chapter
42 893 unless that individual is under the care of a physician,
43 advanced registered nurse practitioner, or physician assistant
44 and that controlled substance was prescribed by that physician,
45 advanced registered nurse practitioner, or physician assistant.

46 To maintain eligibility as a certificated deputy pilot, each
47 certificated deputy pilot must annually provide documentary
48 proof of having satisfactorily passed a complete physical
49 examination administered by a licensed physician. The physician
50 must know the minimum standards and certify that the
51 certificateholder satisfactorily meets the standards. The
52 standards for certificateholders shall include a drug test.

53 (3) The initial certificate issued to a deputy pilot shall
54 be valid for a period of 12 months, and at the end of this
55 period, the certificate shall automatically expire and shall not
56 be renewed. During this period, the board shall thoroughly
57 evaluate the deputy pilot's performance for suitability to
58 continue training and shall make appropriate recommendations to
59 the department. Upon receipt of a favorable recommendation by
60 the board, the department shall issue a certificate to the
61 deputy pilot, which shall be valid for a period of 2 years. The
62 certificate may be renewed only two times, except in the case of
63 a fully licensed pilot who is cross-licensed as a deputy pilot
64 in another port, and provided the deputy pilot meets the
65 requirements specified for pilots in paragraph (1) (c).

66 Section 3. Subsection (3) of section 310.073, Florida
67 Statutes, is amended to read:

68 310.073 State pilot licensing.—In addition to meeting other
69 requirements specified in this chapter, each applicant for



70 license as a state pilot must:

71 (3) Be in good physical and mental health, as evidenced by
72 documentary proof of having satisfactorily passed a complete
73 physical examination administered by a licensed physician within
74 the preceding 6 months. The board shall adopt rules to establish
75 requirements for passing the physical examination, which rules
76 shall establish minimum standards for the physical or mental
77 capabilities necessary to carry out the professional duties of a
78 licensed state pilot. Such standards shall include zero
79 tolerance for any controlled substance regulated under chapter
80 893 unless that individual is under the care of a physician,
81 advanced registered nurse practitioner, or physician assistant
82 and that controlled substance was prescribed by that physician,
83 advanced registered nurse practitioner, or physician assistant.

84 To maintain eligibility as a licensed state pilot, each licensed
85 state pilot must annually provide documentary proof of having
86 satisfactorily passed a complete physical examination
87 administered by a licensed physician. The physician must know
88 the minimum standards and certify that the licensee
89 satisfactorily meets the standards. The standards for licensees
90 shall include a drug test.

91 Section 4. Paragraph (b) of subsection (3) of section
92 310.081, Florida Statutes, is amended to read:

93 310.081 Department to examine and license state pilots and
94 certificate deputy pilots; vacancies.-

95 (3) Pilots shall hold their licenses or certificates
96 pursuant to the requirements of this chapter so long as they:

97 (b) Are in good physical and mental health as evidenced by
98 documentary proof of having satisfactorily passed a physical



395678

99 examination administered by a licensed physician or physician
100 assistant within each calendar year. The board shall adopt rules
101 to establish requirements for passing the physical examination,
102 which rules shall establish minimum standards for the physical
103 or mental capabilities necessary to carry out the professional
104 duties of a licensed state pilot or a certificated deputy pilot.
105 Such standards shall include zero tolerance for any controlled
106 substance regulated under chapter 893 unless that individual is
107 under the care of a physician, advanced registered nurse
108 practitioner, or physician assistant and that controlled
109 substance was prescribed by that physician, advanced registered
110 nurse practitioner, or physician assistant. To maintain
111 eligibility as a certificated deputy pilot or licensed state
112 pilot, each certificated deputy pilot or licensed state pilot
113 must annually provide documentary proof of having satisfactorily
114 passed a complete physical examination administered by a
115 licensed physician. The physician must know the minimum
116 standards and certify that the certificateholder or licensee
117 satisfactorily meets the standards. The standards for
118 certificateholders and for licensees shall include a drug test.
119
120 Upon resignation or in the case of disability permanently
121 affecting a pilot's ability to serve, the state license or
122 certificate issued under this chapter shall be revoked by the
123 department.

124 Section 5. Section 383.336, Florida Statutes, is repealed.

125 Section 6. Section 395.1051, Florida Statutes, is amended
126 to read:

127 395.1051 Duty to notify patients and physicians.-



395678

128 (1) An appropriately trained person designated by each
129 licensed facility shall inform each patient, or an individual
130 identified pursuant to s. 765.401(1), in person about adverse
131 incidents that result in serious harm to the patient.
132 Notification of outcomes of care that result in harm to the
133 patient under this section does ~~shall~~ not constitute an
134 acknowledgment or admission of liability and may not, ~~nor can it~~
135 be introduced as evidence.

136 (2) A hospital shall notify each obstetrical physician who
137 has privileges at the hospital at least 90 days before the
138 hospital closes its obstetrical department or ceases to provide
139 obstetrical services.

140 Section 7. Subsection (7) of section 456.072, Florida
141 Statutes, is amended to read:

142 456.072 Grounds for discipline; penalties; enforcement.—

143 (7) Notwithstanding subsection (2), upon a finding that a
144 physician has prescribed or dispensed a controlled substance, or
145 caused a controlled substance to be prescribed or dispensed, in
146 a manner that violates the standard of practice set forth in s.
147 458.331(1)(q) or (t), s. 459.015(1)(t) or (x), s. 461.013(1)(o)
148 or (s), or s. 466.028(1)(p) or (x), or that an advanced
149 registered nurse practitioner has prescribed or dispensed a
150 controlled substance, or caused a controlled substance to be
151 prescribed or dispensed in a manner that violates the standard
152 of practice set forth in s. 464.018(1)(n) or s. 464.018(1)(p)6.,
153 the physician or advanced registered nurse practitioner shall be
154 suspended for a period of not less than 6 months and pay a fine
155 of not less than \$10,000 per count. Repeated violations shall
156 result in increased penalties.



395678

157 Section 8. Subsections (2) and (3) of section 456.44,
158 Florida Statutes, are amended to read:

159 456.44 Controlled substance prescribing.—

160 (2) REGISTRATION.—~~Effective January 1, 2012,~~ A physician
161 licensed under chapter 458, chapter 459, chapter 461, or chapter
162 466, a physician assistant licensed under chapter 458 or chapter
163 459, or an advanced registered nurse practitioner certified
164 under part I of chapter 464 who prescribes any controlled
165 substance, listed in Schedule II, Schedule III, or Schedule IV
166 as defined in s. 893.03, for the treatment of chronic
167 nonmalignant pain, must:

168 (a) Designate himself or herself as a controlled substance
169 prescribing practitioner on his or her ~~the physician's~~
170 practitioner profile.

171 (b) Comply with the requirements of this section and
172 applicable board rules.

173 (3) STANDARDS OF PRACTICE.—The standards of practice in
174 this section do not supersede the level of care, skill, and
175 treatment recognized in general law related to health care
176 licensure.

177 (a) A complete medical history and a physical examination
178 must be conducted before beginning any treatment and must be
179 documented in the medical record. The exact components of the
180 physical examination shall be left to the judgment of the
181 registrant ~~clinician~~ who is expected to perform a physical
182 examination proportionate to the diagnosis that justifies a
183 treatment. The medical record must, at a minimum, document the
184 nature and intensity of the pain, current and past treatments
185 for pain, underlying or coexisting diseases or conditions, the



395678

186 effect of the pain on physical and psychological function, a
187 review of previous medical records, previous diagnostic studies,
188 and history of alcohol and substance abuse. The medical record
189 shall also document the presence of one or more recognized
190 medical indications for the use of a controlled substance. Each
191 registrant must develop a written plan for assessing each
192 patient's risk of aberrant drug-related behavior, which may
193 include patient drug testing. Registrants must assess each
194 patient's risk for aberrant drug-related behavior and monitor
195 that risk on an ongoing basis in accordance with the plan.

196 (b) Each registrant must develop a written individualized
197 treatment plan for each patient. The treatment plan shall state
198 objectives that will be used to determine treatment success,
199 such as pain relief and improved physical and psychosocial
200 function, and shall indicate if any further diagnostic
201 evaluations or other treatments are planned. After treatment
202 begins, the registrant ~~physician~~ shall adjust drug therapy to
203 the individual medical needs of each patient. Other treatment
204 modalities, including a rehabilitation program, shall be
205 considered depending on the etiology of the pain and the extent
206 to which the pain is associated with physical and psychosocial
207 impairment. The interdisciplinary nature of the treatment plan
208 shall be documented.

209 (c) The registrant ~~physician~~ shall discuss the risks and
210 benefits of the use of controlled substances, including the
211 risks of abuse and addiction, as well as physical dependence and
212 its consequences, with the patient, persons designated by the
213 patient, or the patient's surrogate or guardian if the patient
214 is incompetent. The registrant ~~physician~~ shall use a written



395678

215 controlled substance agreement between the registrant ~~physician~~
216 and the patient outlining the patient's responsibilities,
217 including, but not limited to:

218 1. Number and frequency of controlled substance
219 prescriptions and refills.

220 2. Patient compliance and reasons for which drug therapy
221 may be discontinued, such as a violation of the agreement.

222 3. An agreement that controlled substances for the
223 treatment of chronic nonmalignant pain shall be prescribed by a
224 single treating registrant ~~physician~~ unless otherwise authorized
225 by the treating registrant ~~physician~~ and documented in the
226 medical record.

227 (d) The patient shall be seen by the registrant ~~physician~~
228 at regular intervals, not to exceed 3 months, to assess the
229 efficacy of treatment, ensure that controlled substance therapy
230 remains indicated, evaluate the patient's progress toward
231 treatment objectives, consider adverse drug effects, and review
232 the etiology of the pain. Continuation or modification of
233 therapy shall depend on the registrant's ~~physician's~~ evaluation
234 of the patient's progress. If treatment goals are not being
235 achieved, despite medication adjustments, the registrant
236 ~~physician~~ shall reevaluate the appropriateness of continued
237 treatment. The registrant ~~physician~~ shall monitor patient
238 compliance in medication usage, related treatment plans,
239 controlled substance agreements, and indications of substance
240 abuse or diversion at a minimum of 3-month intervals.

241 (e) The registrant ~~physician~~ shall refer the patient as
242 necessary for additional evaluation and treatment in order to
243 achieve treatment objectives. Special attention shall be given



395678

244 to those patients who are at risk for misusing their medications
245 and those whose living arrangements pose a risk for medication
246 misuse or diversion. The management of pain in patients with a
247 history of substance abuse or with a comorbid psychiatric
248 disorder requires extra care, monitoring, and documentation and
249 requires consultation with or referral to an addiction medicine
250 specialist or psychiatrist.

251 (f) A registrant ~~physician~~ registered under this section
252 must maintain accurate, current, and complete records that are
253 accessible and readily available for review and comply with the
254 requirements of this section, the applicable practice act, and
255 applicable board rules. The medical records must include, but
256 are not limited to:

257 1. The complete medical history and a physical examination,
258 including history of drug abuse or dependence.

259 2. Diagnostic, therapeutic, and laboratory results.

260 3. Evaluations and consultations.

261 4. Treatment objectives.

262 5. Discussion of risks and benefits.

263 6. Treatments.

264 7. Medications, including date, type, dosage, and quantity
265 prescribed.

266 8. Instructions and agreements.

267 9. Periodic reviews.

268 10. Results of any drug testing.

269 11. A photocopy of the patient's government-issued photo
270 identification.

271 12. If a written prescription for a controlled substance is
272 given to the patient, a duplicate of the prescription.



395678

273 13. The registrant's ~~physician's~~ full name presented in a
274 legible manner.

275 (g) Patients with signs or symptoms of substance abuse
276 shall be immediately referred to a board-certified pain
277 management physician, an addiction medicine specialist, or a
278 mental health addiction facility as it pertains to drug abuse or
279 addiction unless the registrant is a physician who is board-
280 certified or board-eligible in pain management. Throughout the
281 period of time before receiving the consultant's report, a
282 prescribing registrant ~~physician~~ shall clearly and completely
283 document medical justification for continued treatment with
284 controlled substances and those steps taken to ensure medically
285 appropriate use of controlled substances by the patient. Upon
286 receipt of the consultant's written report, the prescribing
287 registrant ~~physician~~ shall incorporate the consultant's
288 recommendations for continuing, modifying, or discontinuing
289 controlled substance therapy. The resulting changes in treatment
290 shall be specifically documented in the patient's medical
291 record. Evidence or behavioral indications of diversion shall be
292 followed by discontinuation of controlled substance therapy, and
293 the patient shall be discharged, and all results of testing and
294 actions taken by the registrant ~~physician~~ shall be documented in
295 the patient's medical record.

296 (h) Upon receipt from the Board of Nursing of the name of a
297 physician or dentist who has an established protocol with an
298 advanced registered nurse practitioner whose prescribing of
299 controlled substances may constitute grounds for disciplinary
300 action pursuant to s. 464.018(1)(n) or s. 464.018(1)(p)6., the
301 Board of Medicine, the Board of Osteopathic Medicine, or the



395678

302 Board of Dentistry, as appropriate, shall investigate the
303 occurrences upon which the report was based and determine if
304 action by the board against the physician or dentist is
305 warranted. In addition, the respective board shall determine
306 whether the actions of the advanced registered nurse
307 practitioner violate medical standards for controlled substance
308 prescribing, and forward those finding to the Board of Nursing.
309

310 This subsection does not apply to a board-eligible or board-
311 certified anesthesiologist, physiatrist, rheumatologist, or
312 neurologist, or to a board-certified physician who has surgical
313 privileges at a hospital or ambulatory surgery center and
314 primarily provides surgical services. This subsection does not
315 apply to a board-eligible or board-certified medical specialist
316 who has also completed a fellowship in pain medicine approved by
317 the Accreditation Council for Graduate Medical Education or the
318 American Osteopathic Association, or who is board eligible or
319 board certified in pain medicine by the American Board of Pain
320 Medicine, the American Board of Interventional Pain Physicians,
321 the American Association of Physician Specialists, or a board
322 approved by the American Board of Medical Specialties or the
323 American Osteopathic Association and performs interventional
324 pain procedures of the type routinely billed using surgical
325 codes. This subsection does not apply to a registrant, advanced
326 registered nurse practitioner, or physician assistant who
327 prescribes medically necessary controlled substances for a
328 patient during an inpatient stay in a hospital licensed under
329 chapter 395.

330 Section 9. Section 458.326, Florida Statutes, is amended to



395678

331 read:

332 458.326 Intractable pain; authorized treatment;
333 interventional pain medicine; unauthorized practice.-

334 (1) (a) For the purposes of this subsection ~~section~~, the
335 term "intractable pain" means pain for which, in the generally
336 accepted course of medical practice, the cause cannot be removed
337 and otherwise treated.

338 (b) ~~(2)~~ Intractable pain must be diagnosed by a physician
339 licensed under this chapter and qualified by experience to
340 render such diagnosis.

341 (c) ~~(3)~~ Notwithstanding any other provision of law, a
342 physician may prescribe or administer any controlled substance
343 under Schedules II-V, as provided for in s. 893.03, to a person
344 for the treatment of intractable pain, provided the physician
345 does so in accordance with that level of care, skill, and
346 treatment recognized by a reasonably prudent physician under
347 similar conditions and circumstances.

348 (d) ~~(4)~~ Nothing in this section shall be construed to
349 condone, authorize, or approve mercy killing or euthanasia, and
350 no treatment authorized by this section may be used for such
351 purpose.

352 (2) (a) For the purposes of this subsection, the term
353 "interventional pain medicine" means the practice of medicine
354 devoted to the diagnosis and treatment of pain-related
355 disorders, principally with the application of interventional
356 techniques in managing chronic, intractable pain, independently
357 or in conjunction with other treatment modalities. These
358 techniques include minimally invasive procedures, including
359 percutaneous precision needle placement, with placement of drugs



395678

360 in targeted areas or destruction of targeted nerves, and some
361 surgical techniques such as laser or endoscopic discectomy,
362 cement stabilization of spine fractures, intrathecal infusion
363 pumps, and spinal cord stimulators, for the diagnosis and
364 management of chronic, intractable pain.

365 (b) A person may not practice interventional pain medicine
366 or offer to practice interventional pain medicine, unless such
367 acts are performed within facilities licensed under chapter 395
368 or are performed by or under the direct supervision of a
369 physician licensed under this chapter or an osteopathic
370 physician licensed under chapter 459.

371 Section 10. Paragraph (b) of subsection (2) of section
372 458.3265, Florida Statutes, is amended to read:

373 458.3265 Pain-management clinics.—

374 (2) PHYSICIAN RESPONSIBILITIES.—These responsibilities
375 apply to any physician who provides professional services in a
376 pain-management clinic that is required to be registered in
377 subsection (1).

378 (b) A person may not dispense any medication on the
379 premises of a registered pain-management clinic unless he or she
380 is a physician licensed under this chapter or chapter 459. A
381 person may not prescribe any controlled substance regulated
382 under chapter 893 on the premises of a registered pain-
383 management clinic unless he or she is a physician licensed under
384 this chapter or chapter 459.

385 Section 11. Paragraph (b) of subsection (2) of section
386 459.0137, Florida Statutes, is amended to read:

387 459.0137 Pain-management clinics.—

388 (2) PHYSICIAN RESPONSIBILITIES.—These responsibilities



395678

389 apply to any osteopathic physician who provides professional
390 services in a pain-management clinic that is required to be
391 registered in subsection (1).

392 (b) A person may not dispense any medication on the
393 premises of a registered pain-management clinic unless he or she
394 is a physician licensed under this chapter or chapter 458. A
395 person may not prescribe any controlled substance regulated
396 under chapter 893 on the premises of a registered pain-
397 management clinic unless he or she is a physician licensed under
398 this chapter or chapter 458.

399 Section 12. Paragraph (e) of subsection (4) of section
400 458.347, Florida Statutes, is amended, and paragraph (c) of
401 subsection (9) of that section is republished, to read:

402 458.347 Physician assistants.—

403 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

404 (e) A supervisory physician may delegate to a fully
405 licensed physician assistant the authority to prescribe or
406 dispense any medication used in the supervisory physician's
407 practice unless such medication is listed on the formulary
408 created pursuant to paragraph (f). A fully licensed physician
409 assistant may only prescribe or dispense such medication under
410 the following circumstances:

411 1. A physician assistant must clearly identify to the
412 patient that he or she is a physician assistant. Furthermore,
413 the physician assistant must inform the patient that the patient
414 has the right to see the physician prior to any prescription
415 being prescribed or dispensed by the physician assistant.

416 2. The supervisory physician must notify the department of
417 his or her intent to delegate, on a department-approved form,



395678

418 before delegating such authority and notify the department of
419 any change in prescriptive privileges of the physician
420 assistant. Authority to dispense may be delegated only by a
421 supervising physician who is registered as a dispensing
422 practitioner in compliance with s. 465.0276.

423 3. The physician assistant must file with the department a
424 signed affidavit that he or she has completed a minimum of 10
425 continuing medical education hours in the specialty practice in
426 which the physician assistant has prescriptive privileges with
427 each licensure renewal application. Three of the 10 hours must
428 consist of a continuing education course on the safe and
429 effective prescription of controlled substance medications,
430 which shall be offered by a statewide professional association
431 of physicians in this state accredited to provide educational
432 activities designated for the American Medical Association
433 Physician's Recognition Award Category I Credit.

434 4. The department may issue a prescriber number to the
435 physician assistant granting authority for the prescribing of
436 medicinal drugs authorized within this paragraph upon completion
437 of the foregoing requirements. The physician assistant shall not
438 be required to independently register pursuant to s. 465.0276.

439 5. The prescription must be written in a form that complies
440 with chapter 499 and must contain, in addition to the
441 supervisory physician's name, address, and telephone number, the
442 physician assistant's prescriber number. Unless it is a drug or
443 drug sample dispensed by the physician assistant, the
444 prescription must be filled in a pharmacy permitted under
445 chapter 465 and must be dispensed in that pharmacy by a
446 pharmacist licensed under chapter 465. The appearance of the



395678

447 prescriber number creates a presumption that the physician
448 assistant is authorized to prescribe the medicinal drug and the
449 prescription is valid.

450 6. The physician assistant must note the prescription or
451 dispensing of medication in the appropriate medical record.

452 (9) COUNCIL ON PHYSICIAN ASSISTANTS.—The Council on
453 Physician Assistants is created within the department.

454 (c) The council shall:

455 1. Recommend to the department the licensure of physician
456 assistants.

457 2. Develop all rules regulating the use of physician
458 assistants by physicians under this chapter and chapter 459,
459 except for rules relating to the formulary developed under
460 paragraph (4) (f). The council shall also develop rules to ensure
461 that the continuity of supervision is maintained in each
462 practice setting. The boards shall consider adopting a proposed
463 rule developed by the council at the regularly scheduled meeting
464 immediately following the submission of the proposed rule by the
465 council. A proposed rule submitted by the council may not be
466 adopted by either board unless both boards have accepted and
467 approved the identical language contained in the proposed rule.
468 The language of all proposed rules submitted by the council must
469 be approved by both boards pursuant to each respective board's
470 guidelines and standards regarding the adoption of proposed
471 rules. If either board rejects the council's proposed rule, that
472 board must specify its objection to the council with
473 particularity and include any recommendations it may have for
474 the modification of the proposed rule.

475 3. Make recommendations to the boards regarding all matters



395678

476 relating to physician assistants.

477 4. Address concerns and problems of practicing physician
478 assistants in order to improve safety in the clinical practices
479 of licensed physician assistants.

480 Section 13. Effective January 1, 2016, paragraph (f) of
481 subsection (4) of section 458.347, Florida Statutes, is amended
482 to read:

483 458.347 Physician assistants.—

484 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

485 (f)1. The council shall establish a formulary of medicinal
486 drugs that a fully licensed physician assistant having
487 prescribing authority under this section or s. 459.022 may not
488 prescribe. The formulary must include ~~controlled substances as~~
489 ~~defined in chapter 893,~~ general anesthetics, and radiographic
490 contrast materials, and must limit the prescription of Schedule
491 II controlled substances as defined in s. 893.03 to a 7-day
492 supply. The formulary must also restrict the prescribing of
493 controlled substances that are psychotropic medications,
494 including antihypnotics, antipsychotics, antidepressants,
495 anxiety agents, sedatives, psychomotor stimulants, and mood
496 stabilizers for children under the age of 18.

497 2. In establishing the formulary, the council shall consult
498 with a pharmacist licensed under chapter 465, but not licensed
499 under this chapter or chapter 459, who shall be selected by the
500 State Surgeon General.

501 3. Only the council shall add to, delete from, or modify
502 the formulary. Any person who requests an addition, deletion, or
503 modification of a medicinal drug listed on such formulary has
504 the burden of proof to show cause why such addition, deletion,



395678

505 or modification should be made.

506 4. The boards shall adopt the formulary required by this
507 paragraph, and each addition, deletion, or modification to the
508 formulary, by rule. Notwithstanding any provision of chapter 120
509 to the contrary, the formulary rule shall be effective 60 days
510 after the date it is filed with the Secretary of State. Upon
511 adoption of the formulary, the department shall mail a copy of
512 such formulary to each fully licensed physician assistant having
513 prescribing authority under this section or s. 459.022, and to
514 each pharmacy licensed by the state. The boards shall establish,
515 by rule, a fee not to exceed \$200 to fund the provisions of this
516 paragraph and paragraph (e).

517 Section 14. Subsection (2) of section 464.003, Florida
518 Statutes, is amended to read:

519 464.003 Definitions.—As used in this part, the term:

520 (2) "Advanced or specialized nursing practice" means, in
521 addition to the practice of professional nursing, the
522 performance of advanced-level nursing acts approved by the board
523 which, by virtue of postbasic specialized education, training,
524 and experience, are appropriately performed by an advanced
525 registered nurse practitioner. Within the context of advanced or
526 specialized nursing practice, the advanced registered nurse
527 practitioner may perform acts of nursing diagnosis and nursing
528 treatment of alterations of the health status. The advanced
529 registered nurse practitioner may also perform acts of medical
530 diagnosis and treatment, prescription, and operation as
531 authorized within the framework of an established supervisory
532 protocol ~~which are identified and approved by a joint committee~~
533 ~~composed of three members appointed by the Board of Nursing, two~~



395678

534 ~~of whom must be advanced registered nurse practitioners; three~~
535 ~~members appointed by the Board of Medicine, two of whom must~~
536 ~~have had work experience with advanced registered nurse~~
537 ~~practitioners; and the State Surgeon General or the State~~
538 ~~Surgeon General's designee. Each committee member appointed by a~~
539 ~~board shall be appointed to a term of 4 years unless a shorter~~
540 ~~term is required to establish or maintain staggered terms. The~~
541 ~~Board of Nursing shall adopt rules authorizing the performance~~
542 ~~of any such acts approved by the joint committee. Unless~~
543 ~~otherwise specified by the joint committee, such acts must be~~
544 ~~performed under the general supervision of a practitioner~~
545 ~~licensed under chapter 458, chapter 459, or chapter 466 within~~
546 ~~the framework of standing protocols which identify the medical~~
547 ~~acts to be performed and the conditions for their performance.~~
548 The department may, by rule, require that a copy of the protocol
549 be filed with the department along with the notice required by
550 s. 458.348.

551 Section 15. Subsection (6) is added to section 464.012,
552 Florida Statutes, to read:

553 464.012 Certification of advanced registered nurse
554 practitioners; fees; controlled substance prescribing.—

555 (6) (a) The board shall establish a committee to recommend a
556 formulary of controlled substances that an advanced registered
557 nurse practitioner may not prescribe or may prescribe only for
558 specific uses or for limited quantities. The committee must
559 consist of three advanced registered nurse practitioners
560 licensed under s. 464.012, recommended by the Board of Nursing;
561 three physicians licensed under chapter 458 or chapter 459 who
562 have had work experience with advanced registered nurse



395678

563 practitioners, recommended by the Board of Medicine; and a
564 pharmacist licensed under chapter 465 who holds a Doctor of
565 Pharmacy degree, recommended by the Board of Pharmacy. The
566 committee may recommend an evidence-based formulary applicable
567 to all advanced registered nurse practitioners, which is limited
568 by specially certification or to approved uses of controlled
569 substances, or subject to other similar restrictions the
570 committee finds are necessary to protect the health, safety, and
571 welfare of the public. The formulary must restrict the
572 prescribing of controlled substance psychotropic medications,
573 including antihypnotics, antipsychotics, antidepressants,
574 anxiety agents, sedatives, psychomotor stimulants, and mood
575 stabilizers for children under the age of 18 to psychiatric
576 nurses as defined in s. 394.455. The formulary must also limit
577 the prescribing of Schedule II controlled substances as defined
578 in s. 893.03 to a 7-day supply, except that such restriction
579 does not apply to controlled substances that are psychiatric
580 medications prescribed by psychiatric nurses as defined in
581 394.455.

582 (b) The board shall adopt by rule the recommended formulary
583 and recommended additions or deletions to the formulary which it
584 finds are supported by evidence-based clinical findings
585 presented by the Board of Medicine, the Board of Osteopathic
586 Medicine, or the Board of Dentistry.

587 (c) The formulary required under this subsection does not
588 apply to a controlled substance order that is dispensed for
589 administration including orders for medication authorized in
590 subparagraph (4) (a) 3. or subparagraph (4) (a) 4.

591 (d) The board shall adopt the committee's initial



395678

592 recommendation no later January 1, 2016.

593 Section 16. Effective January 1, 2016, subsection (3) of
594 section 464.012, Florida Statutes, is amended to read:

595 464.012 Certification of advanced registered nurse
596 practitioners; fees; controlled substance prescribing.—

597 (3) An advanced registered nurse practitioner shall perform
598 those functions authorized in this section within the framework
599 of an established protocol that is filed with the board upon
600 biennial license renewal and within 30 days after entering into
601 a supervisory relationship with a physician or changes to the
602 protocol. The board shall review the protocol to ensure
603 compliance with applicable regulatory standards for protocols.
604 The board shall refer to the department licensees submitting
605 protocols that are not compliant with the regulatory standards
606 for protocols. A practitioner currently licensed under chapter
607 458, chapter 459, or chapter 466 shall maintain supervision for
608 directing the specific course of medical treatment. Within the
609 established framework, an advanced registered nurse practitioner
610 may:

611 (a) Prescribe, dispense, administer, or order any drug;
612 however, an advanced registered nurse practitioner may only
613 prescribe or dispense a controlled substance as defined in s.
614 893.03 if the advanced registered nurse practitioner has
615 graduated from a program leading to a master's degree in a
616 clinical nursing specialty area with training in specialized
617 practitioner skills. ~~Monitor and alter drug therapies.~~

618 (b) Initiate appropriate therapies for certain conditions.

619 (c) Perform additional functions as may be determined by
620 rule in accordance with s. 464.003(2).



395678

621 (d) Order diagnostic tests and physical and occupational
622 therapy.

623 Section 17. Subsection (3) of section 464.013, Florida
624 Statutes, is amended to read:

625 464.013 Renewal of license or certificate.—

626 (3) The board shall by rule prescribe up to 30 hours of
627 continuing education biennially as a condition for renewal of a
628 license or certificate.

629 (a) A nurse who is certified by a health care specialty
630 program accredited by the National Commission for Certifying
631 Agencies or the Accreditation Board for Specialty Nursing
632 Certification is exempt from continuing education requirements.
633 The criteria for programs must ~~shall~~ be approved by the board.

634 (b) Notwithstanding the exemption in paragraph (a), as part
635 of the maximum 30 hours of continuing education hours required
636 under this subsection, advanced registered nurse practitioners
637 certified under s. 464.012 must complete at least 3 hours of
638 continuing education on the safe and effective prescription of
639 controlled substances. Such continuing education courses must be
640 offered by a statewide professional association of physicians in
641 this state accredited to provide educational activities
642 designated for the American Medical Association Physician's
643 Recognition Award Category 1 Credit, the American Nurses
644 Credentialing Center, or the American Association of Nurse
645 Practitioners and may be offered in a distance-learning format.

646 Section 18. Paragraph (p) is added to subsection (1) of
647 section 464.018, Florida Statutes, subsection (2) of that
648 section is republished, and subsection (5) of that section is
649 amended, to read:



395678

650 464.018 Disciplinary actions.—
651 (1) The following acts constitute grounds for denial of a
652 license or disciplinary action, as specified in s. 456.072(2):
653 (p) For an advanced registered nurse practitioner:
654 1. Presigning blank prescription forms.
655 2. Prescribing for office use any medicinal drug appearing
656 on Schedule II in chapter 893.
657 3. Prescribing, ordering, dispensing, administering,
658 supplying, selling, or giving a drug that is an amphetamine or a
659 sympathomimetic amine drug, or a compound designated pursuant to
660 chapter 893 as a Schedule II controlled substance, to or for any
661 person except for:
662 a. The treatment of narcolepsy; hyperkinesis; behavioral
663 syndrome in children characterized by the developmentally
664 inappropriate symptoms of moderate to severe distractibility,
665 short attention span, hyperactivity, emotional lability, and
666 impulsivity; or drug-induced brain dysfunction.
667 b. The differential diagnostic psychiatric evaluation of
668 depression or the treatment of depression shown to be refractory
669 to other therapeutic modalities.
670 c. The clinical investigation of the effects of such drugs
671 or compounds when an investigative protocol is submitted to,
672 reviewed by, and approved by the department before such
673 investigation is begun.
674 4. Prescribing, ordering, dispensing, administering,
675 supplying, selling, or giving growth hormones, testosterone or
676 its analogs, human chorionic gonadotropin (HCG), or other
677 hormones for the purpose of muscle building or to enhance
678 athletic performance. As used in this subparagraph, the term



395678

679 "muscle building" does not include the treatment of injured
680 muscle. A prescription written for the drug products listed in
681 this paragraph may be dispensed by a pharmacist with the
682 presumption that the prescription is for legitimate medical use.

683 5. Promoting or advertising on any prescription form a
684 community pharmacy unless the form also states: "This
685 prescription may be filled at any pharmacy of your choice."

686 6. Prescribing, dispensing, administering, mixing, or
687 otherwise preparing a legend drug, including a controlled
688 substance, other than in the course of his or her professional
689 practice. For the purposes of this subparagraph, it is legally
690 presumed that prescribing, dispensing, administering, mixing, or
691 otherwise preparing legend drugs, including all controlled
692 substances, inappropriately or in excessive or inappropriate
693 quantities is not in the best interest of the patient and is not
694 in the course of the advanced registered nurse practitioner's
695 professional practice, without regard to his or her intent.

696 7. Prescribing, dispensing, or administering a medicinal
697 drug appearing on any schedule set forth in chapter 893 to
698 himself or herself, except a drug prescribed, dispensed, or
699 administered to the advanced registered nurse practitioner by
700 another practitioner authorized to prescribe, dispense, or
701 administer medicinal drugs.

702 8. Prescribing, ordering, dispensing, administering,
703 supplying, selling, or giving amygdalin (laetrile) to any
704 person.

705 9. Dispensing a controlled substance listed on Schedule II
706 or Schedule III in chapter 893 in violation of s. 465.0276.

707 10. Promoting or advertising through any communication



395678

708 medium the use, sale, or dispensing of a controlled substance
709 appearing on any schedule in chapter 893.

710 (2) The board may enter an order denying licensure or
711 imposing any of the penalties in s. 456.072(2) against any
712 applicant for licensure or licensee who is found guilty of
713 violating any provision of subsection (1) of this section or who
714 is found guilty of violating any provision of s. 456.072(1).

715 (5) The board shall by rule establish guidelines for the
716 disposition of disciplinary cases involving specific types of
717 violations. Such guidelines may include minimum and maximum
718 fines, periods of supervision or probation, or conditions of
719 probation or reissuance of a license. In disciplinary cases
720 involving an alleged violation of s. 464.018(1)(n) or s.
721 464.018(1)(p)6. by an advanced registered nurse practitioner
722 which also involves the ordering, prescribing, administering, or
723 dispensing of a controlled substance, the board shall notify the
724 Board of Medicine, the Board of Osteopathic Medicine, or the
725 Board of Dentistry of the existence of the disciplinary case and
726 shall forward all materials to the respective board for review
727 pursuant to s. 456.44(3)(h). The Board of Nursing shall review
728 and may consider the findings of the Board of Medicine, the
729 Board of Osteopathic Medicine, or the Board of Dentistry
730 rendered pursuant to s. 456.44(3)(h) prior to its disposition of
731 the disciplinary case.

732 Section 19. Subsection (21) of section 893.02, Florida
733 Statutes, is amended to read:

734 893.02 Definitions.—The following words and phrases as used
735 in this chapter shall have the following meanings, unless the
736 context otherwise requires:



395678

737 (21) "Practitioner" means a physician licensed under
738 ~~pursuant to~~ chapter 458, a dentist licensed under ~~pursuant to~~
739 chapter 466, a veterinarian licensed under ~~pursuant to~~ chapter
740 474, an osteopathic physician licensed under ~~pursuant to~~ chapter
741 459, an advanced registered nurse practitioner certified under
742 chapter 464, a naturopath licensed under ~~pursuant to~~ chapter
743 462, a certified optometrist licensed under ~~pursuant to~~ chapter
744 463, ~~or~~ a podiatric physician licensed under ~~pursuant to~~ chapter
745 461, or a physician assistant licensed under chapter 458 or
746 chapter 459, provided such practitioner holds a valid federal
747 controlled substance registry number.

748 Section 20. Paragraph (n) of subsection (1) of section
749 948.03, Florida Statutes, is amended to read:

750 948.03 Terms and conditions of probation.—

751 (1) The court shall determine the terms and conditions of
752 probation. Conditions specified in this section do not require
753 oral pronouncement at the time of sentencing and may be
754 considered standard conditions of probation. These conditions
755 may include among them the following, that the probationer or
756 offender in community control shall:

757 (n) Be prohibited from using intoxicants to excess or
758 possessing any drugs or narcotics unless prescribed by a
759 physician, advanced registered nurse practitioner, or physician
760 assistant. The probationer or community controllee may ~~shall~~ not
761 knowingly visit places where intoxicants, drugs, or other
762 dangerous substances are unlawfully sold, dispensed, or used.

763 Section 21. Paragraph (a) of subsection (1) and subsection
764 (2) of section 458.348, Florida Statutes, are amended to read:

765 458.348 Formal supervisory relationships, standing orders,



395678

766 and established protocols; notice; standards.—

767 (1) NOTICE.—

768 (a) When a physician enters into a formal supervisory
769 relationship or standing orders with an emergency medical
770 technician or paramedic licensed pursuant to s. 401.27, which
771 relationship or orders contemplate the performance of medical
772 acts, or when a physician enters into an established protocol
773 with an advanced registered nurse practitioner, which protocol
774 contemplates the performance of medical ~~acts identified and~~
775 ~~approved by the joint committee pursuant to s. 464.003(2) or~~
776 acts set forth in s. 464.012(3) and (4), the physician shall
777 submit notice to the board. The notice shall contain a statement
778 in substantially the following form:

779
780 I, ...(name and professional license number of
781 physician)..., of ...(address of physician)... have hereby
782 entered into a formal supervisory relationship, standing orders,
783 or an established protocol with ...(number of persons)...
784 emergency medical technician(s), ...(number of persons)...
785 paramedic(s), or ...(number of persons)... advanced registered
786 nurse practitioner(s).

787
788 (2) ESTABLISHMENT OF STANDARDS BY JOINT COMMITTEE.—The
789 joint committee ~~created under s. 464.003(2)~~ shall determine
790 minimum standards for the content of established protocols
791 pursuant to which an advanced registered nurse practitioner may
792 perform medical ~~acts identified and approved by the joint~~
793 ~~committee pursuant to s. 464.003(2) or~~ acts set forth in s.
794 464.012(3) and (4) and shall determine minimum standards for



395678

795 supervision of such acts by the physician, unless the joint
796 committee determines that any act set forth in s. 464.012(3) or
797 (4) is not a medical act. Such standards shall be based on risk
798 to the patient and acceptable standards of medical care and
799 shall take into account the special problems of medically
800 underserved areas. The standards developed by the joint
801 committee shall be adopted as rules by the Board of Nursing and
802 the Board of Medicine for purposes of carrying out their
803 responsibilities pursuant to part I of chapter 464 and this
804 chapter, respectively, but neither board shall have disciplinary
805 powers over the licensees of the other board.

806 Section 22. Paragraph (a) of subsection (1) of section
807 459.025, Florida Statutes, is amended to read:

808 459.025 Formal supervisory relationships, standing orders,
809 and established protocols; notice; standards.—

810 (1) NOTICE.—

811 (a) When an osteopathic physician enters into a formal
812 supervisory relationship or standing orders with an emergency
813 medical technician or paramedic licensed pursuant to s. 401.27,
814 which relationship or orders contemplate the performance of
815 medical acts, or when an osteopathic physician enters into an
816 established protocol with an advanced registered nurse
817 practitioner, which protocol contemplates the performance of
818 ~~medical acts identified and approved by the joint committee~~
819 ~~pursuant to s. 464.003(2) or acts set forth in s. 464.012(3) and~~
820 (4), the osteopathic physician shall submit notice to the board.
821 The notice must contain a statement in substantially the
822 following form:
823



395678

824 I, ...(name and professional license number of osteopathic
825 physician)..., of ...(address of osteopathic physician)... have
826 hereby entered into a formal supervisory relationship, standing
827 orders, or an established protocol with ...(number of
828 persons)... emergency medical technician(s), ...(number of
829 persons)... paramedic(s), or ...(number of persons)... advanced
830 registered nurse practitioner(s).

831 Section 23. Subsection (10) of s. 458.331, paragraph (g) of
832 subsection (7) of s. 458.347, subsection (10) of s. 459.015,
833 paragraph (f) of subsection (7) of s. 459.022, and paragraph (b)
834 of subsection (5) of s. 465.0158, Florida Statutes, are
835 reenacted for the purpose of incorporating the amendment made by
836 this act to s. 456.072, Florida Statutes, in references thereto.

837 Section 24. Paragraph (mm) of subsection (1) of s. 456.072
838 and s. 466.02751, Florida Statutes, are reenacted for the
839 purpose of incorporating the amendment made by this act to s.
840 456.44, Florida Statutes, in references thereto.

841 Section 25. Section 458.303, paragraph (b) of subsection
842 (7) of s. 458.3475, paragraph (e) of subsection (4) and
843 paragraph (c) of subsection (9) of s. 459.022, and paragraph (b)
844 of subsection (7) of s. 459.023, Florida Statutes, are reenacted
845 for the purpose of incorporating the amendment made by this act
846 to s. 458.347, Florida Statutes, in references thereto.

847 Section 26. Paragraph (c) of subsection (3) of s. 464.012,
848 Florida Statutes, is reenacted for the purpose of incorporating
849 the amendment made by this act to s. 464.003, Florida Statutes,
850 in a reference thereto.

851 Section 27. Paragraph (a) of subsection (1) of s. 456.041,
852 subsections (1) and (2) of s. 458.348, and subsection (1) of s.



395678

853 459.025, Florida Statutes, are reenacted for the purpose of
854 incorporating the amendment made by this act to s. 464.012,
855 Florida Statutes, in references thereto.

856 Section 28. Subsection (7) of s. 464.0205, Florida
857 Statutes, is reenacted for the purpose of incorporating the
858 amendment made by this act to s. 464.013, Florida Statutes, in a
859 reference thereto.

860 Section 29. Subsection (11) of s. 320.0848, subsection (2)
861 of s. 464.008, subsection (5) of s. 464.009, and paragraph (b)
862 of subsection (1), subsection (3), and paragraph (b) of
863 subsection (4) of s. 464.0205, Florida Statutes, are reenacted
864 for the purpose of incorporating the amendment made by this act
865 to s. 464.018, Florida Statutes, in references thereto.

866 Section 30. Section 775.051, Florida Statutes, is reenacted
867 for the purpose of incorporating the amendment made by this act
868 to s. 893.02, Florida Statutes, in a reference thereto.

869 Section 31. Paragraph (a) of subsection (3) of s. 944.17,
870 subsection (8) of s. 948.001, and paragraph (e) of subsection
871 (1) of s. 948.101, Florida Statutes, are reenacted for the
872 purpose of incorporating the amendment made by this act to s.
873 948.03, Florida Statutes, in references thereto.

874 Section 32. Except as otherwise expressly provided in this
875 act, this act shall take effect upon becoming a law.

876
877 ===== T I T L E A M E N D M E N T =====

878 And the title is amended as follows:

879 Delete everything before the enacting clause
880 and insert:

881 A bill to be entitled



395678

882 An act relating to drug prescription by advanced
883 registered nurse practitioners and physician
884 assistants; amending s. 110.12315, F.S.; expanding the
885 categories of persons who may prescribe brand drugs
886 under the prescription drug program when medically
887 necessary; amending ss. 310.071, 310.073, and 310.081,
888 F.S.; exempting controlled substances prescribed by an
889 advanced registered nurse practitioner or a physician
890 assistant from the disqualifications for certification
891 or licensure, and for continued certification or
892 licensure, as a deputy pilot or state pilot; repealing
893 s. 383.336, F.S., relating to provider hospitals,
894 practice parameters, and peer review boards; amending
895 s. 395.1051, F.S.; requiring a hospital to notify
896 certain obstetrical physicians within a specified
897 timeframe before the hospital closes its obstetrical
898 department or ceases to provide obstetrical services;
899 amending s. 456.072, F.S.; applying existing penalties
900 for violations relating to the prescribing or
901 dispensing of controlled substances by an advanced
902 registered nurse practitioner; amending s. 456.44,
903 F.S.; deleting an obsolete date; requiring advanced
904 registered nurse practitioners and physician
905 assistants who prescribe controlled substances for
906 certain pain to make a certain designation, comply
907 with registration requirements, and follow specified
908 standards of practice; requiring certain respective
909 entities review the information to determine whether
910 disciplinary action is appropriate; requiring the



395678

911 respective board to forward certain findings to the
912 Board of Nursing; providing applicability; amending s.
913 458.326, F.S.; defining the term "interventional pain
914 medicine"; limiting the practice of interventional
915 pain medicine to specified circumstances; amending ss.
916 458.3265 and 459.0137, F.S.; limiting the authority to
917 prescribe a controlled substance in a pain-management
918 clinic to a physician licensed under ch. 458 or ch.
919 459, F.S.; amending s. 458.347, F.S.; revising the
920 required continuing education requirements for a
921 physician assistant; amending s. 458.347, F.S.;
922 requiring the Council of Physician Assistants to
923 create a formulary which includes the controlled
924 substances a physician assistant is authorized to
925 prescribe; amending s. 464.003, F.S.; revising the
926 definition of the term "advanced or specialized
927 nursing practice"; deleting the joint committee
928 established in the definition; amending s. 464.012,
929 F.S.; requiring the Board of Nursing to establish a
930 committee make recommendations regarding the need for
931 adoption of a formulary of controlled substances that
932 may be prescribed by an advanced registered nurse
933 practitioner; specifying the membership of the
934 committee; providing parameters for the
935 recommendations of the committee; requiring that any
936 formulary be adopted by board rule; specifying the
937 process for amending the formulary and imposing a
938 burden of proof; limiting the formulary's application
939 in certain instances; requiring the board to adopt the



395678

940 committee's initial recommendations by a specified
941 date; amending s. 464.012, F.S.; authorizing an
942 advanced registered nurse practitioner to prescribe,
943 dispense, administer, or order drugs, rather than to
944 monitor and alter drug therapies; providing an
945 exception; amending s. 464.013, F.S.; revising
946 conditions for renewal of a license or certificate;
947 amending s. 464.018, F.S.; specifying acts that
948 constitute grounds for denial of a license or for
949 disciplinary action against an advanced registered
950 nurse practitioner; requiring that in certain
951 disciplinary cases, the board notify certain entities
952 and forward all materials to the respective board;
953 amending s. 893.02, F.S.; redefining the term
954 "practitioner" to include advanced registered nurse
955 practitioners and physician assistants under the
956 Florida Comprehensive Drug Abuse Prevention and
957 Control Act; amending s. 948.03, F.S.; providing that
958 possession of drugs or narcotics prescribed by an
959 advanced registered nurse practitioner or physician
960 assistant does not violate a prohibition relating to
961 the possession of drugs or narcotics during probation;
962 amending ss. 458.348 and 459.025, F.S.; conforming
963 provisions to changes made by the act; reenacting ss.
964 458.331(10), 458.347(7)(g), 459.015(10),
965 459.022(7)(f), and 465.0158(5)(b), F.S., to
966 incorporate the amendment made to s. 456.072, F.S., in
967 references thereto; reenacting ss. 456.072(1)(mm) and
968 466.02751, F.S., to incorporate the amendment made to



395678

969 s. 456.44, F.S., in references thereto; reenacting ss.
970 458.303, 458.3475(7)(b), 459.022(4)(e) and (9)(c), and
971 459.023(7)(b), F.S., to incorporate the amendment made
972 to s. 458.347, F.S., in references thereto; reenacting
973 s. 464.012(3)(c), F.S., to incorporate the amendment
974 made to s. 464.003, F.S., in a reference thereto;
975 reenacting ss. 456.041(1)(a), 458.348(1) and (2), and
976 459.025(1), F.S., to incorporate the amendment made to
977 s. 464.012, F.S., in references thereto; reenacting s.
978 464.0205(7), F.S., to incorporate the amendment made
979 to s. 464.013, F.S., in a reference thereto;
980 reenacting ss. 320.0848(11), 464.008(2), 464.009(5),
981 and 464.0205(1)(b), (3), and (4)(b), F.S., to
982 incorporate the amendment made to s. 464.018, F.S., in
983 references thereto; reenacting s. 775.051, F.S., to
984 incorporate the amendment made to s. 893.02, F.S., in
985 a reference thereto; reenacting ss. 944.17(3)(a),
986 948.001(8), and 948.101(1)(e), F.S., to incorporate
987 the amendment made to s. 948.03, F.S., in references
988 thereto; providing effective dates.

989
990 WHEREAS, the Legislature recognizes the importance of
991 access to primary health care for citizens of Florida, most
992 especially for those who reside in the medically underserved
993 areas of the state, and

994 WHEREAS, the Legislature further recognize that there is a
995 state and national shortage of primary care providers which
996 necessitates the removal of regulatory barriers that prevent
997 advanced registered nurse practitioners and physician assistants



395678

998 | from practicing to the full extent of their education, training,
999 | and certifications, NOW, THEREFORE,



421698

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/20/2015	.	
	.	
	.	
	.	

The Committee on Rules (Soto) recommended the following:

1 **Senate Amendment to Amendment (395678) (with title**
2 **amendment)**

3
4 Delete lines 296 - 731
5 and insert:

6
7 This subsection does not apply to a board-eligible or board-
8 certified anesthesiologist, physiatrist, rheumatologist, or
9 neurologist, or to a board-certified physician who has surgical
10 privileges at a hospital or ambulatory surgery center and
11 primarily provides surgical services. This subsection does not



421698

12 apply to a board-eligible or board-certified medical specialist
13 who has also completed a fellowship in pain medicine approved by
14 the Accreditation Council for Graduate Medical Education or the
15 American Osteopathic Association, or who is board eligible or
16 board certified in pain medicine by the American Board of Pain
17 Medicine, the American Board of Interventional Pain Physicians,
18 the American Association of Physician Specialists, or a board
19 approved by the American Board of Medical Specialties or the
20 American Osteopathic Association and performs interventional
21 pain procedures of the type routinely billed using surgical
22 codes. This subsection does not apply to a registrant, advanced
23 registered nurse practitioner, or physician assistant who
24 prescribes medically necessary controlled substances for a
25 patient during an inpatient stay in a hospital licensed under
26 chapter 395.

27 Section 9. Section 458.326, Florida Statutes, is amended to
28 read:

29 458.326 Intractable pain; authorized treatment;
30 interventional pain medicine; unauthorized practice.-

31 (1) (a) For the purposes of this subsection ~~section~~, the
32 term "intractable pain" means pain for which, in the generally
33 accepted course of medical practice, the cause cannot be removed
34 and otherwise treated.

35 (b) ~~(2)~~ Intractable pain must be diagnosed by a physician
36 licensed under this chapter and qualified by experience to
37 render such diagnosis.

38 (c) ~~(3)~~ Notwithstanding any other provision of law, a
39 physician may prescribe or administer any controlled substance
40 under Schedules II-V, as provided for in s. 893.03, to a person



421698

41 for the treatment of intractable pain, provided the physician
42 does so in accordance with that level of care, skill, and
43 treatment recognized by a reasonably prudent physician under
44 similar conditions and circumstances.

45 (d) ~~(4)~~ Nothing in this section shall be construed to
46 condone, authorize, or approve mercy killing or euthanasia, and
47 no treatment authorized by this section may be used for such
48 purpose.

49 (2) (a) For the purposes of this subsection, the term
50 "interventional pain medicine" means the practice of medicine
51 devoted to the diagnosis and treatment of pain-related
52 disorders, principally with the application of interventional
53 techniques in managing chronic, intractable pain, independently
54 or in conjunction with other treatment modalities. These
55 techniques include minimally invasive procedures, including
56 percutaneous precision needle placement, with placement of drugs
57 in targeted areas or destruction of targeted nerves, and some
58 surgical techniques such as laser or endoscopic discectomy,
59 cement stabilization of spine fractures, intrathecal infusion
60 pumps, and spinal cord stimulators, for the diagnosis and
61 management of chronic, intractable pain.

62 (b) A person may not practice interventional pain medicine
63 or offer to practice interventional pain medicine unless such
64 acts are performed at facilities licensed under chapter 395 or
65 are performed by or under the direct supervision of a physician
66 licensed under this chapter or an osteopathic physician licensed
67 under chapter 459.

68 Section 10. Paragraph (b) of subsection (2) of section
69 458.3265, Florida Statutes, is amended to read:



421698

70 458.3265 Pain-management clinics.-

71 (2) PHYSICIAN RESPONSIBILITIES.-These responsibilities
72 apply to any physician who provides professional services in a
73 pain-management clinic that is required to be registered in
74 subsection (1).

75 (b) A person may not dispense any medication on the
76 premises of a registered pain-management clinic unless he or she
77 is a physician licensed under this chapter or chapter 459. A
78 person may not prescribe any controlled substance regulated
79 under chapter 893 on the premises of a registered pain-
80 management clinic unless he or she is a physician licensed under
81 this chapter or chapter 459.

82 Section 11. Paragraph (b) of subsection (2) of section
83 459.0137, Florida Statutes, is amended to read:

84 459.0137 Pain-management clinics.-

85 (2) PHYSICIAN RESPONSIBILITIES.-These responsibilities
86 apply to any osteopathic physician who provides professional
87 services in a pain-management clinic that is required to be
88 registered in subsection (1).

89 (b) A person may not dispense any medication on the
90 premises of a registered pain-management clinic unless he or she
91 is a physician licensed under this chapter or chapter 458. A
92 person may not prescribe any controlled substance regulated
93 under chapter 893 on the premises of a registered pain-
94 management clinic unless he or she is a physician licensed under
95 this chapter or chapter 458.

96 Section 12. Paragraph (e) of subsection (4) of section
97 458.347, Florida Statutes, is amended, and paragraph (c) of
98 subsection (9) of that section is republished, to read:



421698

99 458.347 Physician assistants.—

100 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

101 (e) A supervisory physician may delegate to a fully
102 licensed physician assistant the authority to prescribe or
103 dispense any medication used in the supervisory physician's
104 practice unless such medication is listed on the formulary
105 created pursuant to paragraph (f). A fully licensed physician
106 assistant may only prescribe or dispense such medication under
107 the following circumstances:

108 1. A physician assistant must clearly identify to the
109 patient that he or she is a physician assistant. Furthermore,
110 the physician assistant must inform the patient that the patient
111 has the right to see the physician prior to any prescription
112 being prescribed or dispensed by the physician assistant.

113 2. The supervisory physician must notify the department of
114 his or her intent to delegate, on a department-approved form,
115 before delegating such authority and notify the department of
116 any change in prescriptive privileges of the physician
117 assistant. Authority to dispense may be delegated only by a
118 supervising physician who is registered as a dispensing
119 practitioner in compliance with s. 465.0276.

120 3. The physician assistant must file with the department a
121 signed affidavit that he or she has completed a minimum of 10
122 continuing medical education hours in the specialty practice in
123 which the physician assistant has prescriptive privileges with
124 each licensure renewal application. Three of the 10 hours must
125 consist of a continuing education course on the safe and
126 effective prescribing of controlled substance medications, which
127 shall be offered by a statewide professional association of



421698

128 physicians in this state accredited to provide educational
129 activities designated for the American Medical Association
130 Physician's Recognition Award Category I Credit.

131 4. The department may issue a prescriber number to the
132 physician assistant granting authority for the prescribing of
133 medicinal drugs authorized within this paragraph upon completion
134 of the foregoing requirements. The physician assistant shall not
135 be required to independently register pursuant to s. 465.0276.

136 5. The prescription must be written in a form that complies
137 with chapter 499 and must contain, in addition to the
138 supervisory physician's name, address, and telephone number, the
139 physician assistant's prescriber number. Unless it is a drug or
140 drug sample dispensed by the physician assistant, the
141 prescription must be filled in a pharmacy permitted under
142 chapter 465 and must be dispensed in that pharmacy by a
143 pharmacist licensed under chapter 465. The appearance of the
144 prescriber number creates a presumption that the physician
145 assistant is authorized to prescribe the medicinal drug and the
146 prescription is valid.

147 6. The physician assistant must note the prescription or
148 dispensing of medication in the appropriate medical record.

149 (9) COUNCIL ON PHYSICIAN ASSISTANTS.—The Council on
150 Physician Assistants is created within the department.

151 (c) The council shall:

152 1. Recommend to the department the licensure of physician
153 assistants.

154 2. Develop all rules regulating the use of physician
155 assistants by physicians under this chapter and chapter 459,
156 except for rules relating to the formulary developed under



421698

157 paragraph (4) (f). The council shall also develop rules to ensure
158 that the continuity of supervision is maintained in each
159 practice setting. The boards shall consider adopting a proposed
160 rule developed by the council at the regularly scheduled meeting
161 immediately following the submission of the proposed rule by the
162 council. A proposed rule submitted by the council may not be
163 adopted by either board unless both boards have accepted and
164 approved the identical language contained in the proposed rule.
165 The language of all proposed rules submitted by the council must
166 be approved by both boards pursuant to each respective board's
167 guidelines and standards regarding the adoption of proposed
168 rules. If either board rejects the council's proposed rule, that
169 board must specify its objection to the council with
170 particularity and include any recommendations it may have for
171 the modification of the proposed rule.

172 3. Make recommendations to the boards regarding all matters
173 relating to physician assistants.

174 4. Address concerns and problems of practicing physician
175 assistants in order to improve safety in the clinical practices
176 of licensed physician assistants.

177 Section 13. Effective January 1, 2016, paragraph (f) of
178 subsection (4) of section 458.347, Florida Statutes, is amended
179 to read:

180 458.347 Physician assistants.—

181 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

182 (f)1. The council shall establish a formulary of medicinal
183 drugs that a fully licensed physician assistant having
184 prescribing authority under this section or s. 459.022 may not
185 prescribe. The formulary must include ~~controlled substances as~~



421698

186 ~~defined in chapter 893,~~ general anesthetics, and radiographic
187 contrast materials, and must limit the prescription of Schedule
188 II controlled substances as defined in s. 893.03 to a 7-day
189 supply. The formulary must also restrict the prescribing of
190 controlled substances that are psychotropic medications,
191 including antihypnotics, antipsychotics, antidepressants,
192 anxiety agents, sedatives, psychomotor stimulants, and mood
193 stabilizers for children under the age of 18.

194 2. In establishing the formulary, the council shall consult
195 with a pharmacist licensed under chapter 465, but not licensed
196 under this chapter or chapter 459, who shall be selected by the
197 State Surgeon General.

198 3. Only the council shall add to, delete from, or modify
199 the formulary. Any person who requests an addition, deletion, or
200 modification of a medicinal drug listed on such formulary has
201 the burden of proof to show cause why such addition, deletion,
202 or modification should be made.

203 4. The boards shall adopt the formulary required by this
204 paragraph, and each addition, deletion, or modification to the
205 formulary, by rule. Notwithstanding any provision of chapter 120
206 to the contrary, the formulary rule shall be effective 60 days
207 after the date it is filed with the Secretary of State. Upon
208 adoption of the formulary, the department shall mail a copy of
209 such formulary to each fully licensed physician assistant having
210 prescribing authority under this section or s. 459.022, and to
211 each pharmacy licensed by the state. The boards shall establish,
212 by rule, a fee not to exceed \$200 to fund the provisions of this
213 paragraph and paragraph (e).

214 Section 14. Subsection (2) of section 464.003, Florida



421698

215 Statutes, is amended to read:

216 464.003 Definitions.—As used in this part, the term:

217 (2) "Advanced or specialized nursing practice" means, in
218 addition to the practice of professional nursing, the
219 performance of advanced-level nursing acts approved by the board
220 which, by virtue of postbasic specialized education, training,
221 and experience, are appropriately performed by an advanced
222 registered nurse practitioner. Within the context of advanced or
223 specialized nursing practice, the advanced registered nurse
224 practitioner may perform acts of nursing diagnosis and nursing
225 treatment of alterations of the health status. The advanced
226 registered nurse practitioner may also perform acts of medical
227 diagnosis and treatment, prescription, and operation as
228 authorized within the framework of an established supervisory
229 protocol ~~which are identified and approved by a joint committee~~
230 ~~composed of three members appointed by the Board of Nursing, two~~
231 ~~of whom must be advanced registered nurse practitioners; three~~
232 ~~members appointed by the Board of Medicine, two of whom must~~
233 ~~have had work experience with advanced registered nurse~~
234 ~~practitioners; and the State Surgeon General or the State~~
235 ~~Surgeon General's designee. Each committee member appointed by a~~
236 ~~board shall be appointed to a term of 4 years unless a shorter~~
237 ~~term is required to establish or maintain staggered terms. The~~
238 ~~Board of Nursing shall adopt rules authorizing the performance~~
239 ~~of any such acts approved by the joint committee. Unless~~
240 ~~otherwise specified by the joint committee, such acts must be~~
241 ~~performed under the general supervision of a practitioner~~
242 ~~licensed under chapter 458, chapter 459, or chapter 466 within~~
243 ~~the framework of standing protocols which identify the medical~~



421698

244 ~~acts to be performed and the conditions for their performance.~~
245 The department may, by rule, require that a copy of the protocol
246 be filed with the department along with the notice required by
247 s. 458.348.

248 Section 15. Subsection (6) is added to section 464.012,
249 Florida Statutes, to read:

250 464.012 Certification of advanced registered nurse
251 practitioners; fees; controlled substance prescribing.—

252 (6) (a) The board shall establish a committee to recommend a
253 formulary of controlled substances that an advanced registered
254 nurse practitioner may not prescribe or may prescribe only for
255 specific uses or in limited quantities. The committee must
256 consist of three advanced registered nurse practitioners
257 licensed under s. 464.012, recommended by the Board of Nursing;
258 three physicians licensed under chapter 458 or chapter 459 who
259 have had work experience with advanced registered nurse
260 practitioners, recommended by the Board of Medicine; and a
261 pharmacist licensed under chapter 465 who holds a Doctor of
262 Pharmacy degree, recommended by the Board of Pharmacy. The
263 committee may recommend an evidence-based formulary applicable
264 to all advanced registered nurse practitioners, which is limited
265 by specially certification or to approved uses of controlled
266 substances, or subject to other similar restrictions the
267 committee finds are necessary to protect the health, safety, and
268 welfare of the public. The formulary must restrict the
269 prescribing of controlled substance psychotropic medications,
270 including antihypnotics, antipsychotics, antidepressants,
271 anxiety agents, sedatives, psychomotor stimulants, and mood
272 stabilizers for children under the age of 18 to psychiatric



421698

273 nurses as defined in s. 394.455. The formulary must also limit
274 the prescribing of Schedule II controlled substances as defined
275 in s. 893.03 to a 7-day supply, except that such restriction
276 does not apply to controlled substances that are psychiatric
277 medications prescribed by psychiatric nurses as defined in s.
278 394.455.

279 (b) The board shall adopt by rule the recommended formulary
280 and recommended additions or deletions to the formulary which it
281 finds are supported by evidence-based clinical findings
282 presented by the Board of Medicine, the Board of Osteopathic
283 Medicine, or the Board of Dentistry.

284 (c) The formulary required under this subsection does not
285 apply to a controlled substance order that is dispensed for
286 administration including orders for medication authorized in
287 subparagraph (4)(a)3. or subparagraph (4)(a)4.

288 (d) The board shall adopt the committee's initial
289 recommendation no later January 1, 2016.

290 Section 16. Effective January 1, 2016, subsection (3) of
291 section 464.012, Florida Statutes, is amended to read:

292 464.012 Certification of advanced registered nurse
293 practitioners; fees; controlled substance prescribing.—

294 (3) An advanced registered nurse practitioner shall perform
295 those functions authorized in this section within the framework
296 of an established protocol that is filed with the board upon
297 biennial license renewal and within 30 days after entering into
298 a supervisory relationship with a physician or changes to the
299 protocol. The board shall review the protocol to ensure
300 compliance with applicable regulatory standards for protocols.
301 The board shall refer to the department licensees submitting



421698

302 protocols that are not compliant with the regulatory standards
303 for protocols. A practitioner currently licensed under chapter
304 458, chapter 459, or chapter 466 shall maintain supervision for
305 directing the specific course of medical treatment. Within the
306 established framework, an advanced registered nurse practitioner
307 may:

308 (a) Prescribe, dispense, administer, or order any drug;
309 however, an advanced registered nurse practitioner may only
310 prescribe or dispense a controlled substance as defined in s.
311 893.03 if the advanced registered nurse practitioner has
312 graduated from a program leading to a master's degree in a
313 clinical nursing specialty area with training in specialized
314 practitioner skills. ~~Monitor and alter drug therapies.~~

315 (b) Initiate appropriate therapies for certain conditions.

316 (c) Perform additional functions as may be determined by
317 rule in accordance with s. 464.003(2).

318 (d) Order diagnostic tests and physical and occupational
319 therapy.

320 Section 17. Subsection (3) of section 464.013, Florida
321 Statutes, is amended to read:

322 464.013 Renewal of license or certificate.—

323 (3) The board shall by rule prescribe up to 30 hours of
324 continuing education biennially as a condition for renewal of a
325 license or certificate.

326 (a) A nurse who is certified by a health care specialty
327 program accredited by the National Commission for Certifying
328 Agencies or the Accreditation Board for Specialty Nursing
329 Certification is exempt from continuing education requirements.
330 The criteria for programs must ~~shall~~ be approved by the board.



421698

331 (b) Notwithstanding the exemption in paragraph (a), as part
332 of the maximum 30 hours of continuing education hours required
333 under this subsection, advanced registered nurse practitioners
334 certified under s. 464.012 must complete at least 3 hours of
335 continuing education on the safe and effective prescription of
336 controlled substances. Such continuing education courses must be
337 offered by a statewide professional association of physicians in
338 this state accredited to provide educational activities
339 designated for the American Medical Association Physician's
340 Recognition Award Category 1 Credit, the American Nurses
341 Credentialing Center, or the American Association of Nurse
342 Practitioners and may be offered in a distance-learning format.

343 Section 18. Paragraph (p) is added to subsection (1) of
344 section 464.018, Florida Statutes, and subsection (2) of that
345 section is republished, to read:

346 464.018 Disciplinary actions.—

347 (1) The following acts constitute grounds for denial of a
348 license or disciplinary action, as specified in s. 456.072(2):

349 (p) For an advanced registered nurse practitioner:

350 1. Presigning blank prescription forms.

351 2. Prescribing for office use any medicinal drug appearing
352 on Schedule II in chapter 893.

353 3. Prescribing, ordering, dispensing, administering,
354 supplying, selling, or giving a drug that is an amphetamine or a
355 sympathomimetic amine drug, or a compound designated pursuant to
356 chapter 893 as a Schedule II controlled substance, to or for any
357 person except for:

358 a. The treatment of narcolepsy; hyperkinesis; behavioral
359 syndrome in children characterized by the developmentally



421698

360 inappropriate symptoms of moderate to severe distractibility,
361 short attention span, hyperactivity, emotional lability, and
362 impulsivity; or drug-induced brain dysfunction.

363 b. The differential diagnostic psychiatric evaluation of
364 depression or the treatment of depression shown to be refractory
365 to other therapeutic modalities.

366 c. The clinical investigation of the effects of such drugs
367 or compounds when an investigative protocol is submitted to,
368 reviewed by, and approved by the department before such
369 investigation is begun.

370 4. Prescribing, ordering, dispensing, administering,
371 supplying, selling, or giving growth hormones, testosterone or
372 its analogs, human chorionic gonadotropin (HCG), or other
373 hormones for the purpose of muscle building or to enhance
374 athletic performance. As used in this subparagraph, the term
375 "muscle building" does not include the treatment of injured
376 muscle. A prescription written for the drug products listed in
377 this paragraph may be dispensed by a pharmacist with the
378 presumption that the prescription is for legitimate medical use.

379 5. Promoting or advertising on any prescription form a
380 community pharmacy unless the form also states: "This
381 prescription may be filled at any pharmacy of your choice."

382 6. Prescribing, dispensing, administering, mixing, or
383 otherwise preparing a legend drug, including a controlled
384 substance, other than in the course of his or her professional
385 practice. For the purposes of this subparagraph, it is legally
386 presumed that prescribing, dispensing, administering, mixing, or
387 otherwise preparing legend drugs, including all controlled
388 substances, inappropriately or in excessive or inappropriate



421698

389 quantities is not in the best interest of the patient and is not
390 in the course of the advanced registered nurse practitioner's
391 professional practice, without regard to his or her intent.

392 7. Prescribing, dispensing, or administering a medicinal
393 drug appearing on any schedule set forth in chapter 893 to
394 himself or herself, except a drug prescribed, dispensed, or
395 administered to the advanced registered nurse practitioner by
396 another practitioner authorized to prescribe, dispense, or
397 administer medicinal drugs.

398 8. Prescribing, ordering, dispensing, administering,
399 supplying, selling, or giving amygdalin (laetrile) to any
400 person.

401 9. Dispensing a controlled substance listed on Schedule II
402 or Schedule III in chapter 893 in violation of s. 465.0276.

403 10. Promoting or advertising through any communication
404 medium the use, sale, or dispensing of a controlled substance
405 appearing on any schedule in chapter 893.

406 (2) The board may enter an order denying licensure or
407 imposing any of the penalties in s. 456.072(2) against any
408 applicant for licensure or licensee who is found guilty of
409 violating any provision of subsection (1) of this section or who
410 is found guilty of violating any provision of s. 456.072(1).

411
412 ===== T I T L E A M E N D M E N T =====

413 And the title is amended as follows:

414 Delete lines 908 - 952

415 and insert:

416 standards of practice; providing applicability;
417 amending s. 458.326, F.S.; defining the term



418 "interventional pain medicine"; restricting the
419 practice of interventional pain medicine to specified
420 circumstances; amending ss. 458.3265 and 459.0137,
421 F.S.; limiting the authority to prescribe a controlled
422 substance in a pain-management clinic to a physician
423 licensed under ch. 458 or ch. 459, F.S.; amending s.
424 458.347, F.S.; revising the required continuing
425 education requirements for a physician assistant;
426 amending s. 458.347, F.S.; requiring the Council of
427 Physician Assistants to create a formulary which
428 includes the controlled substances a physician
429 assistant is authorized to prescribe; amending s.
430 464.003, F.S.; redefining the term "advanced or
431 specialized nursing practice"; removing the joint
432 committee established in the definition; amending s.
433 464.012, F.S.; requiring the Board of Nursing to
434 establish a committee to make recommendations
435 regarding the need for adoption of a formulary of
436 controlled substances that may be prescribed by an
437 advanced registered nurse practitioner; specifying the
438 membership of the committee; providing parameters for
439 the recommendations of the committee; requiring that
440 any formulary be adopted by board rule; specifying the
441 process for amending the formulary and imposing a
442 burden of proof; limiting the formulary's application
443 in certain instances; requiring the board to adopt the
444 committee's initial recommendations by a specified
445 date; amending s. 464.012, F.S.; authorizing an
446 advanced registered nurse practitioner to prescribe,



421698

447 dispense, administer, or order drugs, rather than to
448 monitor and alter drug therapies; providing an
449 exception; amending s. 464.013, F.S.; revising
450 conditions for renewal of a license or certificate;
451 amending s. 464.018, F.S.; specifying acts that
452 constitute grounds for denial of a license or for
453 disciplinary action against an advanced registered
454 nurse practitioner;



495086

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/20/2015	.	
	.	
	.	
	.	

The Committee on Rules (Soto) recommended the following:

Senate Amendment to Amendment (395678)

1
2
3 Delete lines 493 - 496
4 and insert:
5 psychiatric mental health controlled substances for children
6 under 18 years of age.



850170

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/20/2015	.	
	.	
	.	
	.	

The Committee on Rules (Soto) recommended the following:

Senate Amendment to Amendment (395678)

1 Delete lines 572 - 576
2
3 and insert:
4 prescribing of psychiatric mental health controlled substances
5 for children under 18 years of age to psychiatric nurses as
6 defined in s. 394.455. The formulary must also limit
7



183442

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/20/2015	.	
	.	
	.	
	.	

The Committee on Rules (Soto) recommended the following:

1 **Senate Amendment to Amendment (395678) (with title**
2 **amendment)**

3
4 Delete lines 296 - 731
5 and insert:

6
7 This subsection does not apply to a board-eligible or board-
8 certified anesthesiologist, physiatrist, rheumatologist, or
9 neurologist, or to a board-certified physician who has surgical
10 privileges at a hospital or ambulatory surgery center and
11 primarily provides surgical services. This subsection does not



183442

12 apply to a board-eligible or board-certified medical specialist
13 who has also completed a fellowship in pain medicine approved by
14 the Accreditation Council for Graduate Medical Education or the
15 American Osteopathic Association, or who is board eligible or
16 board certified in pain medicine by the American Board of Pain
17 Medicine, the American Board of Interventional Pain Physicians,
18 the American Association of Physician Specialists, or a board
19 approved by the American Board of Medical Specialties or the
20 American Osteopathic Association and performs interventional
21 pain procedures of the type routinely billed using surgical
22 codes. This subsection does not apply to a registrant, advanced
23 registered nurse practitioner, or physician assistant who
24 prescribes medically necessary controlled substances for a
25 patient during an inpatient stay in a hospital licensed under
26 chapter 395.

27 Section 9. Section 458.326, Florida Statutes, is amended to
28 read:

29 458.326 Intractable pain; authorized treatment;
30 interventional pain medicine; unauthorized practice.-

31 (1) (a) For the purposes of this subsection ~~section~~, the
32 term "intractable pain" means pain for which, in the generally
33 accepted course of medical practice, the cause cannot be removed
34 and otherwise treated.

35 (b) ~~(2)~~ Intractable pain must be diagnosed by a physician
36 licensed under this chapter and qualified by experience to
37 render such diagnosis.

38 (c) ~~(3)~~ Notwithstanding any other provision of law, a
39 physician may prescribe or administer any controlled substance
40 under Schedules II-V, as provided for in s. 893.03, to a person



183442

41 for the treatment of intractable pain, provided the physician
42 does so in accordance with that level of care, skill, and
43 treatment recognized by a reasonably prudent physician under
44 similar conditions and circumstances.

45 (d) (4) Nothing in this section shall be construed to
46 condone, authorize, or approve mercy killing or euthanasia, and
47 no treatment authorized by this section may be used for such
48 purpose.

49 (2) (a) For the purposes of this subsection, the term
50 "interventional pain medicine" means the practice of medicine
51 devoted to the diagnosis and treatment of pain-related
52 disorders, principally with the application of interventional
53 techniques in managing chronic, intractable pain, independently
54 or in conjunction with other treatment modalities. These
55 techniques include minimally invasive procedures, including
56 percutaneous precision needle placement, with placement of drugs
57 in targeted areas or destruction of targeted nerves, and some
58 surgical techniques such as laser or endoscopic discectomy,
59 cement stabilization of spine fractures, intrathecal infusion
60 pumps, and spinal cord stimulators, for the diagnosis and
61 management of chronic, intractable pain.

62 (b) A person may not practice interventional pain medicine
63 or offer to practice interventional pain medicine unless such
64 acts are performed at facilities licensed under chapter 395 or
65 are performed by or under the direct supervision of a physician
66 licensed under this chapter or an osteopathic physician licensed
67 under chapter 459.

68 Section 10. Paragraph (b) of subsection (2) of section
69 458.3265, Florida Statutes, is amended to read:



183442

70 458.3265 Pain-management clinics.-

71 (2) PHYSICIAN RESPONSIBILITIES.-These responsibilities
72 apply to any physician who provides professional services in a
73 pain-management clinic that is required to be registered in
74 subsection (1).

75 (b) A person may not dispense any medication on the
76 premises of a registered pain-management clinic unless he or she
77 is a physician licensed under this chapter or chapter 459. A
78 person may not prescribe any controlled substance regulated
79 under chapter 893 on the premises of a registered pain-
80 management clinic unless he or she is a physician licensed under
81 this chapter or chapter 459.

82 Section 11. Paragraph (b) of subsection (2) of section
83 459.0137, Florida Statutes, is amended to read:

84 459.0137 Pain-management clinics.-

85 (2) PHYSICIAN RESPONSIBILITIES.-These responsibilities
86 apply to any osteopathic physician who provides professional
87 services in a pain-management clinic that is required to be
88 registered in subsection (1).

89 (b) A person may not dispense any medication on the
90 premises of a registered pain-management clinic unless he or she
91 is a physician licensed under this chapter or chapter 458. A
92 person may not prescribe any controlled substance regulated
93 under chapter 893 on the premises of a registered pain-
94 management clinic unless he or she is a physician licensed under
95 this chapter or chapter 458.

96 Section 12. Paragraph (e) of subsection (4) of section
97 458.347, Florida Statutes, is amended, and paragraph (c) of
98 subsection (9) of that section is republished, to read:



183442

99 458.347 Physician assistants.—

100 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

101 (e) A supervisory physician may delegate to a fully
102 licensed physician assistant the authority to prescribe or
103 dispense any medication used in the supervisory physician's
104 practice unless such medication is listed on the formulary
105 created pursuant to paragraph (f). A fully licensed physician
106 assistant may only prescribe or dispense such medication under
107 the following circumstances:

108 1. A physician assistant must clearly identify to the
109 patient that he or she is a physician assistant. Furthermore,
110 the physician assistant must inform the patient that the patient
111 has the right to see the physician prior to any prescription
112 being prescribed or dispensed by the physician assistant.

113 2. The supervisory physician must notify the department of
114 his or her intent to delegate, on a department-approved form,
115 before delegating such authority and notify the department of
116 any change in prescriptive privileges of the physician
117 assistant. Authority to dispense may be delegated only by a
118 supervising physician who is registered as a dispensing
119 practitioner in compliance with s. 465.0276.

120 3. The physician assistant must file with the department a
121 signed affidavit that he or she has completed a minimum of 10
122 continuing medical education hours in the specialty practice in
123 which the physician assistant has prescriptive privileges with
124 each licensure renewal application. Three of the 10 hours must
125 consist of a continuing education course on the safe and
126 effective prescribing of controlled substance medications, which
127 shall be offered by a statewide professional association of



183442

128 physicians in this state accredited to provide educational
129 activities designated for the American Medical Association
130 Physician's Recognition Award Category I Credit.

131 4. The department may issue a prescriber number to the
132 physician assistant granting authority for the prescribing of
133 medicinal drugs authorized within this paragraph upon completion
134 of the foregoing requirements. The physician assistant shall not
135 be required to independently register pursuant to s. 465.0276.

136 5. The prescription must be written in a form that complies
137 with chapter 499 and must contain, in addition to the
138 supervisory physician's name, address, and telephone number, the
139 physician assistant's prescriber number. Unless it is a drug or
140 drug sample dispensed by the physician assistant, the
141 prescription must be filled in a pharmacy permitted under
142 chapter 465 and must be dispensed in that pharmacy by a
143 pharmacist licensed under chapter 465. The appearance of the
144 prescriber number creates a presumption that the physician
145 assistant is authorized to prescribe the medicinal drug and the
146 prescription is valid.

147 6. The physician assistant must note the prescription or
148 dispensing of medication in the appropriate medical record.

149 (9) COUNCIL ON PHYSICIAN ASSISTANTS.—The Council on
150 Physician Assistants is created within the department.

151 (c) The council shall:

152 1. Recommend to the department the licensure of physician
153 assistants.

154 2. Develop all rules regulating the use of physician
155 assistants by physicians under this chapter and chapter 459,
156 except for rules relating to the formulary developed under



183442

157 paragraph (4) (f). The council shall also develop rules to ensure
158 that the continuity of supervision is maintained in each
159 practice setting. The boards shall consider adopting a proposed
160 rule developed by the council at the regularly scheduled meeting
161 immediately following the submission of the proposed rule by the
162 council. A proposed rule submitted by the council may not be
163 adopted by either board unless both boards have accepted and
164 approved the identical language contained in the proposed rule.
165 The language of all proposed rules submitted by the council must
166 be approved by both boards pursuant to each respective board's
167 guidelines and standards regarding the adoption of proposed
168 rules. If either board rejects the council's proposed rule, that
169 board must specify its objection to the council with
170 particularity and include any recommendations it may have for
171 the modification of the proposed rule.

172 3. Make recommendations to the boards regarding all matters
173 relating to physician assistants.

174 4. Address concerns and problems of practicing physician
175 assistants in order to improve safety in the clinical practices
176 of licensed physician assistants.

177 Section 13. Effective January 1, 2016, paragraph (f) of
178 subsection (4) of section 458.347, Florida Statutes, is amended
179 to read:

180 458.347 Physician assistants.—

181 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

182 (f)1. The council shall establish a formulary of medicinal
183 drugs that a fully licensed physician assistant having
184 prescribing authority under this section or s. 459.022 may not
185 prescribe. The formulary must include ~~controlled substances as~~



183442

186 ~~defined in chapter 893,~~ general anesthetics, and radiographic
187 contrast materials, and must limit the prescription of Schedule
188 II controlled substances as defined in s. 893.03 to a 7-day
189 supply. The formulary must also restrict the prescribing of
190 psychiatric mental health controlled substances for children
191 under 18 years of age.

192 2. In establishing the formulary, the council shall consult
193 with a pharmacist licensed under chapter 465, but not licensed
194 under this chapter or chapter 459, who shall be selected by the
195 State Surgeon General.

196 3. Only the council shall add to, delete from, or modify
197 the formulary. Any person who requests an addition, deletion, or
198 modification of a medicinal drug listed on such formulary has
199 the burden of proof to show cause why such addition, deletion,
200 or modification should be made.

201 4. The boards shall adopt the formulary required by this
202 paragraph, and each addition, deletion, or modification to the
203 formulary, by rule. Notwithstanding any provision of chapter 120
204 to the contrary, the formulary rule shall be effective 60 days
205 after the date it is filed with the Secretary of State. Upon
206 adoption of the formulary, the department shall mail a copy of
207 such formulary to each fully licensed physician assistant having
208 prescribing authority under this section or s. 459.022, and to
209 each pharmacy licensed by the state. The boards shall establish,
210 by rule, a fee not to exceed \$200 to fund the provisions of this
211 paragraph and paragraph (e).

212 Section 14. Subsection (2) of section 464.003, Florida
213 Statutes, is amended to read:

214 464.003 Definitions.—As used in this part, the term:



183442

215 (2) "Advanced or specialized nursing practice" means, in
216 addition to the practice of professional nursing, the
217 performance of advanced-level nursing acts approved by the board
218 which, by virtue of postbasic specialized education, training,
219 and experience, are appropriately performed by an advanced
220 registered nurse practitioner. Within the context of advanced or
221 specialized nursing practice, the advanced registered nurse
222 practitioner may perform acts of nursing diagnosis and nursing
223 treatment of alterations of the health status. The advanced
224 registered nurse practitioner may also perform acts of medical
225 diagnosis and treatment, prescription, and operation as
226 authorized within the framework of an established supervisory
227 protocol ~~which are identified and approved by a joint committee~~
228 ~~composed of three members appointed by the Board of Nursing, two~~
229 ~~of whom must be advanced registered nurse practitioners; three~~
230 ~~members appointed by the Board of Medicine, two of whom must~~
231 ~~have had work experience with advanced registered nurse~~
232 ~~practitioners; and the State Surgeon General or the State~~
233 ~~Surgeon General's designee. Each committee member appointed by a~~
234 ~~board shall be appointed to a term of 4 years unless a shorter~~
235 ~~term is required to establish or maintain staggered terms. The~~
236 ~~Board of Nursing shall adopt rules authorizing the performance~~
237 ~~of any such acts approved by the joint committee. Unless~~
238 ~~otherwise specified by the joint committee, such acts must be~~
239 ~~performed under the general supervision of a practitioner~~
240 ~~licensed under chapter 458, chapter 459, or chapter 466 within~~
241 ~~the framework of standing protocols which identify the medical~~
242 ~~acts to be performed and the conditions for their performance.~~
243 The department may, by rule, require that a copy of the protocol



183442

244 be filed with the department along with the notice required by
245 s. 458.348.

246 Section 15. Subsection (6) is added to section 464.012,
247 Florida Statutes, to read:

248 464.012 Certification of advanced registered nurse
249 practitioners; fees; controlled substance prescribing.—

250 (6) (a) The board shall establish a committee to recommend a
251 formulary of controlled substances that an advanced registered
252 nurse practitioner may not prescribe or may prescribe only for
253 specific uses or in limited quantities. The committee must
254 consist of three advanced registered nurse practitioners
255 licensed under s. 464.012, recommended by the Board of Nursing;
256 three physicians licensed under chapter 458 or chapter 459 who
257 have had work experience with advanced registered nurse
258 practitioners, recommended by the Board of Medicine; and a
259 pharmacist licensed under chapter 465 who holds a Doctor of
260 Pharmacy degree, recommended by the Board of Pharmacy. The
261 committee may recommend an evidence-based formulary applicable
262 to all advanced registered nurse practitioners, which is limited
263 by specially certification or to approved uses of controlled
264 substances, or subject to other similar restrictions the
265 committee finds are necessary to protect the health, safety, and
266 welfare of the public. The formulary must restrict the
267 prescribing of psychiatric mental health controlled substances
268 for children under 18 years of age to psychiatric nurses as
269 defined in s. 394.455. The formulary must also limit the
270 prescribing of Schedule II controlled substances as defined in
271 s. 893.03 to a 7-day supply, except that such restriction does
272 not apply to controlled substances that are psychiatric



183442

273 medications prescribed by psychiatric nurses as defined in s.
274 394.455.

275 (b) The board shall adopt by rule the recommended formulary
276 and recommended additions or deletions to the formulary which it
277 finds are supported by evidence-based clinical findings
278 presented by the Board of Medicine, the Board of Osteopathic
279 Medicine, or the Board of Dentistry.

280 (c) The formulary required under this subsection does not
281 apply to a controlled substance order that is dispensed for
282 administration including orders for medication authorized in
283 subparagraph (4) (a)3. or subparagraph (4) (a)4.

284 (d) The board shall adopt the committee's initial
285 recommendation no later January 1, 2016.

286 Section 16. Effective January 1, 2016, subsection (3) of
287 section 464.012, Florida Statutes, is amended to read:

288 464.012 Certification of advanced registered nurse
289 practitioners; fees; controlled substance prescribing.-

290 (3) An advanced registered nurse practitioner shall perform
291 those functions authorized in this section within the framework
292 of an established protocol that is filed with the board upon
293 biennial license renewal and within 30 days after entering into
294 a supervisory relationship with a physician or changes to the
295 protocol. The board shall review the protocol to ensure
296 compliance with applicable regulatory standards for protocols.
297 The board shall refer to the department licensees submitting
298 protocols that are not compliant with the regulatory standards
299 for protocols. A practitioner currently licensed under chapter
300 458, chapter 459, or chapter 466 shall maintain supervision for
301 directing the specific course of medical treatment. Within the



183442

302 established framework, an advanced registered nurse practitioner
303 may:

304 (a) Prescribe, dispense, administer, or order any drug;
305 however, an advanced registered nurse practitioner may only
306 prescribe or dispense a controlled substance as defined in s.
307 893.03 if the advanced registered nurse practitioner has
308 graduated from a program leading to a master's degree in a
309 clinical nursing specialty area with training in specialized
310 practitioner skills. ~~Monitor and alter drug therapies.~~

311 (b) Initiate appropriate therapies for certain conditions.

312 (c) Perform additional functions as may be determined by
313 rule in accordance with s. 464.003(2).

314 (d) Order diagnostic tests and physical and occupational
315 therapy.

316 Section 17. Subsection (3) of section 464.013, Florida
317 Statutes, is amended to read:

318 464.013 Renewal of license or certificate.—

319 (3) The board shall by rule prescribe up to 30 hours of
320 continuing education biennially as a condition for renewal of a
321 license or certificate.

322 (a) A nurse who is certified by a health care specialty
323 program accredited by the National Commission for Certifying
324 Agencies or the Accreditation Board for Specialty Nursing
325 Certification is exempt from continuing education requirements.
326 The criteria for programs must ~~shall~~ be approved by the board.

327 (b) Notwithstanding the exemption in paragraph (a), as part
328 of the maximum 30 hours of continuing education hours required
329 under this subsection, advanced registered nurse practitioners
330 certified under s. 464.012 must complete at least 3 hours of



183442

331 continuing education on the safe and effective prescription of
332 controlled substances. Such continuing education courses must be
333 offered by a statewide professional association of physicians in
334 this state accredited to provide educational activities
335 designated for the American Medical Association Physician's
336 Recognition Award Category 1 Credit, the American Nurses
337 Credentialing Center, or the American Association of Nurse
338 Practitioners and may be offered in a distance-learning format.

339 Section 18. Paragraph (p) is added to subsection (1) of
340 section 464.018, Florida Statutes, and subsection (2) of that
341 section is republished, to read:

342 464.018 Disciplinary actions.—

343 (1) The following acts constitute grounds for denial of a
344 license or disciplinary action, as specified in s. 456.072(2):

345 (p) For an advanced registered nurse practitioner:

346 1. Presigning blank prescription forms.

347 2. Prescribing for office use any medicinal drug appearing
348 on Schedule II in chapter 893.

349 3. Prescribing, ordering, dispensing, administering,
350 supplying, selling, or giving a drug that is an amphetamine or a
351 sympathomimetic amine drug, or a compound designated pursuant to
352 chapter 893 as a Schedule II controlled substance, to or for any
353 person except for:

354 a. The treatment of narcolepsy; hyperkinesis; behavioral
355 syndrome in children characterized by the developmentally
356 inappropriate symptoms of moderate to severe distractibility,
357 short attention span, hyperactivity, emotional lability, and
358 impulsivity; or drug-induced brain dysfunction.

359 b. The differential diagnostic psychiatric evaluation of



183442

360 depression or the treatment of depression shown to be refractory
361 to other therapeutic modalities.

362 c. The clinical investigation of the effects of such drugs
363 or compounds when an investigative protocol is submitted to,
364 reviewed by, and approved by the department before such
365 investigation is begun.

366 4. Prescribing, ordering, dispensing, administering,
367 supplying, selling, or giving growth hormones, testosterone or
368 its analogs, human chorionic gonadotropin (HCG), or other
369 hormones for the purpose of muscle building or to enhance
370 athletic performance. As used in this subparagraph, the term
371 "muscle building" does not include the treatment of injured
372 muscle. A prescription written for the drug products listed in
373 this paragraph may be dispensed by a pharmacist with the
374 presumption that the prescription is for legitimate medical use.

375 5. Promoting or advertising on any prescription form a
376 community pharmacy unless the form also states: "This
377 prescription may be filled at any pharmacy of your choice."

378 6. Prescribing, dispensing, administering, mixing, or
379 otherwise preparing a legend drug, including a controlled
380 substance, other than in the course of his or her professional
381 practice. For the purposes of this subparagraph, it is legally
382 presumed that prescribing, dispensing, administering, mixing, or
383 otherwise preparing legend drugs, including all controlled
384 substances, inappropriately or in excessive or inappropriate
385 quantities is not in the best interest of the patient and is not
386 in the course of the advanced registered nurse practitioner's
387 professional practice, without regard to his or her intent.

388 7. Prescribing, dispensing, or administering a medicinal



183442

389 drug appearing on any schedule set forth in chapter 893 to
390 himself or herself, except a drug prescribed, dispensed, or
391 administered to the advanced registered nurse practitioner by
392 another practitioner authorized to prescribe, dispense, or
393 administer medicinal drugs.

394 8. Prescribing, ordering, dispensing, administering,
395 supplying, selling, or giving amygdalin (laetrile) to any
396 person.

397 9. Dispensing a controlled substance listed on Schedule II
398 or Schedule III in chapter 893 in violation of s. 465.0276.

399 10. Promoting or advertising through any communication
400 medium the use, sale, or dispensing of a controlled substance
401 appearing on any schedule in chapter 893.

402 (2) The board may enter an order denying licensure or
403 imposing any of the penalties in s. 456.072(2) against any
404 applicant for licensure or licensee who is found guilty of
405 violating any provision of subsection (1) of this section or who
406 is found guilty of violating any provision of s. 456.072(1).

407
408 ===== T I T L E A M E N D M E N T =====

409 And the title is amended as follows:

410 Delete lines 908 - 952

411 and insert:

412 standards of practice; providing applicability;
413 amending s. 458.326, F.S.; defining the term
414 "interventional pain medicine"; restricting the
415 practice of interventional pain medicine to specified
416 circumstances; amending ss. 458.3265 and 459.0137,
417 F.S.; limiting the authority to prescribe a controlled



183442

418 substance in a pain-management clinic to a physician
419 licensed under ch. 458 or ch. 459, F.S.; amending s.
420 458.347, F.S.; revising the required continuing
421 education requirements for a physician assistant;
422 amending s. 458.347, F.S.; requiring the Council of
423 Physician Assistants to create a formulary which
424 includes the controlled substances a physician
425 assistant is authorized to prescribe; amending s.
426 464.003, F.S.; redefining the term "advanced or
427 specialized nursing practice"; removing the joint
428 committee established in the definition; amending s.
429 464.012, F.S.; requiring the Board of Nursing to
430 establish a committee to make recommendations
431 regarding the need for adoption of a formulary of
432 controlled substances that may be prescribed by an
433 advanced registered nurse practitioner; specifying the
434 membership of the committee; providing parameters for
435 the recommendations of the committee; requiring that
436 any formulary be adopted by board rule; specifying the
437 process for amending the formulary and imposing a
438 burden of proof; limiting the formulary's application
439 in certain instances; requiring the board to adopt the
440 committee's initial recommendations by a specified
441 date; amending s. 464.012, F.S.; authorizing an
442 advanced registered nurse practitioner to prescribe,
443 dispense, administer, or order drugs, rather than to
444 monitor and alter drug therapies; providing an
445 exception; amending s. 464.013, F.S.; revising
446 conditions for renewal of a license or certificate;



183442

447 amending s. 464.018, F.S.; specifying acts that
448 constitute grounds for denial of a license or for
449 disciplinary action against an advanced registered
450 nurse practitioner;



841294

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/20/2015	.	
	.	
	.	
	.	

The Committee on Rules (Benacquisto) recommended the following:

1 **Senate Amendment to Amendment (395678) (with title**
2 **amendment)**

3
4 Between lines 830 and 831

5 insert:

6 Section 23. Section 288.924, Florida Statutes, is created
7 to read:

8 288.924 Medical tourism for quality health care services;
9 medical tourism marketing advisory council and plan.-

10 (1) ADVISORY COUNCIL FOR MEDICAL TOURISM.-The Advisory
11 Council for Medical Tourism is created within the Florida



841294

12 Tourism Industry Marketing Corporation to serve as an advisory
13 body to the Division of Tourism Industry Marketing Corporation
14 within Enterprise Florida, Inc. The council shall provide
15 insight and expertise related to developing, marketing, and
16 promoting this state's medical tourism industry.

17 (2) MEMBERSHIP.—

18 (a) The council shall consist of 12 members with three
19 members appointed by the Governor, three members appointed by
20 the President of the Senate, three members appointed by Speaker
21 of the House of Representatives, and three members appointed by
22 VISIT Florida, Inc. The council shall be chaired by the
23 President and CEO of VISIT Florida or his or her designee.

24 (b) Members shall be appointed to 4-year terms. All terms
25 end on September 30. Initial appointments must be made by
26 September 1, 2015. To allow for staggered terms, one appointee
27 from each appointing official will serve a term of 2 years for
28 the initial term.

29 (c) A council member's absence from three consecutive
30 meetings will result in his or her automatic removal from the
31 council.

32 (d) No more than one member of the council may be an
33 employee of a single company, organization, or association.

34 (e) A council member is eligible for re-appointment, but
35 may not serve more than two consecutive terms.

36 (3) MEETINGS; ORGANIZATION.—

37 (a) The council shall meet at least once per quarter, but
38 may meet as often as the council deems necessary.

39 (b) The Division of Tourism Marketing shall provide staff
40 assistance to the council, whose duties must include, but are



841294

41 not limited to, keeping records of the proceedings of the
42 council, and serving as custodian of all books, documents, and
43 papers filed with the council.

44 (c) A majority of the members of the council constitutes a
45 quorum.

46 (d) Council members are entitled to receive, from funds of
47 the corporation, reimbursement for per diem and travel expenses
48 as provided by s. 112.061.

49 (4) POWERS AND DUTIES.— The council's responsibilities
50 include, but are not limited to:

51 (a) Develop and implement a 4-year marketing plan in
52 coordination with the Division of Tourism Marketing with
53 specific initiatives to advance this state as a destination for
54 medical tourism.

55 (b) Adopt bylaws for the governance of council affairs and
56 the conduct of its business under this act.

57 (c) Advise the Florida Tourism Industry Marketing
58 Corporation on its medical tourism program and any changes that
59 might facilitate meeting the marketing plan objectives.

60 (d) Consider and study the needs of the medical tourism
61 industry for the purpose of advising the Florida Tourism
62 Marketing Corporation.

63 (e) Identify state and local government actions that may
64 impact the medical tourism industry, or that may appear to
65 industry representatives as affecting medical tourism in the
66 state, and advising the Florida Tourism Industry Marketing
67 Corporation of such actions.

68 (f) Promote national and international awareness of the
69 qualifications, scope of services, and specialized expertise of



841294

70 health care providers throughout this state; and
71 (g) Promote national and international awareness of
72 medical-related conferences, training, or business opportunities
73 to attract practitioners from the medical field to destinations
74 in this state.
75 (h). Consider all matters submitted to it by the Florida
76 Tourism Industry Marketing Corporation.
77 (i) Suggest policies and practices that may improve
78 interaction with the medical tourism industry and enhance
79 related state economic development initiatives.
80 (j) Establish an evaluation plan to determine the return on
81 the use of investment of state and local funds for medical
82 tourism or other mechanisms to determine the effectiveness of
83 the state's medical tourism plans.
84 (5) ALLOCATION OF FUNDS FOR MARKETING PLAN.—Annually, at
85 least \$2 million of the funds appropriated in the General
86 Appropriations Act to the Florida Tourism Industry Marketing
87 Corporation shall be allocated for the development and
88 implementation of the medical tourism marketing plan.
89 (6) REPEAL.—This section is repealed July 1, 2020.
90 Section 24. Paragraph (c) of subsection (4) of section
91 288.923, Florida Statutes, is amended to read
92 288.923 Division of Tourism Marketing; definitions;
93 responsibilities.—
94 (4) The division's responsibilities and duties include, but
95 are not limited to:
96 (c) Developing a 4-year marketing plan.
97 1. At a minimum, the marketing plan shall discuss the
98 following:



841294

- 99 a. Continuation of overall tourism growth in this state.
100 b. Expansion to new or under-represented tourist markets.
101 c. Maintenance of traditional and loyal tourist markets.
102 d. Coordination of efforts with county destination
103 marketing organizations, other local government marketing
104 groups, privately owned attractions and destinations, and other
105 private sector partners to create a seamless, four-season
106 advertising campaign for the state and its regions.
107 e. Development of innovative techniques or promotions to
108 build repeat visitation by targeted segments of the tourist
109 population.
110 f. Consideration of innovative sources of state funding for
111 tourism marketing.
112 g. Promotion of nature-based tourism and heritage tourism.
113 h. Development of a component to address emergency response
114 to natural and manmade disasters from a marketing standpoint.
115 2. The plan shall be annual in construction and ongoing in
116 nature. Any annual revisions of the plan shall carry forward the
117 concepts of the remaining 3-year portion of the plan and
118 consider a continuum portion to preserve the 4-year timeframe of
119 the plan. The plan also shall include recommendations for
120 specific performance standards and measurable outcomes for the
121 division and direct-support organization. The department, in
122 consultation with the board of directors of Enterprise Florida,
123 Inc., shall base the actual performance metrics on these
124 recommendations.
125 3. The 4-year marketing plan shall be developed in
126 collaboration with the Florida Tourism Industry Marketing
127 Corporation. The plan shall be annually reviewed and approved by



841294

128 the board of directors of Enterprise Florida, Inc.

129 (d) Developing a 4-year marketing plan for the promotion of
130 medical tourism as provided under s. 288.924.

131 Section 25. Section 296.42, Florida Statutes, is created to
132 read:

133 296.42 Site selection process for state veterans' nursing
134 homes.-

135 (1) The department shall contract for a study to determine
136 the need for new state veterans' nursing homes and the most
137 appropriate counties in which to locate the homes based on the
138 greatest level of need. The department shall submit the study to
139 the Governor, the President of the Senate, and the Speaker of
140 the House of Representatives by November 1, 2015.

141 (2) The study shall use the following criteria to rank each
142 county according to need:

143 (a) The distance from the geographic center of the county
144 to the nearest existing state veterans' nursing home.

145 (b) The number of veterans age 65 years or older residing
146 in the county.

147 (c) The presence of an existing federal Veterans' Health
148 Administration medical center or outpatient clinic in the
149 county.

150 (d) Elements of emergency health care in the county, as
151 determined by:

152 1. The number of general hospitals.

153 2. The number of emergency room holding beds per hospital.

154 The term "emergency room holding bed" means a bed located in the
155 emergency room of a hospital licensed under ch. 395 which is
156 used for a patient admitted to the hospital through the



841294

157 emergency room, but is waiting for an available bed in an
158 inpatient unit of the hospital.

159 3. The number of employed physicians per hospital in the
160 emergency room 24 hours per day.

161 (e) The number of existing community nursing home beds per
162 1,000 males age 65 years or older residing in the county.

163 (f) The presence of an accredited educational institution
164 offering health care programs in the county.

165 (g) The county poverty rate.

166 (3) For each new nursing home, the department shall select
167 the highest-ranked county in the applicable study under this
168 section which does not have a veterans' nursing home. If the
169 highest-ranked county cannot serve as the site, the department
170 shall select the next-highest ranked county. The selection is
171 subject to the approval of the Governor and Cabinet.

172 (4) The department shall use the 2014 site selection study
173 to select a county for any new state veterans' nursing home
174 authorized before November 1, 2015.

175 (5) The department shall use the November 2015 site
176 selection study ranking to select each new state veterans'
177 nursing home site authorized before July 1, 2020.

178 (6) The department shall contract for and submit a new site
179 selection study to the Governor, the President of the Senate,
180 and the Speaker of the House of Representatives using the county
181 ranking criteria in paragraph (3) by November 1, 2019 for site
182 selections on or after July 1, 2020. The department must conduct
183 new site selection studies every 4 years using the county
184 ranking criteria under paragraph (3) with each report due by
185 November 1st for the selection period that begins the following



841294

186 July 1st.

187 Section 26. Section 624.27, Florida Statutes, is created to
188 read:

189 624.27 Application of code as to direct primary care
190 agreements.-

191 (1) As used in this section, the term:

192 (a) "Direct primary care agreement" means a contract
193 between a primary care provider or primary care group practice
194 and a patient, the patient's legal representative, or an
195 employer which must satisfy the criteria in subsection (4) and
196 does not indemnify for services provided by a third party.

197 (b) "Primary care provider" means a health care provider
198 licensed under chapter 458, chapter 459, or chapter 464 who
199 provides medical services to patients which are commonly
200 provided without referral from another health care provider.

201 (c) "Primary care service" means the screening, assessment,
202 diagnosis, and treatment of a patient for the purpose of
203 promoting health or detecting and managing disease or injury
204 within the competency and training of the primary care provider.

205 (2) A direct primary care agreement does not constitute
206 insurance and is not subject to this code. The act of entering
207 into a direct primary care agreement does not constitute the
208 business of insurance and is not subject to this code.

209 (3) A primary care provider or an agent of a primary care
210 provider is not required to obtain a certificate of authority or
211 license under this code to market, sell, or offer to sell a
212 direct primary care agreement.

213 (4) For purposes of this section, a direct primary care
214 agreement must:



841294

- 215 (a) Be in writing.
- 216 (b) Be signed by the primary care provider or an agent of
217 the primary care provider and the patient or the patient's legal
218 representative.
- 219 (c) Allow a party to terminate the agreement by written
220 notice to the other party after a period specified in the
221 agreement.
- 222 (d) Describe the scope of the primary care services that
223 are covered by the monthly fee.
- 224 (e) Specify the monthly fee and any fees for primary care
225 services not covered by the monthly fee.
- 226 (f) Specify the duration of the agreement and any automatic
227 renewal provisions.
- 228 (g) Offer a refund to the patient of monthly fees paid in
229 advance if the primary care provider ceases to offer primary
230 care services for any reason.
- 231 (h) State that the agreement is not health insurance.
- 232 Section 26. Paragraphs (a) and (e) of subsection (3) and
233 subsections (4) and (5) of section 766.1115, Florida Statutes,
234 are amended to read:
- 235 Section 27. Paragraphs (a) and (d) of subsection (3) and
236 subsections (4) and (5) of section 766.1115, Florida Statutes,
237 are amended to read:
- 238 766.1115 Health care providers; creation of agency
239 relationship with governmental contractors.—
- 240 (3) DEFINITIONS.—As used in this section, the term:
- 241 (a) "Contract" means an agreement executed in compliance
242 with this section between a health care provider and a
243 governmental contractor which allows the health care provider,



841294

244 or any employee or agent of the health care provider, to deliver
245 health care services to low-income recipients as an agent of the
246 governmental contractor. The contract must be for volunteer,
247 uncompensated services, ~~except as provided in paragraph (4)(g).~~
248 For services to qualify as volunteer, uncompensated services
249 under this section, the health care provider must receive no
250 compensation from the governmental contractor for any services
251 provided under the contract and must not bill or accept
252 compensation from the recipient, or a public or private third-
253 party payor, for the specific services provided to the low-
254 income recipients covered by the contract, except as provided in
255 paragraph (4)(g). A free clinic as described in subparagraph
256 (3)(d)14. may receive a legislative appropriation, a grant
257 through a legislative appropriation, or a grant from a
258 governmental entity or nonprofit corporation to support the
259 delivery of such contracted services by volunteer health care
260 providers, including the employment of health care providers to
261 supplement, coordinate, or support the delivery of services by
262 volunteer health care providers. Such an appropriation or grant
263 does not constitute compensation under this paragraph from the
264 governmental contractor for services provided under the
265 contract, nor does receipt and use of the appropriation or grant
266 constitute the acceptance of compensation under this paragraph
267 for the specific services provided to the low-income recipients
268 covered by the contract.

269 (d) "Health care provider" or "provider" means:

270 1. A birth center licensed under chapter 383.

271 2. An ambulatory surgical center licensed under chapter
272 395.



841294

- 273 3. A hospital licensed under chapter 395.
- 274 4. A physician or physician assistant licensed under
275 chapter 458.
- 276 5. An osteopathic physician or osteopathic physician
277 assistant licensed under chapter 459.
- 278 6. A chiropractic physician licensed under chapter 460.
- 279 7. A podiatric physician licensed under chapter 461.
- 280 8. A registered nurse, nurse midwife, licensed practical
281 nurse, or advanced registered nurse practitioner licensed or
282 registered under part I of chapter 464 or any facility which
283 employs nurses licensed or registered under part I of chapter
284 464 to supply all or part of the care delivered under this
285 section.
- 286 9. A midwife licensed under chapter 467.
- 287 10. A health maintenance organization certificated under
288 part I of chapter 641.
- 289 11. A health care professional association ~~and its~~
290 ~~employees~~ or a corporate medical group ~~and its employees~~.
- 291 12. Any other medical facility the primary purpose of which
292 is to deliver human medical diagnostic services or which
293 delivers nonsurgical human medical treatment, and which includes
294 an office maintained by a provider.
- 295 13. A dentist or dental hygienist licensed under chapter
296 466.
- 297 14. A free clinic that delivers only medical diagnostic
298 services or nonsurgical medical treatment free of charge to all
299 low-income recipients.
- 300 15. Any other health care professional, practitioner,
301 provider, or facility under contract with a governmental



841294

302 contractor, including a student enrolled in an accredited
303 program that prepares the student for licensure as any one of
304 the professionals listed in subparagraphs 4.-9.

305

306 The term includes any nonprofit corporation qualified as exempt
307 from federal income taxation under s. 501(a) of the Internal
308 Revenue Code, and described in s. 501(c) of the Internal Revenue
309 Code, which delivers health care services provided by licensed
310 professionals listed in this paragraph, any federally funded
311 community health center, and any volunteer corporation or
312 volunteer health care provider that delivers health care
313 services.

314 (4) CONTRACT REQUIREMENTS.—A health care provider that
315 executes a contract with a governmental contractor to deliver
316 health care services ~~on or after April 17, 1992,~~ as an agent of
317 the governmental contractor, or any employee or agent of such
318 health care provider, is an agent for purposes of s. 768.28(9),
319 while acting within the scope of duties under the contract, if
320 the contract complies with the requirements of this section and
321 regardless of whether the individual treated is later found to
322 be ineligible. A health care provider, or any employee or agent
323 of the health care provider, shall continue to be an agent for
324 purposes of s. 768.28(9) for 30 days after a determination of
325 ineligibility to allow for treatment until the individual
326 transitions to treatment by another health care provider. A
327 health care provider under contract with the state, or any
328 employee or agent of such health care provider, may not be named
329 as a defendant in any action arising out of medical care or
330 treatment ~~provided on or after April 17, 1992,~~ under contracts



331 entered into under this section. The contract must provide that:

332 (a) The right of dismissal or termination of any health
333 care provider delivering services under the contract is retained
334 by the governmental contractor.

335 (b) The governmental contractor has access to the patient
336 records of any health care provider delivering services under
337 the contract.

338 (c) Adverse incidents and information on treatment outcomes
339 must be reported by any health care provider to the governmental
340 contractor if the incidents and information pertain to a patient
341 treated under the contract. The health care provider shall
342 submit the reports required by s. 395.0197. If an incident
343 involves a professional licensed by the Department of Health or
344 a facility licensed by the Agency for Health Care
345 Administration, the governmental contractor shall submit such
346 incident reports to the appropriate department or agency, which
347 shall review each incident and determine whether it involves
348 conduct by the licensee that is subject to disciplinary action.
349 All patient medical records and any identifying information
350 contained in adverse incident reports and treatment outcomes
351 which are obtained by governmental entities under this paragraph
352 are confidential and exempt from the provisions of s. 119.07(1)
353 and s. 24(a), Art. I of the State Constitution.

354 (d) Patient selection and initial referral must be made by
355 the governmental contractor or the provider. Patients may not be
356 transferred to the provider based on a violation of the
357 antidumping provisions of the Omnibus Budget Reconciliation Act
358 of 1989, the Omnibus Budget Reconciliation Act of 1990, or
359 chapter 395.



841294

360 (e) If emergency care is required, the patient need not be
361 referred before receiving treatment, but must be referred within
362 48 hours after treatment is commenced or within 48 hours after
363 the patient has the mental capacity to consent to treatment,
364 whichever occurs later.

365 (f) The provider is subject to supervision and regular
366 inspection by the governmental contractor.

367 ~~(g) As an agent of the governmental contractor for purposes~~
368 ~~of s. 768.28(9), while acting within the scope of duties under~~
369 ~~the contract,~~ A health care provider licensed under chapter 466,
370 as an agent of the governmental contractor for purposes of s.
371 768.28(9), may allow a patient, or a parent or guardian of the
372 patient, to voluntarily contribute a monetary amount to cover
373 costs of dental laboratory work related to the services provided
374 to the patient within the scope of duties under the contract.
375 This contribution may not exceed the actual cost of the dental
376 laboratory charges.

377
378 A governmental contractor that is also a health care provider is
379 not required to enter into a contract under this section with
380 respect to the health care services delivered by its employees.

381 (5) NOTICE OF AGENCY RELATIONSHIP.—The governmental
382 contractor must provide written notice to each patient, or the
383 patient's legal representative, receipt of which must be
384 acknowledged in writing at the initial visit, that the provider
385 is an agent of the governmental contractor and that the
386 exclusive remedy for injury or damage suffered as the result of
387 any act or omission of the provider or of any employee or agent
388 thereof acting within the scope of duties pursuant to the



841294

389 contract is by commencement of an action pursuant to ~~the~~
390 ~~provisions of~~ s. 768.28. Thereafter, and with respect to any
391 federally funded community health center, the notice
392 requirements may be met by posting in a place conspicuous to all
393 persons a notice that the health care provider ~~federally funded~~
394 ~~community health center~~ is an agent of the governmental
395 contractor and that the exclusive remedy for injury or damage
396 suffered as the result of any act or omission of the provider or
397 of any employee or agent thereof acting within the scope of
398 duties pursuant to the contract is by commencement of an action
399 pursuant to ~~the provisions of~~ s. 768.28.

400 Section 28. Section 7. Paragraph (b) of subsection (9) of
401 section 768.28, Florida Statutes, is amended to read:

402 768.28 Waiver of sovereign immunity in tort actions;
403 recovery limits; limitation on attorney fees; statute of
404 limitations; exclusions; indemnification; risk management
405 programs.—

406 (9)

407 (b) As used in this subsection, the term:

408 1. "Employee" includes any volunteer firefighter.

409 2. "Officer, employee, or agent" includes, but is not
410 limited to, any health care provider, and its employees or
411 agents, when providing services pursuant to s. 766.1115; any
412 nonprofit independent college or university located and
413 chartered in this state which owns or operates an accredited
414 medical school, and its employees or agents, when providing
415 patient services pursuant to paragraph (10)(f); and any public
416 defender or her or his employee or agent, including, among
417 others, an assistant public defender and an investigator.



418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 882 - 962

and insert:

An act relating to access to health care services;
amending s. 110.12315, F.S.; expanding the categories
of persons who may prescribe brand drugs under the
prescription drug program when medically necessary;
amending ss. 310.071, 310.073, and 310.081, F.S.;
exempting controlled substances prescribed by an
advanced registered nurse practitioner or a physician
assistant from the disqualifications for certification
or licensure, and for continued certification or
licensure, as a deputy pilot or state pilot; repealing
s. 383.336, F.S., relating to provider hospitals,
practice parameters, and peer review boards; amending
s. 395.1051, F.S.; requiring a hospital to notify
certain obstetrical physicians within a specified
timeframe before the hospital closes its obstetrical
department or ceases to provide obstetrical services;
amending s. 456.072, F.S.; applying existing penalties
for violations relating to the prescribing or
dispensing of controlled substances by an advanced
registered nurse practitioner; amending s. 456.44,
F.S.; deleting an obsolete date; requiring advanced
registered nurse practitioners and physician
assistants who prescribe controlled substances for



841294

447 certain pain to make a certain designation, comply
448 with registration requirements, and follow specified
449 standards of practice; requiring certain respective
450 entities review the information to determine whether
451 disciplinary action is appropriate; requiring the
452 respective board to forward certain findings to the
453 Board of Nursing; providing applicability; amending s.
454 458.326, F.S.; defining the term "interventional pain
455 medicine"; limiting the practice of interventional
456 pain medicine to specified circumstances; amending ss.
457 458.3265 and 459.0137, F.S.; limiting the authority to
458 prescribe a controlled substance in a pain-management
459 clinic to a physician licensed under ch. 458 or ch.
460 459, F.S.; amending s. 458.347, F.S.; revising the
461 required continuing education requirements for a
462 physician assistant; amending s. 458.347, F.S.;
463 requiring the Council of Physician Assistants to
464 create a formulary which includes the controlled
465 substances a physician assistant is authorized to
466 prescribe; amending s. 464.003, F.S.; revising the
467 definition of the term "advanced or specialized
468 nursing practice"; deleting the joint committee
469 established in the definition; amending s. 464.012,
470 F.S.; requiring the Board of Nursing to establish a
471 committee make recommendations regarding the need for
472 adoption of a formulary of controlled substances that
473 may be prescribed by an advanced registered nurse
474 practitioner; specifying the membership of the
475 committee; providing parameters for the



841294

476 recommendations of the committee; requiring that any
477 formulary be adopted by board rule; specifying the
478 process for amending the formulary and imposing a
479 burden of proof; limiting the formulary's application
480 in certain instances; requiring the board to adopt the
481 committee's initial recommendations by a specified
482 date; amending s. 464.012, F.S.; authorizing an
483 advanced registered nurse practitioner to prescribe,
484 dispense, administer, or order drugs, rather than to
485 monitor and alter drug therapies; providing an
486 exception; amending s. 464.013, F.S.; revising
487 conditions for renewal of a license or certificate;
488 amending s. 464.018, F.S.; specifying acts that
489 constitute grounds for denial of a license or for
490 disciplinary action against an advanced registered
491 nurse practitioner; requiring that in certain
492 disciplinary cases, the board notify certain entities
493 and forward all materials to the respective board;
494 amending s. 893.02, F.S.; redefining the term
495 "practitioner" to include advanced registered nurse
496 practitioners and physician assistants under the
497 Florida Comprehensive Drug Abuse Prevention and
498 Control Act; amending s. 948.03, F.S.; providing that
499 possession of drugs or narcotics prescribed by an
500 advanced registered nurse practitioner or physician
501 assistant does not violate a prohibition relating to
502 the possession of drugs or narcotics during probation;
503 amending s. 288.923, F.S.; requiring the Division of
504 Tourism Marketing to prepare a 4-year plan for the



841294

505 promotion of medical tourism for quality health care
506 services; creating s. 288.924, F.S.; creating the
507 Medical Tourism Advisory Council; designating
508 membership terms and responsibilities for the council;
509 allocating funds from the corporation to the council
510 for development of the medical tourism marketing plan;
511 creating s. 296.42, F.S.; directing the Department of
512 Veterans' Affairs to contract for a study to determine
513 the need and location for additional state veterans'
514 nursing homes; directing the department to submit the
515 study to the Governor and Legislature; providing study
516 criteria for ranking each county according to need;
517 providing site selection criteria; requiring approval
518 of the Governor and Cabinet for site selection;
519 requiring the department to use specified studies to
520 select new nursing home sites; directing the
521 department to contract for subsequent studies and
522 submit the studies to the Governor and Legislature;
523 creating s. 624.27, F.S.; providing definitions;
524 specifying that a direct primary care agreement does
525 not constitute insurance and is not subject to the
526 Florida Insurance Code; specifying that entering into
527 a direct primary care agreement does not constitute
528 the business of insurance and is not subject to the
529 code; providing that a health care provider is not
530 required to obtain a certificate of authority to
531 market, sell, or offer to sell a direct primary care
532 agreement; specifying criteria for a direct primary
533 care agreement; amending s. 766.1115, F.S.; redefining



841294

534 terms relating to agency relationships with
535 governmental health care contractors; deleting an
536 obsolete date; extending sovereign immunity to
537 employees or agents of a health care provider that
538 executes a contract with a governmental contractor;
539 clarifying that a receipt of specified notice must be
540 acknowledged by a patient or the patient's
541 representative at the initial visit; requiring the
542 posting of notice that a specified health care
543 provider is an agent of a governmental contractor;
544 amending s. 768.28, F.S.; redefining the term
545 "officer, employee, or agent" to include employees or
546 agents of a health care provider; conforming
547



149458

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/20/2015	.	
	.	
	.	
	.	

The Committee on Rules (Gaetz) recommended the following:

1 **Senate Amendment to Amendment (395678) (with title**
2 **amendment)**

3
4 Before line 5
5 insert:

6 Section 1. Paragraph (c) of subsection (2) of section
7 409.967, Florida Statutes, is amended to read:

8 409.967 Managed care plan accountability.-

9 (2) The agency shall establish such contract requirements
10 as are necessary for the operation of the statewide managed care
11 program. In addition to any other provisions the agency may deem



12 necessary, the contract must require:

13 (c) *Access.*—

14 1. The agency shall establish specific standards for the
15 number, type, and regional distribution of providers in managed
16 care plan networks to ensure access to care for both adults and
17 children. Each plan must maintain a regionwide network of
18 providers in sufficient numbers to meet the access standards for
19 specific medical services for all recipients enrolled in the
20 plan. The exclusive use of mail-order pharmacies may not be
21 sufficient to meet network access standards. Consistent with the
22 standards established by the agency, provider networks may
23 include providers located outside the region. A plan may
24 contract with a new hospital facility before the date the
25 hospital becomes operational if the hospital has commenced
26 construction, will be licensed and operational by January 1,
27 2013, and a final order has issued in any civil or
28 administrative challenge. Each plan shall establish and maintain
29 an accurate and complete electronic database of contracted
30 providers, including information about licensure or
31 registration, locations and hours of operation, specialty
32 credentials and other certifications, specific performance
33 indicators, and such other information as the agency deems
34 necessary. The database must be available online to both the
35 agency and the public and have the capability to compare the
36 availability of providers to network adequacy standards and to
37 accept and display feedback from each provider's patients. Each
38 plan shall submit quarterly reports to the agency identifying
39 the number of enrollees assigned to each primary care provider.

40 2. Each managed care plan must publish any prescribed drug



41 formulary or preferred drug list on the plan's website in a
42 manner that is accessible to and searchable by enrollees and
43 providers. The plan must update the list within 24 hours after
44 making a change. Each plan must ensure that the prior
45 authorization process for prescribed drugs is readily accessible
46 to health care providers, including posting appropriate contact
47 information on its website and providing timely responses to
48 providers. For Medicaid recipients diagnosed with hemophilia who
49 have been prescribed anti-hemophilic-factor replacement
50 products, the agency shall provide for those products and
51 hemophilia overlay services through the agency's hemophilia
52 disease management program.

53 3. Managed care plans, and their fiscal agents or
54 intermediaries, must accept prior authorization requests for any
55 service electronically.

56 4. Managed care plans serving children in the care and
57 custody of the Department of Children and Families must maintain
58 complete medical, dental, and behavioral health encounter
59 information and participate in making such information available
60 to the department or the applicable contracted community-based
61 care lead agency for use in providing comprehensive and
62 coordinated case management. The agency and the department shall
63 establish an interagency agreement to provide guidance for the
64 format, confidentiality, recipient, scope, and method of
65 information to be made available and the deadlines for
66 submission of the data. The scope of information available to
67 the department shall be the data that managed care plans are
68 required to submit to the agency. The agency shall determine the
69 plan's compliance with standards for access to medical, dental,



70 and behavioral health services; the use of medications; and
71 followup on all medically necessary services recommended as a
72 result of early and periodic screening, diagnosis, and
73 treatment.

74 5. If medication for the treatment of a medical condition
75 is restricted for use by a managed care plan through a step-
76 therapy or fail-first protocol, the prescribing provider shall
77 have access to a clear and convenient process to request an
78 override of such restriction from the managed care plan. The
79 managed care plan shall grant an override of the protocol within
80 24 hours under the following circumstances:

81 a. The prescribing provider determines, based on sound
82 clinical evidence, that the preferred treatment required under
83 the step-therapy or fail-first protocol has been ineffective in
84 the treatment of the enrollee's disease or medical condition; or

85 b. The prescribing provider believes, based on sound
86 clinical evidence or medical and scientific evidence, that the
87 preferred treatment required under the step-therapy or fail-
88 first protocol:

89 (I) Is expected to, or is likely to, be ineffective given
90 the known relevant physical or mental characteristics and
91 medical history of the enrollee and the known characteristics of
92 the drug regimen; or

93 (II) Will cause, or is likely to cause, an adverse reaction
94 or other physical harm to the enrollee.

95 6. If the prescribing provider allows the enrollee to enter
96 the step-therapy or fail-first protocol recommended by the
97 managed care plan, the duration of the step-therapy or fail-
98 first protocol may not exceed a period deemed appropriate by the



149458

99 prescribing provider. If the prescribing provider deems the
100 treatment clinically ineffective, the enrollee is entitled to
101 receive the recommended course of therapy without requiring the
102 prescribing provider to seek approval for an override of the
103 step-therapy or fail-first protocol.

104 Section 2. Section 627.42392, Florida Statutes, is created
105 to read:

106 627.42392 Prior Authorization.—

107 (1) As used in this section, the term "health insurer"
108 means an authorized insurer offering health insurance as defined
109 in s. 624.603, a managed care plan as defined in s. 409.901(13),
110 or a health maintenance organization as defined in s.
111 641.19(12).

112 (2) Notwithstanding any other provision of law, in order to
113 establish uniformity in the submission of prior authorization
114 forms on or after January 1, 2016, a health insurer, or a
115 pharmacy benefits manager on behalf of the health insurer, which
116 does not utilize an online prior authorization form for its
117 contracted providers shall use only the prior authorization form
118 that has been approved by the Financial Services Commission to
119 obtain a prior authorization for a medical procedure, course of
120 treatment, or prescription drug benefit. Such form may not
121 exceed two pages in length, excluding any instructions or
122 guiding documentation.

123 (3) The Financial Services Commission shall adopt by rule
124 guidelines for prior authorization forms which ensure the
125 general uniformity of such forms.

126 Section 3. Subsection (11) of section 627.6131, Florida
127 Statutes, is amended to read:



149458

128 627.6131 Payment of claims.-

129 (11) A health insurer may not retroactively deny a claim
130 because of insured ineligibility:

131 (a) At any time, if the health insurer verified the
132 eligibility of an insured at the time of treatment and provided
133 an authorization number.

134 (b) More than 1 year after the date of payment of the
135 claim.

136 Section 4. Section 627.6466, Florida Statutes, is created
137 to read:

138 627.6466 Fail-first protocols.-If medication for the
139 treatment of a medical condition is restricted for use by an
140 insurer through a step-therapy or fail-first protocol, the
141 prescribing provider shall have access to a clear and convenient
142 process to request an override of such restriction from the
143 insurer. The insurer shall grant an override of the protocol
144 within 24 hours under the following circumstances:

145 (1) The prescribing provider determines, based on sound
146 clinical evidence, that the preferred treatment required under
147 the step-therapy or fail-first protocol has been ineffective in
148 the treatment of the insured's disease or medical condition; or

149 (2) The prescribing provider believes, based on sound
150 clinical evidence or medical and scientific evidence, that the
151 preferred treatment required under the step-therapy or fail-
152 first protocol:

153 (a) Is expected to, or is likely to, be ineffective given
154 the known relevant physical or mental characteristics and
155 medical history of the insured and the known characteristics of
156 the drug regimen; or



157 (b) Will cause, or is likely to cause, an adverse reaction
158 or other physical harm to the insured.

159 (3) If the prescribing provider allows the insured to enter
160 the step-therapy or fail-first protocol recommended by the
161 health insurer, the duration of the step-therapy or fail-first
162 protocol may not exceed a period deemed appropriate by the
163 provider. If the prescribing provider deems the treatment
164 clinically ineffective, the insured is entitled to receive the
165 recommended course of therapy without requiring the prescribing
166 provider to seek approval for an override of the step-therapy or
167 fail-first protocol.

168 Section 5. Subsection (10) of section 641.3155, Florida
169 Statutes, is amended to read:

170 641.3155 Prompt payment of claims.—

171 (10) A health maintenance organization may not
172 retroactively deny a claim because of subscriber ineligibility:

173 (a) At any time, if the health maintenance organization
174 verified the eligibility of an insured at the time of treatment
175 and provided an authorization number.

176 (b) More than 1 year after the date of payment of the
177 claim.

178 Section 6. Section 641.393, Florida Statutes, is created to
179 read:

180 641.393 Fail-first protocols.—If medication for the
181 treatment of a medical condition is restricted for use by a
182 health maintenance organization through a step-therapy or fail-
183 first protocol, the prescribing provider shall have access to a
184 clear and convenient process to request an override of such
185 restriction from the organization. The health maintenance



149458

186 organization shall grant an override of the protocol within 24
187 hours under the following circumstances:

188 (1) The prescribing provider determines, based on sound
189 clinical evidence, that the preferred treatment required under
190 step-therapy or fail-first protocol has been ineffective in the
191 treatment of the subscriber's disease or medical condition; or

192 (2) The prescribing provider believes, based on sound
193 clinical evidence or medical and scientific evidence, that the
194 preferred treatment required under the step-therapy or fail-
195 first protocol:

196 (a) Is expected to, or is likely to, be ineffective given
197 the known relevant physical or mental characteristics and
198 medical history of the subscriber and the known characteristics
199 of the drug regimen; or

200 (b) Will cause, or is likely to cause, an adverse reaction
201 or other physical harm to the subscriber.

202 (3) If the prescribing provider allows the subscriber to
203 enter the step-therapy or fail-first protocol recommended by the
204 health maintenance organization, the duration of the step-
205 therapy or fail-first protocol may not exceed a period deemed
206 appropriate by the provider. If the prescribing provider deems
207 the treatment clinically ineffective, the subscriber is entitled
208 to receive the recommended course of therapy without requiring
209 the prescribing provider to seek approval for an override of the
210 step-therapy or fail-first protocol.

212 ===== T I T L E A M E N D M E N T =====

213 And the title is amended as follows:

214 Delete lines 882 - 884



215 and insert:
216 An act relating to health care; amending s. 409.967,
217 F.S.; requiring a Medicaid managed care plan to allow
218 a prescribing provider to request an override of a
219 restriction on the use of medication imposed through a
220 step-therapy or fail-first protocol; requiring the
221 plan to grant such override within a specified
222 timeframe under certain circumstances; prohibiting the
223 duration of a step-therapy or fail-first protocol from
224 exceeding the time period specified by the prescribing
225 provider; providing that an override is not required
226 under certain circumstances; creating s. 627.42392,
227 F.S.; defining the term "health insurer"; providing
228 that certain health insurers shall use only a prior
229 authorization form approved by the Financial Services
230 Commission; specifying requirements to be followed by
231 the commission in reviewing such forms; requiring the
232 commission to adopt certain rules relating to such
233 forms; amending s. 627.6131, F.S.; prohibiting a
234 health insurer from retroactively denying a claim
235 under specified circumstances; creating s. 627.6466,
236 F.S.; requiring an insurer to allow a prescribing
237 provider to request an override of a restriction on
238 the use of medication imposed through a step-therapy
239 or fail-first protocol; requiring the insurer to grant
240 such override within a specified timeframe under
241 certain circumstances; prohibiting the duration of a
242 step-therapy or fail-first protocol from exceeding the
243 time period specified by the prescribing provider;



244 providing that an override is not required under
245 certain circumstances; amending s. 641.3155, F.S.;
246 prohibiting a health maintenance organization from
247 retroactively denying a claim under specified
248 circumstances; creating s. 641.393, F.S.; requiring a
249 health maintenance organization to allow a prescribing
250 provider to request an override of a restriction on
251 the use of medication imposed through a step-therapy
252 or fail-first protocol; requiring the health
253 maintenance organization to grant such override within
254 a specified timeframe under certain circumstances;
255 prohibiting the duration of a step-therapy or fail-
256 first protocol from exceeding the time period
257 specified by the prescribing provider; providing that
258 an override is not required under certain
259 circumstances; amending s. 110.12315, F.S.; expanding
260 the

By the Committees on Regulated Industries; and Health Policy;
and Senator Grimsley

580-03235-15

2015614c2

1 A bill to be entitled
2 An act relating to drug prescription by advanced
3 registered nurse practitioners and physician
4 assistants; amending s. 110.12315, F.S.; expanding the
5 categories of persons who may prescribe brand drugs
6 under the prescription drug program when medically
7 necessary; amending ss. 310.071, 310.073, and 310.081,
8 F.S.; exempting controlled substances prescribed by an
9 advanced registered nurse practitioner or a physician
10 assistant from the disqualifications for certification
11 or licensure, and for continued certification or
12 licensure, as a deputy pilot or state pilot; repealing
13 s. 383.336, F.S., relating to provider hospitals,
14 practice parameters, and peer review boards; amending
15 s. 395.1051, F.S.; requiring a hospital to notify
16 certain obstetrical physicians within a specified
17 timeframe before the hospital closes its obstetrical
18 department or ceases to provide obstetrical services;
19 amending s. 456.072, F.S.; applying existing penalties
20 for violations relating to the prescribing or
21 dispensing of controlled substances to an advanced
22 registered nurse practitioner; amending s. 456.44,
23 F.S.; deleting an obsolete date; requiring advanced
24 registered nurse practitioners and physician
25 assistants who prescribe controlled substances for
26 certain pain to make a certain designation, comply
27 with registration requirements, and follow specified
28 standards of practice; providing applicability;
29 amending ss. 458.3265 and 459.0137, F.S.; limiting the

Page 1 of 26

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

580-03235-15

2015614c2

30 authority to prescribe a controlled substance in a
31 pain-management clinic to a physician licensed under
32 ch. 458 or ch. 459, F.S.; amending s. 458.347, F.S.;
33 expanding the prescribing authority of a licensed
34 physician assistant; amending s. 464.012, F.S.;
35 authorizing an advanced registered nurse practitioner
36 to prescribe, dispense, administer, or order drugs,
37 rather than to monitor and alter drug therapies;
38 requiring the Board of Nursing to appoint a committee
39 to recommend whether adoption of a formulary of
40 controlled substances that may be prescribed by an
41 advanced registered nurse practitioner is needed;
42 specifying the membership of the committee; providing
43 parameters for the recommendations of the committee;
44 requiring that any formulary be adopted by board rule;
45 specifying the process for amending the formulary and
46 imposing a burden of proof; requiring the board to
47 post notice of proposed, pending, or adopted changes
48 to the formulary on its website; specifying a deadline
49 for initiating any required rulemaking; limiting the
50 formulary's application in certain instances; amending
51 s. 464.018, F.S.; specifying acts that constitute
52 grounds for denial of a license for or disciplinary
53 action against an advanced registered nurse
54 practitioner; amending s. 893.02, F.S.; redefining the
55 term "practitioner" to include advanced registered
56 nurse practitioners and physician assistants under the
57 Florida Comprehensive Drug Abuse Prevention and
58 Control Act; amending s. 948.03, F.S.; providing that

Page 2 of 26

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

580-03235-15

2015614c2

59 possession of drugs or narcotics prescribed by an
60 advanced registered nurse practitioner or physician
61 assistant is an exception from a prohibition relating
62 to the possession of drugs or narcotics during
63 probation; reenacting s. 310.071(3), F.S., to
64 incorporate the amendment made to s. 310.071, F.S., in
65 a reference thereto; reenacting ss. 458.331(10),
66 458.347(7)(g), 459.015(10), 459.022(7)(f), and
67 465.0158(5)(b), F.S., to incorporate the amendment
68 made to s. 456.072, F.S., in references thereto;
69 reenacting ss. 456.072(1)(mm) and 466.02751, F.S., to
70 incorporate the amendment made to s. 456.44, F.S., in
71 references thereto; reenacting ss. 458.303,
72 458.347(4)(e) and (9)(c), 458.3475(7)(b),
73 459.022(4)(e) and (9)(c), and 459.023(7)(b), F.S., to
74 incorporate the amendment made to s. 458.347, F.S., in
75 references thereto; reenacting ss. 456.041(1)(a),
76 458.348(1) and (2), and 459.025(1), F.S., to
77 incorporate the amendment made to s. 464.012, F.S., in
78 references thereto; reenacting ss. 320.0848(11),
79 464.008(2), 464.009(5), 464.018(2), and
80 464.0205(1)(b), (3), and (4)(b), F.S., to incorporate
81 the amendment made to s. 464.018, F.S., in references
82 thereto; reenacting s. 775.051, F.S., to incorporate
83 the amendment made to s. 893.02, F.S., in a reference
84 thereto; reenacting ss. 944.17(3)(a), 948.001(8), and
85 948.101(1)(e), F.S., to incorporate the amendment made
86 to s. 948.03, F.S., in references thereto; providing
87 an effective date.

Page 3 of 26

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

580-03235-15

2015614c2

88
89 Be It Enacted by the Legislature of the State of Florida:
90
91 Section 1. Subsection (7) of section 110.12315, Florida
92 Statutes, is amended to read:
93 110.12315 Prescription drug program.—The state employees'
94 prescription drug program is established. This program shall be
95 administered by the Department of Management Services, according
96 to the terms and conditions of the plan as established by the
97 relevant provisions of the annual General Appropriations Act and
98 implementing legislation, subject to the following conditions:
99 (7) The department shall establish the reimbursement
100 schedule for prescription pharmaceuticals dispensed under the
101 program. Reimbursement rates for a prescription pharmaceutical
102 must be based on the cost of the generic equivalent drug if a
103 generic equivalent exists, unless the physician, advanced
104 registered nurse practitioner, or physician assistant
105 prescribing the pharmaceutical clearly states on the
106 prescription that the brand name drug is medically necessary or
107 that the drug product is included on the formulary of drug
108 products that may not be interchanged as provided in chapter
109 465, in which case reimbursement must be based on the cost of
110 the brand name drug as specified in the reimbursement schedule
111 adopted by the department.
112 Section 2. Paragraph (c) of subsection (1) of section
113 310.071, Florida Statutes, is amended to read:
114 310.071 Deputy pilot certification.—
115 (1) In addition to meeting other requirements specified in
116 this chapter, each applicant for certification as a deputy pilot

Page 4 of 26

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

580-03235-15

2015614c2

117 must:

118 (c) Be in good physical and mental health, as evidenced by
 119 documentary proof of having satisfactorily passed a complete
 120 physical examination administered by a licensed physician within
 121 the preceding 6 months. The board shall adopt rules to establish
 122 requirements for passing the physical examination, which rules
 123 shall establish minimum standards for the physical or mental
 124 capabilities necessary to carry out the professional duties of a
 125 certificated deputy pilot. Such standards shall include zero
 126 tolerance for any controlled substance regulated under chapter
 127 893 unless that individual is under the care of a physician,
 128 advanced registered nurse practitioner, or physician assistant
 129 and that controlled substance was prescribed by that physician,
 130 advanced registered nurse practitioner, or physician assistant.
 131 To maintain eligibility as a certificated deputy pilot, each
 132 certificated deputy pilot must annually provide documentary
 133 proof of having satisfactorily passed a complete physical
 134 examination administered by a licensed physician. The physician
 135 must know the minimum standards and certify that the
 136 certificateholder satisfactorily meets the standards. The
 137 standards for certificateholders shall include a drug test.

138 Section 3. Subsection (3) of section 310.073, Florida
 139 Statutes, is amended to read:

140 310.073 State pilot licensing.—In addition to meeting other
 141 requirements specified in this chapter, each applicant for
 142 license as a state pilot must:

143 (3) Be in good physical and mental health, as evidenced by
 144 documentary proof of having satisfactorily passed a complete
 145 physical examination administered by a licensed physician within

580-03235-15

2015614c2

146 the preceding 6 months. The board shall adopt rules to establish
 147 requirements for passing the physical examination, which rules
 148 shall establish minimum standards for the physical or mental
 149 capabilities necessary to carry out the professional duties of a
 150 licensed state pilot. Such standards shall include zero
 151 tolerance for any controlled substance regulated under chapter
 152 893 unless that individual is under the care of a physician,
 153 advanced registered nurse practitioner, or physician assistant
 154 and that controlled substance was prescribed by that physician,
 155 advanced registered nurse practitioner, or physician assistant.
 156 To maintain eligibility as a licensed state pilot, each licensed
 157 state pilot must annually provide documentary proof of having
 158 satisfactorily passed a complete physical examination
 159 administered by a licensed physician. The physician must know
 160 the minimum standards and certify that the licensee
 161 satisfactorily meets the standards. The standards for licensees
 162 shall include a drug test.

163 Section 4. Paragraph (b) of subsection (3) of section
 164 310.081, Florida Statutes, is amended to read:

165 310.081 Department to examine and license state pilots and
 166 certificate deputy pilots; vacancies.—

167 (3) Pilots shall hold their licenses or certificates
 168 pursuant to the requirements of this chapter so long as they:

169 (b) Are in good physical and mental health as evidenced by
 170 documentary proof of having satisfactorily passed a physical
 171 examination administered by a licensed physician or physician
 172 assistant within each calendar year. The board shall adopt rules
 173 to establish requirements for passing the physical examination,
 174 which rules shall establish minimum standards for the physical

580-03235-15

2015614c2

175 or mental capabilities necessary to carry out the professional
 176 duties of a licensed state pilot or a certificated deputy pilot.
 177 Such standards shall include zero tolerance for any controlled
 178 substance regulated under chapter 893 unless that individual is
 179 under the care of a physician, advanced registered nurse
 180 practitioner, or physician assistant and that controlled
 181 substance was prescribed by that physician, advanced registered
 182 nurse practitioner, or physician assistant. To maintain
 183 eligibility as a certificated deputy pilot or licensed state
 184 pilot, each certificated deputy pilot or licensed state pilot
 185 must annually provide documentary proof of having satisfactorily
 186 passed a complete physical examination administered by a
 187 licensed physician. The physician must know the minimum
 188 standards and certify that the certificateholder or licensee
 189 satisfactorily meets the standards. The standards for
 190 certificateholders and for licensees shall include a drug test.
 191
 192 Upon resignation or in the case of disability permanently
 193 affecting a pilot's ability to serve, the state license or
 194 certificate issued under this chapter shall be revoked by the
 195 department.

196 Section 5. Section 383.336, Florida Statutes, is repealed.

197 Section 6. Section 395.1051, Florida Statutes, is amended
 198 to read:

199 395.1051 Duty to notify patients and physicians.-

200 (1) An appropriately trained person designated by each
 201 licensed facility shall inform each patient, or an individual
 202 identified pursuant to s. 765.401(1), in person about adverse
 203 incidents that result in serious harm to the patient.

Page 7 of 26

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

580-03235-15

2015614c2

204 Notification of outcomes of care that result in harm to the
 205 patient under this section ~~does shall~~ not constitute an
 206 acknowledgment or admission of liability and may not, ~~nor can it~~
 207 be introduced as evidence.

208 (2) A hospital shall notify each obstetrical physician who
 209 has privileges at the hospital at least 120 days before the
 210 hospital closes its obstetrical department or ceases to provide
 211 obstetrical services.

212 Section 7. Subsection (7) of section 456.072, Florida
 213 Statutes, is amended to read:

214 456.072 Grounds for discipline; penalties; enforcement.-

215 (7) Notwithstanding subsection (2), upon a finding that a
 216 physician has prescribed or dispensed a controlled substance, or
 217 caused a controlled substance to be prescribed or dispensed, in
 218 a manner that violates the standard of practice set forth in s.
 219 458.331(1)(q) or (t), s. 459.015(1)(t) or (x), s. 461.013(1)(o)
 220 or (s), or s. 466.028(1)(p) or (x), or that an advanced
 221 registered nurse practitioner has prescribed or dispensed a
 222 controlled substance, or caused a controlled substance to be
 223 prescribed or dispensed in a manner that violates the standard
 224 of practice set forth in s. 464.018(1)(n) or (p)6., the
 225 physician or advanced registered nurse practitioner shall be
 226 suspended for a period of not less than 6 months and pay a fine
 227 of not less than \$10,000 per count. Repeated violations shall
 228 result in increased penalties.

229 Section 8. Subsections (2) and (3) of section 456.44,
 230 Florida Statutes, are amended to read:

231 456.44 Controlled substance prescribing.-

232 (2) REGISTRATION. ~~Effective January 1, 2012,~~ A physician

Page 8 of 26

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

580-03235-15

2015614c2

233 licensed under chapter 458, chapter 459, chapter 461, or chapter
 234 466, a physician assistant licensed under chapter 458 or chapter
 235 459, or an advanced registered nurse practitioner certified
 236 under part I of chapter 464 who prescribes any controlled
 237 substance, listed in Schedule II, Schedule III, or Schedule IV
 238 as defined in s. 893.03, for the treatment of chronic
 239 nonmalignant pain, must:

240 (a) Designate himself or herself as a controlled substance
 241 prescribing practitioner on his or her ~~the physician's~~
 242 practitioner profile.

243 (b) Comply with the requirements of this section and
 244 applicable board rules.

245 (3) STANDARDS OF PRACTICE.—The standards of practice in
 246 this section do not supersede the level of care, skill, and
 247 treatment recognized in general law related to health care
 248 licensure.

249 (a) A complete medical history and a physical examination
 250 must be conducted before beginning any treatment and must be
 251 documented in the medical record. The exact components of the
 252 physical examination shall be left to the judgment of the
 253 registrant clinician who is expected to perform a physical
 254 examination proportionate to the diagnosis that justifies a
 255 treatment. The medical record must, at a minimum, document the
 256 nature and intensity of the pain, current and past treatments
 257 for pain, underlying or coexisting diseases or conditions, the
 258 effect of the pain on physical and psychological function, a
 259 review of previous medical records, previous diagnostic studies,
 260 and history of alcohol and substance abuse. The medical record
 261 shall also document the presence of one or more recognized

Page 9 of 26

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

580-03235-15

2015614c2

262 medical indications for the use of a controlled substance. Each
 263 registrant must develop a written plan for assessing each
 264 patient's risk of aberrant drug-related behavior, which may
 265 include patient drug testing. Registrants must assess each
 266 patient's risk for aberrant drug-related behavior and monitor
 267 that risk on an ongoing basis in accordance with the plan.

268 (b) Each registrant must develop a written individualized
 269 treatment plan for each patient. The treatment plan shall state
 270 objectives that will be used to determine treatment success,
 271 such as pain relief and improved physical and psychosocial
 272 function, and shall indicate if any further diagnostic
 273 evaluations or other treatments are planned. After treatment
 274 begins, the registrant physician shall adjust drug therapy to
 275 the individual medical needs of each patient. Other treatment
 276 modalities, including a rehabilitation program, shall be
 277 considered depending on the etiology of the pain and the extent
 278 to which the pain is associated with physical and psychosocial
 279 impairment. The interdisciplinary nature of the treatment plan
 280 shall be documented.

281 (c) The registrant physician shall discuss the risks and
 282 benefits of the use of controlled substances, including the
 283 risks of abuse and addiction, as well as physical dependence and
 284 its consequences, with the patient, persons designated by the
 285 patient, or the patient's surrogate or guardian if the patient
 286 is incompetent. The registrant physician shall use a written
 287 controlled substance agreement between the registrant physician
 288 and the patient outlining the patient's responsibilities,
 289 including, but not limited to:

290 1. Number and frequency of controlled substance

Page 10 of 26

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

580-03235-15

2015614c2

291 prescriptions and refills.

292 2. Patient compliance and reasons for which drug therapy
293 may be discontinued, such as a violation of the agreement.

294 3. An agreement that controlled substances for the
295 treatment of chronic nonmalignant pain shall be prescribed by a
296 single treating registrant physician unless otherwise authorized
297 by the treating registrant physician and documented in the
298 medical record.

299 (d) The patient shall be seen by the registrant physician
300 at regular intervals, not to exceed 3 months, to assess the
301 efficacy of treatment, ensure that controlled substance therapy
302 remains indicated, evaluate the patient's progress toward
303 treatment objectives, consider adverse drug effects, and review
304 the etiology of the pain. Continuation or modification of
305 therapy shall depend on the registrant's physician's evaluation
306 of the patient's progress. If treatment goals are not being
307 achieved, despite medication adjustments, the registrant
308 physician shall reevaluate the appropriateness of continued
309 treatment. The registrant physician shall monitor patient
310 compliance in medication usage, related treatment plans,
311 controlled substance agreements, and indications of substance
312 abuse or diversion at a minimum of 3-month intervals.

313 (e) The registrant physician shall refer the patient as
314 necessary for additional evaluation and treatment in order to
315 achieve treatment objectives. Special attention shall be given
316 to those patients who are at risk for misusing their medications
317 and those whose living arrangements pose a risk for medication
318 misuse or diversion. The management of pain in patients with a
319 history of substance abuse or with a comorbid psychiatric

Page 11 of 26

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

580-03235-15

2015614c2

320 disorder requires extra care, monitoring, and documentation and
321 requires consultation with or referral to an addiction medicine
322 specialist or psychiatrist.

323 (f) A registrant physician registered under this section
324 must maintain accurate, current, and complete records that are
325 accessible and readily available for review and comply with the
326 requirements of this section, the applicable practice act, and
327 applicable board rules. The medical records must include, but
328 are not limited to:

- 329 1. The complete medical history and a physical examination,
330 including history of drug abuse or dependence.
- 331 2. Diagnostic, therapeutic, and laboratory results.
- 332 3. Evaluations and consultations.
- 333 4. Treatment objectives.
- 334 5. Discussion of risks and benefits.
- 335 6. Treatments.
- 336 7. Medications, including date, type, dosage, and quantity
337 prescribed.
- 338 8. Instructions and agreements.
- 339 9. Periodic reviews.
- 340 10. Results of any drug testing.
- 341 11. A photocopy of the patient's government-issued photo
342 identification.
- 343 12. If a written prescription for a controlled substance is
344 given to the patient, a duplicate of the prescription.
- 345 13. The registrant's physician's full name presented in a
346 legible manner.

347 (g) Patients with signs or symptoms of substance abuse
348 shall be immediately referred to a board-certified pain

Page 12 of 26

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

580-03235-15

2015614c2

349 management physician, an addiction medicine specialist, or a
 350 mental health addiction facility as it pertains to drug abuse or
 351 addiction unless the registrant is a physician who is board-
 352 certified or board-eligible in pain management. Throughout the
 353 period of time before receiving the consultant's report, a
 354 prescribing ~~registrant physician~~ shall clearly and completely
 355 document medical justification for continued treatment with
 356 controlled substances and those steps taken to ensure medically
 357 appropriate use of controlled substances by the patient. Upon
 358 receipt of the consultant's written report, the prescribing
 359 ~~registrant physician~~ shall incorporate the consultant's
 360 recommendations for continuing, modifying, or discontinuing
 361 controlled substance therapy. The resulting changes in treatment
 362 shall be specifically documented in the patient's medical
 363 record. Evidence or behavioral indications of diversion shall be
 364 followed by discontinuation of controlled substance therapy, and
 365 the patient shall be discharged, and all results of testing and
 366 actions taken by the registrant ~~physician~~ shall be documented in
 367 the patient's medical record.

368
 369 This subsection does not apply to a board-eligible or board-
 370 certified anesthesiologist, physiatrist, rheumatologist, or
 371 neurologist, or to a board-certified physician who has surgical
 372 privileges at a hospital or ambulatory surgery center and
 373 primarily provides surgical services. This subsection does not
 374 apply to a board-eligible or board-certified medical specialist
 375 who has also completed a fellowship in pain medicine approved by
 376 the Accreditation Council for Graduate Medical Education or the
 377 American Osteopathic Association, or who is board eligible or

Page 13 of 26

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

580-03235-15

2015614c2

378 board certified in pain medicine by the American Board of Pain
 379 Medicine, the American Board of Interventional Pain Physicians,
 380 the American Association of Physician Specialists, or a board
 381 approved by the American Board of Medical Specialties or the
 382 American Osteopathic Association and performs interventional
 383 pain procedures of the type routinely billed using surgical
 384 codes. This subsection does not apply to a registrant, advanced
 385 registered nurse practitioner, or physician assistant who
 386 prescribes medically necessary controlled substances for a
 387 patient during an inpatient stay in a hospital licensed under
 388 chapter 395.

389 Section 9. Paragraph (b) of subsection (2) of section
 390 458.3265, Florida Statutes, is amended to read:

391 458.3265 Pain-management clinics.—

392 (2) PHYSICIAN RESPONSIBILITIES.—These responsibilities
 393 apply to any physician who provides professional services in a
 394 pain-management clinic that is required to be registered in
 395 subsection (1).

396 (b) A person may not dispense any medication on the
 397 premises of a registered pain-management clinic unless he or she
 398 is a physician licensed under this chapter or chapter 459. A
 399 person may not prescribe any controlled substance regulated
 400 under chapter 893 on the premises of a registered pain-
 401 management clinic unless he or she is a physician licensed under
 402 this chapter or chapter 459.

403 Section 10. Paragraph (f) of subsection (4) of section
 404 458.347, Florida Statutes, is amended to read:

405 458.347 Physician assistants.—

406 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

Page 14 of 26

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

580-03235-15

2015614c2

407 (f)1. The council shall establish a formulary of medicinal
408 drugs that a fully licensed physician assistant having
409 prescribing authority under this section or s. 459.022 may not
410 prescribe. The formulary must include ~~controlled substances as~~
411 ~~defined in chapter 893,~~ general anesthetics, and radiographic
412 contrast materials.

413 2. In establishing the formulary, the council shall consult
414 with a pharmacist licensed under chapter 465, but not licensed
415 under this chapter or chapter 459, who shall be selected by the
416 State Surgeon General.

417 3. Only the council shall add to, delete from, or modify
418 the formulary. Any person who requests an addition, deletion, or
419 modification of a medicinal drug listed on such formulary has
420 the burden of proof to show cause why such addition, deletion,
421 or modification should be made.

422 4. The boards shall adopt the formulary required by this
423 paragraph, and each addition, deletion, or modification to the
424 formulary, by rule. Notwithstanding any provision of chapter 120
425 to the contrary, the formulary rule shall be effective 60 days
426 after the date it is filed with the Secretary of State. Upon
427 adoption of the formulary, the department shall mail a copy of
428 such formulary to each fully licensed physician assistant having
429 prescribing authority under this section or s. 459.022, and to
430 each pharmacy licensed by the state. The boards shall establish,
431 by rule, a fee not to exceed \$200 to fund the provisions of this
432 paragraph and paragraph (e).

433 Section 11. Paragraph (b) of subsection (2) of section
434 459.0137, Florida Statutes, is amended to read:

435 459.0137 Pain-management clinics.-

Page 15 of 26

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

580-03235-15

2015614c2

436 (2) PHYSICIAN RESPONSIBILITIES.-These responsibilities
437 apply to any osteopathic physician who provides professional
438 services in a pain-management clinic that is required to be
439 registered in subsection (1).

440 (b) A person may not dispense any medication on the
441 premises of a registered pain-management clinic unless he or she
442 is a physician licensed under this chapter or chapter 458. A
443 person may not prescribe any controlled substance regulated
444 under chapter 893 on the premises of a registered pain-
445 management clinic unless he or she is a physician licensed under
446 this chapter or chapter 458.

447 Section 12. Section 464.012, Florida Statutes, is amended
448 to read:

449 464.012 Certification of advanced registered nurse
450 practitioners; fees; controlled substance prescribing.-

451 (1) Any nurse desiring to be certified as an advanced
452 registered nurse practitioner shall apply to the department and
453 submit proof that he or she holds a current license to practice
454 professional nursing and that he or she meets one or more of the
455 following requirements as determined by the board:

456 (a) Satisfactory completion of a formal postbasic
457 educational program of at least one academic year, the primary
458 purpose of which is to prepare nurses for advanced or
459 specialized practice.

460 (b) Certification by an appropriate specialty board. Such
461 certification shall be required for initial state certification
462 and any recertification as a registered nurse anesthetist or
463 nurse midwife. The board may by rule provide for provisional
464 state certification of graduate nurse anesthetists and nurse

Page 16 of 26

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

580-03235-15

2015614c2

465 midwives for a period of time determined to be appropriate for
466 preparing for and passing the national certification
467 examination.

468 (c) Graduation from a program leading to a master's degree
469 in a nursing clinical specialty area with preparation in
470 specialized practitioner skills. For applicants graduating on or
471 after October 1, 1998, graduation from a master's degree program
472 shall be required for initial certification as a nurse
473 practitioner under paragraph (4)(c). For applicants graduating
474 on or after October 1, 2001, graduation from a master's degree
475 program shall be required for initial certification as a
476 registered nurse anesthetist under paragraph (4)(a).

477 (2) The board shall provide by rule the appropriate
478 requirements for advanced registered nurse practitioners in the
479 categories of certified registered nurse anesthetist, certified
480 nurse midwife, and nurse practitioner.

481 (3) An advanced registered nurse practitioner shall perform
482 those functions authorized in this section within the framework
483 of an established protocol that is filed with the board upon
484 biennial license renewal and within 30 days after entering into
485 a supervisory relationship with a physician or changes to the
486 protocol. The board shall review the protocol to ensure
487 compliance with applicable regulatory standards for protocols.
488 The board shall refer to the department licensees submitting
489 protocols that are not compliant with the regulatory standards
490 for protocols. A practitioner currently licensed under chapter
491 458, chapter 459, or chapter 466 shall maintain supervision for
492 directing the specific course of medical treatment. Within the
493 established framework, an advanced registered nurse practitioner

Page 17 of 26

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

580-03235-15

2015614c2

494 may:

495 (a) Prescribe, dispense, administer, or order any ~~Monitor~~
496 ~~and alter drug therapies.~~

497 (b) Initiate appropriate therapies for certain conditions.

498 (c) Perform additional functions as may be determined by
499 rule in accordance with s. 464.003(2).

500 (d) Order diagnostic tests and physical and occupational
501 therapy.

502 (4) In addition to the general functions specified in
503 subsection (3), an advanced registered nurse practitioner may
504 perform the following acts within his or her specialty:

505 (a) The certified registered nurse anesthetist may, to the
506 extent authorized by established protocol approved by the
507 medical staff of the facility in which the anesthetic service is
508 performed, perform any or all of the following:

509 1. Determine the health status of the patient as it relates
510 to the risk factors and to the anesthetic management of the
511 patient through the performance of the general functions.

512 2. Based on history, physical assessment, and supplemental
513 laboratory results, determine, with the consent of the
514 responsible physician, the appropriate type of anesthesia within
515 the framework of the protocol.

516 3. Order under the protocol preanesthetic medication.

517 4. Perform under the protocol procedures commonly used to
518 render the patient insensible to pain during the performance of
519 surgical, obstetrical, therapeutic, or diagnostic clinical
520 procedures. These procedures include ordering and administering
521 regional, spinal, and general anesthesia; inhalation agents and
522 techniques; intravenous agents and techniques; and techniques of

Page 18 of 26

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

580-03235-15

2015614c2

523 hypnosis.

524 5. Order or perform monitoring procedures indicated as
525 pertinent to the anesthetic health care management of the
526 patient.

527 6. Support life functions during anesthesia health care,
528 including induction and intubation procedures, the use of
529 appropriate mechanical supportive devices, and the management of
530 fluid, electrolyte, and blood component balances.

531 7. Recognize and take appropriate corrective action for
532 abnormal patient responses to anesthesia, adjunctive medication,
533 or other forms of therapy.

534 8. Recognize and treat a cardiac arrhythmia while the
535 patient is under anesthetic care.

536 9. Participate in management of the patient while in the
537 postanesthesia recovery area, including ordering the
538 administration of fluids and drugs.

539 10. Place special peripheral and central venous and
540 arterial lines for blood sampling and monitoring as appropriate.

541 (b) The certified nurse midwife may, to the extent
542 authorized by an established protocol which has been approved by
543 the medical staff of the health care facility in which the
544 midwifery services are performed, or approved by the nurse
545 midwife's physician backup when the delivery is performed in a
546 patient's home, perform any or all of the following:

547 1. Perform superficial minor surgical procedures.

548 2. Manage the patient during labor and delivery to include
549 amniotomy, episiotomy, and repair.

550 3. Order, initiate, and perform appropriate anesthetic
551 procedures.

580-03235-15

2015614c2

552 4. Perform postpartum examination.

553 5. Order appropriate medications.

554 6. Provide family-planning services and well-woman care.

555 7. Manage the medical care of the normal obstetrical
556 patient and the initial care of a newborn patient.

557 (c) The nurse practitioner may perform any or all of the
558 following acts within the framework of established protocol:

559 1. Manage selected medical problems.

560 2. Order physical and occupational therapy.

561 3. Initiate, monitor, or alter therapies for certain
562 uncomplicated acute illnesses.

563 4. Monitor and manage patients with stable chronic
564 diseases.

565 5. Establish behavioral problems and diagnosis and make
566 treatment recommendations.

567 (5) The board shall certify, and the department shall issue
568 a certificate to, any nurse meeting the qualifications in this
569 section. The board shall establish an application fee not to
570 exceed \$100 and a biennial renewal fee not to exceed \$50. The
571 board is authorized to adopt such other rules as are necessary
572 to implement the provisions of this section.

573 (6) (a) The board shall appoint a committee to recommend
574 whether a formulary of controlled substances that an advanced
575 registered nurse practitioner may not prescribe or may prescribe
576 only for specific uses or subject to specific limitations is
577 necessary to protect the health, safety, and welfare of the
578 public. The committee shall consist of at least three advanced
579 registered nurse practitioners, including a certified registered
580 nurse anesthetist, a certified nurse midwife, and a nurse

580-03235-15

2015614c2

581 practitioner; at least one physician recommended by the Board of
 582 Medicine and one physician recommended by the Board of
 583 Osteopathic Medicine, both of whom have had work experience with
 584 advanced practice registered nurses; and a pharmacist licensed
 585 under chapter 465, but not licensed under chapter 458, chapter
 586 459, or this chapter, who shall be selected by the State Surgeon
 587 General. The committee may recommend a formulary applicable to
 588 all advanced registered nurse practitioners, limited by
 589 specialty certification, limited to approved uses of controlled
 590 substances, or subject to other similar restrictions it deems
 591 necessary to protect the health, safety, and welfare of the
 592 public.

593 (b) If the committee recommends that a formulary be
 594 established, the board shall adopt a formulary by rule. Only the
 595 board may add to, delete from, or modify the formulary. A person
 596 who requests the addition, deletion, or modification of a
 597 controlled substance listed on the formulary has the burden of
 598 proof to show cause why the change should be made. The board
 599 shall post notice of any proposed, pending, or adopted changes
 600 to the formulary on its website.

601 (c) The board shall initiate rulemaking, if required to
 602 implement the committee's initial recommendation, no later than
 603 October 1, 2015.

604 (d) If adopted by board rule, the formulary authorized in
 605 this subsection does not apply to orders for medications
 606 pursuant to subparagraph (4)(a)3. or subparagraph (4)(a)4.

607 Section 13. Paragraph (p) is added to subsection (1) of
 608 section 464.018, Florida Statutes, to read:

609 464.018 Disciplinary actions.—

580-03235-15

2015614c2

610 (1) The following acts constitute grounds for denial of a
 611 license or disciplinary action, as specified in s. 456.072(2):

612 (p) For an advanced registered nurse practitioner:

613 1. Presigning blank prescription forms.

614 2. Prescribing for office use any medicinal drug appearing
 615 on Schedule II in chapter 893.

616 3. Prescribing, ordering, dispensing, administering,
 617 supplying, selling, or giving a drug that is an amphetamine or a
 618 sympathomimetic amine drug, or a compound designated pursuant to
 619 chapter 893 as a Schedule II controlled substance, to or for any
 620 person except for:

621 a. The treatment of narcolepsy; hyperkinesis; behavioral
 622 syndrome in children characterized by the developmentally
 623 inappropriate symptoms of moderate to severe distractibility,
 624 short attention span, hyperactivity, emotional lability, and
 625 impulsivity; or drug-induced brain dysfunction.

626 b. The differential diagnostic psychiatric evaluation of
 627 depression or the treatment of depression shown to be refractory
 628 to other therapeutic modalities.

629 c. The clinical investigation of the effects of such drugs
 630 or compounds when an investigative protocol is submitted to,
 631 reviewed by, and approved by the department before such
 632 investigation is begun.

633 4. Prescribing, ordering, dispensing, administering,
 634 supplying, selling, or giving growth hormones, testosterone or
 635 its analogs, human chorionic gonadotropin (HCG), or other
 636 hormones for the purpose of muscle building or to enhance
 637 athletic performance. As used in this subparagraph, the term
 638 "muscle building" does not include the treatment of injured

580-03235-15

2015614c2

639 muscle. A prescription written for the drug products listed in
 640 this paragraph may be dispensed by a pharmacist with the
 641 presumption that the prescription is for legitimate medical use.

642 5. Promoting or advertising on any prescription form a
 643 community pharmacy unless the form also states: "This
 644 prescription may be filled at any pharmacy of your choice."

645 6. Prescribing, dispensing, administering, mixing, or
 646 otherwise preparing a legend drug, including a controlled
 647 substance, other than in the course of his or her professional
 648 practice. For the purposes of this subparagraph, it is legally
 649 presumed that prescribing, dispensing, administering, mixing, or
 650 otherwise preparing legend drugs, including all controlled
 651 substances, inappropriately or in excessive or inappropriate
 652 quantities is not in the best interest of the patient and is not
 653 in the course of the advanced registered nurse practitioner's
 654 professional practice, without regard to his or her intent.

655 7. Prescribing, dispensing, or administering a medicinal
 656 drug appearing on any schedule set forth in chapter 893 to
 657 himself or herself, except a drug prescribed, dispensed, or
 658 administered to the advanced registered nurse practitioner by
 659 another practitioner authorized to prescribe, dispense, or
 660 administer medicinal drugs.

661 8. Prescribing, ordering, dispensing, administering,
 662 supplying, selling, or giving amygdalin (laetrile) to any
 663 person.

664 9. Dispensing a controlled substance listed on Schedule II
 665 or Schedule III in chapter 893 in violation of s. 465.0276.

666 10. Promoting or advertising through any communication
 667 medium the use, sale, or dispensing of a controlled substance

580-03235-15

2015614c2

668 appearing on any schedule in chapter 893.

669 Section 14. Subsection (21) of section 893.02, Florida
 670 Statutes, is amended to read:

671 893.02 Definitions.—The following words and phrases as used
 672 in this chapter shall have the following meanings, unless the
 673 context otherwise requires:

674 (21) "Practitioner" means a physician licensed under
 675 ~~pursuant to~~ chapter 458, a dentist licensed under ~~pursuant to~~ chapter
 676 chapter 466, a veterinarian licensed under ~~pursuant to~~ chapter
 677 474, an osteopathic physician licensed under ~~pursuant to~~ chapter
 678 459, an advanced registered nurse practitioner certified under
 679 chapter 464, a naturopath licensed under ~~pursuant to~~ chapter
 680 462, a certified optometrist licensed under ~~pursuant to~~ chapter
 681 463, ~~or~~ a podiatric physician licensed under ~~pursuant to~~ chapter
 682 461, or a physician assistant licensed under chapter 458 or
 683 chapter 459, provided such practitioner holds a valid federal
 684 controlled substance registry number.

685 Section 15. Paragraph (n) of subsection (1) of section
 686 948.03, Florida Statutes, is amended to read:

687 948.03 Terms and conditions of probation.—

688 (1) The court shall determine the terms and conditions of
 689 probation. Conditions specified in this section do not require
 690 oral pronouncement at the time of sentencing and may be
 691 considered standard conditions of probation. These conditions
 692 may include among them the following, that the probationer or
 693 offender in community control shall:

694 (n) Be prohibited from using intoxicants to excess or
 695 possessing any drugs or narcotics unless prescribed by a
 696 physician, advanced registered nurse practitioner, or physician

580-03235-15 2015614c2

697 assistant. The probationer or community controllee ~~may shall~~ not
698 knowingly visit places where intoxicants, drugs, or other
699 dangerous substances are unlawfully sold, dispensed, or used.

700 Section 16. Subsection (3) of s. 310.071, Florida Statutes,
701 is reenacted for the purpose of incorporating the amendment made
702 by this act to s. 310.071, Florida Statutes, in a reference
703 thereto.

704 Section 17. Subsection (10) of s. 458.331, paragraph (g) of
705 subsection (7) of s. 458.347, subsection (10) of s. 459.015,
706 paragraph (f) of subsection (7) of s. 459.022, and paragraph (b)
707 of subsection (5) of s. 465.0158, Florida Statutes, are
708 reenacted for the purpose of incorporating the amendment made by
709 this act to s. 456.072, Florida Statutes, in references thereto.

710 Section 18. Paragraph (mm) of subsection (1) of s. 456.072
711 and s. 466.02751, Florida Statutes, are reenacted for the
712 purpose of incorporating the amendment made by this act to s.
713 456.44, Florida Statutes, in references thereto.

714 Section 19. Section 458.303, paragraph (e) of subsection
715 (4) and paragraph (c) of subsection (9) of s. 458.347, paragraph
716 (b) of subsection (7) of s. 458.3475, paragraph (e) of
717 subsection (4) and paragraph (c) of subsection (9) of s.
718 459.022, and paragraph (b) of subsection (7) of s. 459.023,
719 Florida Statutes, are reenacted for the purpose of incorporating
720 the amendment made by this act to s. 458.347, Florida Statutes,
721 in references thereto.

722 Section 20. Paragraph (a) of subsection (1) of s. 456.041,
723 subsections (1) and (2) of s. 458.348, and subsection (1) of s.
724 459.025, Florida Statutes, are reenacted for the purpose of
725 incorporating the amendment made by this act to s. 464.012,

580-03235-15 2015614c2

726 Florida Statutes, in references thereto.

727 Section 21. Subsection (11) of s. 320.0848, subsection (2)
728 of s. 464.008, subsection (5) of s. 464.009, subsection (2) of
729 s. 464.018, and paragraph (b) of subsection (1), subsection (3),
730 and paragraph (b) of subsection (4) of s. 464.0205, Florida
731 Statutes, are reenacted for the purpose of incorporating the
732 amendment made by this act to s. 464.018, Florida Statutes, in
733 references thereto.

734 Section 22. Section 775.051, Florida Statutes, is reenacted
735 for the purpose of incorporating the amendment made by this act
736 to s. 893.02, Florida Statutes, in a reference thereto.

737 Section 23. Paragraph (a) of subsection (3) of s. 944.17,
738 subsection (8) of s. 948.001, and paragraph (e) of subsection
739 (1) of s. 948.101, Florida Statutes, are reenacted for the
740 purpose of incorporating the amendment made by this act to s.
741 948.03, Florida Statutes, in references thereto.

742 Section 24. This act shall take effect July 1, 2015.

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/20/15

Meeting Date

614

Bill Number (if applicable)

395678

Amendment Barcode (if applicable)

Topic _____

Name Chris Nuland

Job Title _____

Address 1000 Riverside Ave #115

Street

Phone 904-355-1555

Jacksonville, GA 32204

City

State

Zip

Email nulandlaw@aol.com

Speaking: For Against Information

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

Representing Florida Chapter, American College of Physicians

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)

4-20-15

Meeting Date

614

Bill Number (if applicable)

395678-strike all

Amendment Barcode (if applicable)

Topic Interventional pain management

Name Lori Killinger

Job Title attorney/lobbyist

Address 315 S. Calhoun St. Ste 830
Street

Phone 850 222 5702

Tallahassee FL 32301
City State Zip

Email killinger@llw-law.com

Speaking: For Against Information

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

Representing Florida Assn of Nurse Anesthetists

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)

4-20-2015
Meeting Date

SB614
Bill Number (if applicable)

Topic Ordering of Medication

Gaetz/Step
Amendment Barcode (if applicable)

Name _____

Therapy
149458

Job Title Joy Ryan

Address 325 W. College
Street

Phone 425-4000

City _____ State _____ Zip _____

Email _____

Speaking: For Against Information

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

Representing A HIP

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)

4/20/15
Meeting Date

SB 614
Bill Number (if applicable)

Topic On Sen. Gage's Amendment (149458) and on bill as amended

149458
Amendment Barcode (if applicable)

Name Jeff Scott

Job Title _____

Address 1430 Piedmont Dr. E.
Street

Phone 850 224-6496

Tallahassee
City

FL
State

32309
Zip

Email j.scott@flmedical.org

Speaking: For Against Information

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

Representing Florida Medical Association

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)

4-20-2015

Meeting Date

SB 614

Bill Number (if applicable)

Topic DRUG PRESCRIPTION BY ARNPS

149458

Amendment Barcode (if applicable)

Name STEPHEN R. WINN

D. GAETZ Amendment

Job Title EXECUTIVE DIRECTOR

Address 2544 BLAIRSTONE PINES DR

Phone 878-7364

Street

TALLAHASSEE

FL

32301

Email

City

State

Zip

Speaking: [X] For [] Against [] Information

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

Representing FLORIDA DOSTOPATHIC MEDICAL ASSOCIATION

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] 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)

4/20/15

Meeting Date

614

Bill Number (if applicable)

149458

Amendment Barcode (if applicable)

Topic excused according to amendment

Name William Peterseim, LFP

Job Title _____

Address 26239 Sward Dances

Street

Phone 813 997-2015

Waxley Chapel

City

FL

State

335414

Zip

Email bill.h.peterseim@gmail.com

Speaking: For Against Information

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

Representing my wife, the insured

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)

April 20, 15
Meeting Date

614
Bill Number (if applicable)

Topic Step Therapy / Prior Auth Amendment 149458
Amendment Barcode (if applicable)

Name Toni Large

Job Title _____

Address 519 E. Park Ave. Phone 556-1461
Street

Tallahassee, FL 32308 Email toni@sulaw.net
City State Zip

Speaking: For Against Information

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

Representing FL Society of Rheumatology

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)

Meeting Date

4/20/15

Bill Number (if applicable)

614

Topic Prescription medications ARNPS/PNS

Amendment Barcode (if applicable)

Name Corinne Nixon

Job Title Lobbyist

Address 119 E. Park Ave

Phone 766-5795

Tallahassee FL 32301

Email

Speaking: For Against Information

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

Representing Florida Academy of Physician Assistants

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)

4/20/2015
Meeting Date

614
Bill Number (if applicable)

Topic Prescription drugs by PAs and ARNPs

Amendment Barcode (if applicable)

Name Nelson Anthony Guzman, PA-C

Job Title Critical Care Physician Assistant

Address 2301 Harvard Ave
Street

Phone (239) 273 9522

Fort Myers FL 33907
City State Zip

Email NELSONAGUZMAN@GMAIL.COM

Speaking: For Against Information

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

Representing myself

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

4/20/2015
Meeting Date

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

614
Bill Number (if applicable)

Topic Drug Prescription by ARNP & PA's

Amendment Barcode (if applicable)

Name Chris Floyd

Job Title Consultant

Address _____

Phone 813-624-5117

Street

Tampa FL 33606
City State Zip

Email Chris@CLFconsulting.com

Speaking: For Against Information

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

Representing FL Assoc of Nurse Practitioners

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)

4-20-15

Meeting Date

604

Bill Number (if applicable)

Topic ARNP & PA scope

Amendment Barcode (if applicable)

Name Martha DeCastro

Job Title VP for Nursing

Address 306 E College Ave

Phone 222-9800

Street

City TLT

State FL

Zip 32307

Email martha@thc.org

Speaking: For Against Information

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

Representing Florida Hospital Assoc

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)

4/20/2015
Meeting Date

614
Bill Number (if applicable)

Topic Controlled Substance Prescribing

Amendment Barcode (if applicable)

Name Janet DuBois

Job Title Pres. Florida Nurse Practitioner Network

Address 3110 45th way east
Street
Bradenton, FL 34203
City State Zip

Phone 941-302-6001

Email janetdfnp@gmail.com

Speaking: For Against Information

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

Representing Florida Nurse Practitioner Network

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)

4/30/15
Meeting Date

614
Bill Number (if applicable)

Topic ARUP/PA Prescribing

Amendment Barcode (if applicable)

Name BARBARA HUMPHREY

Job Title CONSULTANT

Address 468 Green Spring Cir
Street

Phone 407 227 7705

Winter Springs FL 32708
City State Zip

Email barbara.humphrey@baptisthealth.com

Speaking: For Against Information

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

Representing Baptist Health South Florida

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

4/20/15 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)
Meeting Date

614
Bill Number (if applicable)

Topic Nurse Practitioners

Amendment Barcode (if applicable)

Name Alisa LaPort

Job Title Lobbyist

Address _____

Phone 443-1319

Street Tallahassee State FL
City _____ Zip _____

Email _____

Speaking: For Against Information

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

Representing Florida Nurses Association

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)

4/20/15

Meeting Date

614

Bill Number (if applicable)

Topic patient access

Amendment Barcode (if applicable)

Name Courtney Cox

Job Title Coordinator

Address 2011 Delta Blvd.
Street

Phone _____

Tallahassee, FL 32312
City State Zip

Email _____

Speaking: For Against Information

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

Representing ~~No~~ Patient Access for Florida

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)

4/20/15
Meeting Date

1014
Bill Number (if applicable)

Topic patient access

Amendment Barcode (if applicable)

Name Taylor Smith

Job Title Representative

Address 8461 Lake Worth Rd, #41A
Street

Phone _____

Lake Worth, FL 33467
City State Zip

Email _____

Speaking: For Against Information

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

Representing Florida State Hispanic Chamber of Commerce

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)

4/20/15
Meeting Date

614
Bill Number (if applicable)

Topic patient access

Amendment Barcode (if applicable)

Name Christopher Wells

Job Title Program Manager

Address 1336 Vickers Rd.
Street

Phone _____

Tallahassee, FL 32303
City State Zip

Email _____

Speaking: For Against Information

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

Representing Sickle Cell Foundation

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

4/20/15

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

CS/SB 614

Meeting Date

Bill Number (if applicable)

Topic Advanced Nurse

Amendment Barcode (if applicable)

Name Carol Berkowitz

Job Title _____

Address 307 W. Park Ave

Phone 850/224-3907

Tallahassee, FL 32301
Street City State Zip

Email cberkowitz@fhca.org

Speaking: For Against Information

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

Representing Fla Health Care Association

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)

4/20/2015
Meeting Date

614
Bill Number (if applicable)

Topic Controlled Substances Prescribing

Amendment Barcode (if applicable)

Name Julia Pallantino

Job Title _____

Address 4017 Deer Lane
Street
Tallahassee FL 32312
City State Zip

Phone 850-933-7274

Email ARNPLAW@comcast.net

Speaking: For Against Information

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

Representing Florida Nurse Practitioner Network

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)

4-20-2015

Meeting Date

SB 614

Bill Number (if applicable)

Topic DRUG PRESCRIPTION ADVANCED REGISTERED NURSE PRACTITIONER

Amendment Barcode (if applicable)

Name STEPHEN R. WINN

Job Title EXECUTIVE DIRECTOR

Address 2544 BLAIRSTONE PINES DR

Phone 878-17364

Street

TALLAHASSEE

FL

32301

City

State

Zip

Email

Speaking: For Against Information

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

Representing FLORIDA OSTEOPATHIC MEDICAL ASSOCIATION

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)

A/20/2015
Meeting Date

SB0614
Bill Number (if applicable)

Topic SB 0614

Amendment Barcode (if applicable)

Name PAUL SHIDEL

Job Title RETIRED

Address _____
Street

Phone _____

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing MYSELF + DECEASED SON MARK

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

Committee Agenda Request

To: Senator David Simmons, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: April 1, 2015

- most important

I respectfully request that **Senate Bill #614**, relating to Drug Prescription by ARNPs and PAs, be placed on the:

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

Denise Grimsley

Senator Denise Grimsley
Florida Senate, District 21

*ALSO
SB 332 NOTARIES*

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/SB 738

INTRODUCER: Health Policy Committee and Senator Grimsley

SUBJECT: Clinical Laboratories

DATE: April 17, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Looke</u>	<u>Stovall</u>	<u>HP</u>	Fav/CS
2.	<u>Pace</u>	<u>Hrdlicka</u>	<u>FP</u>	Favorable
3.	<u>Looke</u>	<u>Phelps</u>	<u>RC</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 738 requires clinical laboratories to make their services available to specified licensed practitioners and prohibits such clinical laboratory from charging different prices for its services based upon the chapter under which a practitioner is licensed. The bill adds a consultant pharmacist or doctor of pharmacy licensed under chapter 465, F.S. to the list of licensed practitioners that a clinical laboratory must serve. The bill repeals limitations on the conditions under which a clinical laboratory may refuse a specimen.

The bill does not have a fiscal impact on state funds.

II. Present Situation:

A clinical laboratory is a location in which body fluids or tissues are analyzed for purposes of the diagnosis, assessment, or prevention of a medical condition.¹ Clinical laboratories are licensed and regulated by the Agency for Health Care Administration (AHCA), pursuant to part I of ch. 483, F.S., and Rule Chapter 59A-7 of the Florida Administrative Code. A clinical laboratory license may only be issued to a laboratory to perform procedures and tests that are within the specialties or subspecialties in which the laboratory personnel are qualified to perform.² There

¹ Section 483.041(2), F.S.

² Section 483.111, F.S.

are over 3,600 licensed clinical laboratories in Florida.³ Certain clinical laboratories are exempt from licensure, including clinical laboratories:

- Operated by the federal government;
- Operated and maintained exclusively for research and teaching purposes that do not involve patient or public health services; and
- Performing only “waived tests.”⁴

An application for licensure or re-licensure as a clinical laboratory may be denied or revoked by AHCA for any violation of part I of ch. 483, F.S.⁵

A clinical laboratory is subject to a fine, not to exceed \$1,000, to be imposed by the AHCA, for each violation of any provision of part I of ch. 483, F.S.⁶ The AHCA must consider certain factors in determining the penalty for a violation, including:

- The severity of the violation, including the probability that death or serious harm to the health or safety of any person could occur as a result of the violation;
- Actions taken by the licensee to correct the violation or to remedy complaints; and
- The financial benefit to the licensee of committing or continuing the violation.⁷

In addition to the imposition of fines, an individual may be subject to criminal penalties for a violation of any provision of part I of ch. 483, F.S.⁸

Acceptance, Collection, Identification, and Examination of Specimens

A clinical laboratory may only examine human specimens at the request of a licensed practitioner or other person licensed to use the findings of clinical laboratory examinations.⁹ Section 483.181(5), F.S., requires clinical laboratories to accept and examine human specimens submitted by certain practitioners if the specimen and test are typically performed by the laboratory. Specifically, clinical laboratories must accept and examine specimens submitted by a:

- Physician;
- Chiropractor;
- Podiatrist;
- Naturopath;
- Optometrist;
- Dentist; or an
- Advanced registered nurse practitioner (ARNP)¹⁰.

³ AHCA, Florida Health Finder.gov, *Facility/Provider Locator*, available at <http://www.floridahealthfinder.gov/facilitylocator/ListFacilities.aspx> (search conducted April 6, 2015).

⁴ Section 483.031, F.S. Examples of waived tests include dip stick urinalysis or tablet reagent urinalysis, fecal occult blood, urine pregnancy tests, erythrocyte sedimentation rate, and blood glucose tests.

⁵ Section 408.815(1)(c), F.S.

⁶ Section 483.221(1), F.S.

⁷ Id.

⁸ Section 483.23(1)(a)4. and (b), F.S. A violation constitutes a second degree misdemeanor.

⁹ Section 483.181(1), F.S.

¹⁰ Section 483.181(5), F.S.

Currently, a clinical laboratory may only refuse a specimen based upon a history of nonpayment for services by a practitioner.¹¹ Clinical laboratories are prohibited from charging different prices for tests based upon the chapter under which a practitioner is licensed.¹²

Current law authorizes physicians, chiropractors, podiatrists, naturopaths, optometrists, and dentists to operate their own clinical laboratories, called “exclusive use” laboratories, to exclusively diagnose and treat their own patients.¹³ This, however, does not preclude them from also being required to accept and examine all specimens submitted by certain practitioners pursuant to s. 483.181(5), F.S.

III. Effect of Proposed Changes:

The bill amends s. 483.041, F.S., to add consultant pharmacists and doctors of pharmacy to the definition of “licensed practitioner.” A clinical laboratory will be able to examine human specimen at the request of a licensed consultant pharmacist or doctor of pharmacy.

The bill requires a clinical laboratory to offer its services to licensed allopathic and osteopathic physicians, chiropractors, podiatrists, naturopaths, optometrists, ARNPs, dentists, dental hygienists, consultant pharmacists, and doctors of pharmacy without charging different prices for services based on the license of the practitioner.

The bill repeals the limitation on the requirement of a clinical laboratory to offer services if the specimen and the test are typically performed by the laboratory. The bill also repeals the limitation on a clinical laboratory to only refuse a specimen based on a history of nonpayment for services by the practitioner submitting a specimen. As a result, a clinical laboratory may refuse a specimen for reasons such as having inadequate equipment or resources for a particular test or because a particular test is not reimbursable under the applicable insurance policy and the practitioner has not made other arrangements for payment.

This bill is effective upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties’ or municipalities’ ability to raise revenue, or reduce the percentage of a state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

¹¹ Section 438.181(5), F.S.

¹² Id.

¹³ Section 483.035(1), F.S.

C. Trust Funds Restrictions:

None.

V. **Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may have a positive fiscal impact on clinical laboratories if such laboratories are able to refuse service which would not be paid for under the provisions of the bill.

Additionally, a consultant pharmacist or doctor of pharmacy may be able to request services from a clinical laboratory.

C. Government Sector Impact:

None.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 483.041 and 483.181.

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 on March 23, 2015.

The CS amends SB 768 to add consultant pharmacists and doctors of pharmacy to the definition of “licensed practitioner” under s. 483.041, F.S., to add consultant pharmacists and doctors of pharmacy to the list of practitioners to whom a clinical laboratory must make its services available, and to remove language specifying when a clinical laboratory may refuse to provide its services.

B. Amendments:

None.

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

By the Committee on Health Policy; and Senator Grimsley

588-02727-15

2015738c1

1 A bill to be entitled
 2 An act relating to clinical laboratories; amending s.
 3 483.041, F.S.; adding a consultant pharmacist or
 4 doctor of pharmacy licensed under chapter 465, F.S.,
 5 to the definition of licensed practitioner; amending
 6 s. 483.181, F.S.; requiring clinical laboratories to
 7 make their services available to specified licensed
 8 practitioners; prohibiting such a clinical laboratory
 9 from charging different prices for its services based
 10 upon the chapter under which a practitioner is
 11 licensed; providing an effective date.
 12
 13 Be It Enacted by the Legislature of the State of Florida:
 14
 15 Section 1. Subsection (7) of section 483.041, Florida
 16 Statutes, is amended to read:
 17 483.041 Definitions.—As used in this part, the term:
 18 (7) "Licensed practitioner" means a physician licensed
 19 under chapter 458, chapter 459, chapter 460, or chapter 461; a
 20 certified optometrist licensed under chapter 463; a dentist
 21 licensed under chapter 466; a person licensed under chapter 462;
 22 a consultant pharmacist or doctor of pharmacy licensed under
 23 chapter 465; or an advanced registered nurse practitioner
 24 licensed under part I of chapter 464; or a duly licensed
 25 practitioner from another state licensed under similar statutes
 26 who orders examinations on materials or specimens for
 27 nonresidents of the State of Florida, but who reside in the same
 28 state as the requesting licensed practitioner.
 29 Section 2. Subsection (5) of section 483.181, Florida

Page 1 of 2

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

588-02727-15

2015738c1

30 Statutes, is amended to read:
 31 483.181 Acceptance, collection, identification, and
 32 examination of specimens.—
 33 (5) A clinical laboratory licensed under this part must
 34 ~~make its services available to accept a human specimen submitted~~
 35 ~~for examination by~~ a practitioner licensed under chapter 458,
 36 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,
 37 s. 464.012, ~~or~~ chapter 466, or a consultant pharmacist or doctor
 38 of pharmacy licensed under chapter 465 if the specimen and test
 39 ~~are the type performed by the clinical laboratory. A clinical~~
 40 ~~laboratory may only refuse a specimen based upon a history of~~
 41 ~~nonpayment for services by the practitioner. A clinical~~
 42 laboratory shall not charge different prices for its services
 43 ~~tests~~ based upon the chapter under which a practitioner
 44 ~~submitting a specimen for testing~~ is licensed.
 45 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
APPEARANCE RECORD

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

4/20/15
Meeting Date

SB 738
Bill Number (if applicable)

Topic Clinical Laboratories

Amendment Barcode (if applicable)

Name Larry Gonzalez

Job Title General Counsel

Address 223 S. Gadsden St.
Street

Phone 570-6307

Tallahassee FL 32301
City State Zip

Email lawgcr2@caflink.net

Speaking: For Against Information

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

Representing Florida Society of Health-System Pharmacists

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)

4/26/15

Meeting Date

SB 738

Bill Number (if applicable)

Topic CLINICAL LABS

Amendment Barcode (if applicable)

Name DOUG RUSSELL

Job Title

Address 9604 DEER VALLEY DR.

Phone 850-445-0206

Street

TALL FL 32312

Email DRUSSELL@NETALLY.COM

City

State

Zip

Speaking: [X] For [] Against [] Information

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

Representing QUEST DIAGNOSTICS

Appearing at request of Chair: [] Yes [] No

Lobbyist registered with Legislature: [X] 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)

4-20-2015

Meeting Date

SB738

Bill Number (if applicable)

Topic CLINICAL LABORATORIES

Amendment Barcode (if applicable)

Name STEPHEN R. WINN

Job Title EXECUTIVE DIRECTOR

Address 2544 BLAIRSTONE PINES DR

Phone 878-1734

Street

TALLAHASSEE FL 32301

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing FLORIDA OSTEOPATHIC MEDICAL ASSOCIATION

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)

4/20/2015

Meeting Date

738

Bill Number (if applicable)

Topic CLINICAL LABS

Amendment Barcode (if applicable)

Name MIKE HUEY

Job Title ATTORNEY

Address 301 S. BRADDOCK ST

Phone (850) 577-9090

TALLAHASSEE FL 32301
City State Zip

Email _____

Speaking: For Against Information

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

Representing LABORATORY CORPORATION OF AMERICA

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

Committee Agenda Request

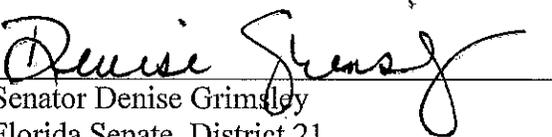
To: Senator David Simmons, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: April 9, 2015

I respectfully request that **Senate Bill #738**, relating to Clinical Laboratories, be placed on the:

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



Senator Denise Grimsley
Florida Senate, District 21

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/SB 946

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Bullard

SUBJECT: Legal Holidays and Special Observances

DATE: April 17, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kim</u>	<u>McVaney</u>	<u>GO</u>	Favorable
2.	<u>Clift</u>	<u>Uchino</u>	<u>EP</u>	Fav/CS
3.	<u>Kim</u>	<u>Phelps</u>	<u>RC</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 946 designates the second Monday of October of each year as “Sir Lancelot Jones Day” in Miami-Dade and Monroe Counties. The bill encourages citizens, public entities, and private organizations in these counties to honor Sir Lancelot Garfield Jones and his contributions in the preservation of Biscayne Bay and the establishment of Biscayne Bay National Park.

II. Present Situation:

Sir Lancelot Garfield Jones

Sir Lancelot Garfield Jones was born in 1898 and lived in Porgy Key, near Biscayne Bay. His parents were early settlers of the area and the Jones Family Historic District is listed on the National Register of Historic Places. He was a farmer, fisherman, and conservationist. He was a skilled fishing guide and fished with many notable men, including presidents Warren Harding, Herbert Hoover, Lyndon Johnson, John F. Kennedy, and Richard Nixon.¹ In 1970, he sold 277 acres of his property to the National Park Service to contribute to what is now known as Biscayne National Park.²

¹ Susan Shumaker, *Untold Stories from America's National Parks*, 47-68, available at <http://www-tc.pbs.org/nationalparks/media/pdfs/tnp-abi-untold-stories-pt-03-jones.pdf> (last accessed Apr. 7, 2015).

² National Park Service, *The Joneses of Porgy Key*, <http://www.nps.gov/bisc/learn/historyculture/the-joneses-of-porgy-key-page-3.htm> (Last accessed Apr. 6, 2015).

In 2014, Senate Resolution 1158 designated October 13, 2014, as “Lancelot Jones Day” in Florida. Currently, there is no legal holiday or special observance of Sir Lancelot Garfield Jones.

Legal Holidays and Special Observations

Florida has 21 legal holidays and 31 special observations, which are designated under ch. 683, F.S. Celebration of legal holidays and special observances can be statewide or limited to certain groups, such as schools, counties, or branches of government. The dates, days, or months designated in ch. 683, F.S., may require the government or group to perform an action or may simply call for commemoration or observance. For example, on Pan American Day the Governor must issue a proclamation and all public schools must honor the countries of Latin America.³ Gasparilla Day is a legal holiday on which government offices and banks are closed only in Hillsborough County.⁴ Observance of a legal holiday may also be discretionary. For instance, a chief judge in a judicial circuit is authorized to designate Rosh Hashanah, Yom Kippur, and Good Friday as legal holidays and close the courts in his or her circuit.⁵

State holidays on which all branches of state government are closed are found in s. 110.117, F.S.

III. Effect of Proposed Changes:

The bill honors Sir Lancelot Garfield Jones and commemorates his contributions in the preservation of Biscayne Bay and the establishment of Biscayne Bay National Park by:

- Designating the second Monday of each October as “Sir Lancelot Jones Day” in Miami-Dade and Monroe Counties; and
- Encouraging public officials, schools, private organizations, and all citizens to honor the legacy of Sir Lancelot Garfield Jones.

This bill becomes effective upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

³ Section 683.05, F.S.

⁴ Section 683.08, F.S.

⁵ Section 683.19, F.S.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill does not create a paid state holiday and does not require the governor to issue a proclamation. There should be no fiscal impact on state and local governments.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 683.095 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 Environmental Preservation and Conservation on April 8, 2015:

The CS limits the designation of “Sir Lancelot Jones Day” to Miami-Dade and Monroe Counties and deletes the authorization for the Governor to designate this holiday.

B. Amendments:

None.

By the Committee on Environmental Preservation and Conservation;
and Senator Bullard

592-03759-15

2015946c1

1 A bill to be entitled
2 An act relating to legal holidays and special
3 observances; creating s. 683.095, F.S.; designating
4 the second Monday in October of each year as "Sir
5 Lancelot Jones Day" in Miami-Dade and Monroe Counties;
6 encouraging public officials, schools, private
7 organizations, and citizens in Miami-Dade and Monroe
8 Counties to commemorate the occasion; providing an
9 effective date.

10
11 WHEREAS, born in 1898 on a 22-foot boat in Biscayne Bay,
12 entrepreneur and farmer Sir Lancelot Garfield Jones prospered by
13 supplying the nation with Key limes and was an expert fishing
14 guide sought by five presidents and numerous senators,
15 influential industrialists, and other cultural icons eager to
16 experience the beauty of the bay's wildlife, and
17 WHEREAS, Sir Lancelot Garfield Jones lived most of his 99
18 years on the tiny island known as Porgy Key, near the southern
19 end of Biscayne Bay, which was first settled by his pioneer
20 father and Bahamian mother in 1897 in an area long associated
21 with African American maritime history and which is now on the
22 National Register of Historical Places, and
23 WHEREAS, given the adjacent ecosystems of southern Biscayne
24 Bay and the northern Florida Keys, the lifelong conservation and
25 education efforts of Sir Lancelot Garfield Jones are of
26 significant importance to Miami-Dade and Monroe Counties, and
27 WHEREAS, often referred to as the "Sage of Caesar Creek,"
28 Sir Lancelot Garfield Jones became an educator of schoolchildren
29 and a conservationist whose resolute values toward the

Page 1 of 3

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

592-03759-15

2015946c1

30 preservation of Biscayne Bay greatly contributed to the
31 establishment of Biscayne National Park, which was created to
32 preserve and protect area wildlife for the education,
33 inspiration, recreation, and enjoyment of present and future
34 generations, and
35 WHEREAS, Biscayne National Park is home to a rare
36 combination of terrestrial, marine, and amphibious life in a
37 tropical and subtropical setting of great natural beauty, which
38 annually draws an average of 500,000 visitors, contributes more
39 than \$34 million to the state's economy, and supports 422 jobs,
40 and
41 WHEREAS, the invaluable efforts of Sir Lancelot Garfield
42 Jones to preserve the land he loved and to ensure that future
43 generations would delight in its beauty and abundance have
44 resulted in significant economic, ecological, and cultural
45 contributions to the state, its heritage, and its future, NOW,
46 THEREFORE,
47
48 Be It Enacted by the Legislature of the State of Florida:
49
50 Section 1. Section 683.095, Florida Statutes, is created to
51 read:
52 683.095 Sir Lancelot Jones Day; Miami-Dade and Monroe
53 Counties.—The second Monday in October of each year is
54 designated as "Sir Lancelot Jones Day" in Miami-Dade and Monroe
55 Counties to commemorate the contributions of Sir Lancelot
56 Garfield Jones in the preservation of Biscayne Bay and the
57 establishment of Biscayne National Park. Public officials,
58 schools, private organizations, and all citizens in Miami-Dade

Page 2 of 3

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

592-03759-15

2015946c1

59 and Monroe Counties are encouraged to honor the legacy of Sir
60 Lancelot Garfield Jones and his contributions to the state by
61 commemorating Sir Lancelot Jones Day on the second Monday in
62 October of each year.

63 Section 2. This act shall take effect upon becoming a law.



The Florida Senate

Committee Agenda Request

To: Senator David Simmons, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: April 8, 2015

I respectfully request that **Senate Bill #946**, relating to Legal Holidays and Special Observances, be placed on the:

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

A handwritten signature in black ink, appearing to read "D. Bullard", written over a horizontal line.

Senator Dwight Bullard
Florida Senate, District 39

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/CS/SB 1224

INTRODUCER: Rules Committee, Judiciary Committee, and Senator Joyner

SUBJECT: Health Care Representatives

DATE: April 20, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Caldwell	Cibula	JU	Fav/CS
2.	Looke	Stovall	HP	Favorable
3.	Caldwell	Phelps	RC	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1224 authorizes the appointment of a health care surrogate which is not conditioned upon the incapacity of the principal. It allows for the principal's health information to be shared with the surrogate prior to incapacity. The bill also allows the parents, legal custodian, or legal guardian of a minor to name a health care surrogate to act for a minor if the parents, legal custodian, or legal guardian cannot be timely contacted to make medical decisions for the minor.

II. Present Situation:

Part II of ch. 765, F.S., entitled "Health Care Surrogate," governs the designation of health care surrogates in Florida. A health care surrogate is a competent adult expressly designated by a principal to make health care decisions on behalf of the principal upon the principal's incapacity.¹ Section 765.203, F.S., provides a suggested form for the designation of a health care surrogate. If an adult fails to designate a surrogate or a designated surrogate is unwilling or unable to perform his or her duties, a health care facility may seek the appointment of a proxy² to serve as surrogate upon the incapacity of such person.³ A surrogate appointed by the principal or

¹ Section 765.101(16), F.S.

² "Proxy" means a competent adult who has not been expressly designated to make health care decisions for a particular incapacitated individual, but who, nevertheless, is authorized pursuant to s. 765.401, F.S., to make health care decisions for such individual. s. 765.101(15), F.S.

³ Sections 765.202(4) and 765.401, F.S.

by proxy, may, subject to any limitations and instructions provided by the principal, take the following actions:⁴

- Make all health care decisions⁵ for the principal during the principal's incapacity;
- Consult expeditiously with appropriate health care providers to provide informed consent, including written consent where required, provided that such consent reflects the principal's wishes or the principal's best interests;
- Have access to the appropriate medical records of the principal;
- Apply for public benefits for the principal and have access to information regarding the principal's income, assets, and financial records to the extent required to make such application;
- Authorize the release of information and medical records to appropriate persons to ensure continuity of the principal's health care; and
- Authorize the admission, discharge, or transfer of the principal to or from a health care facility.⁶

The surrogate's authority to act commences upon a determination that the principle is incapacitated.⁷ A determination of incapacity is required to be made by an attending physician.⁸ If the physician's evaluation finds that the principal is incapacitated and the principal has designated a health care surrogate, a health care facility will notify such surrogate in writing that her or his authority under the instrument has commenced.⁹ The health care surrogate's authority continues until a determination that the principal has regained capacity. If a principal goes in and out of capacity, a redetermination of incapacity is necessary each time before a health care surrogate may make health care decisions.¹⁰

This process can hinder effective and timely assistance and is cumbersome. Further, some competent persons desire the assistance of a health care surrogate with the sometimes complex task of understanding health care treatments and procedures and with making health care decisions, but may not effectively empower such persons to act on their behalf due to the restriction that a health care surrogate act only for incapacitated persons.

Health Care Decisions for Minors

In general, healthcare decisions for minors are made by that minor's parent, legal custodian, or legal guardian.¹¹ When the minor's parent or guardian cannot be contacted in a non-emergency situation, s. 743.0645, F.S., establishes, in order of priority, the people who are authorized to

⁴ Section 765.205, F.S.

⁵ "Health care decision" means: informed consent, refusal of consent, or withdrawal of consent to any and all health care, including life-prolonging procedures and mental health treatment, unless otherwise stated in the advance directives; the decision to apply for private, public, government, or veterans' benefits to defray the cost of health care; the right of access to all records of the principal reasonably necessary for a health care surrogate to make decisions involving health care and to apply for benefits; and the decision to make an anatomical gift pursuant to part V of ch. 765, F.S.

⁶ Section 765.205(1), F.S.

⁷ Section 765.204(3), F.S.

⁸ Section 765.204, F.S.

⁹ Section 765.204(2), F.S.

¹⁰ Section 765.204(3), F.S.

¹¹ See s. 743.0645(1)(c), F.S.

consent to healthcare for that minor.¹² In an emergency situation, s. 743.064, F.S., allows a physician to provide emergency medical services to a minor in a hospital or a college infirmary and allows emergency medical services personnel to provide prehospital emergency care when the minor is unable to reveal the identity of his or her parent or guardian or if such person cannot be immediately located by telephone at their residence or place of business. The minor's parent or guardian must be notified of any emergency services as soon as possible after the treatment is administered.

III. Effect of Proposed Changes:

Health Care Surrogate for an Adult

The bill creates s. 765.202(6), F.S., (**section 8**) to provide that an individual may elect to appoint a health care surrogate who may act while the individual is still competent to make healthcare decisions and to have access to the individual's health information. To that end, the bill:

- Adds a legislative finding at s. 765.102(3), F.S., (**section 3**) that some adults want a health care surrogate to assist them with making medical decisions or accessing health information.
- Provides that statutory provisions for review of the decision of a health care surrogate at s. 765.105, F.S., (**section 5**) do not apply where the individual who appointed the health care surrogate is still competent.
- Amends s. 765.204, F.S., (**section 12**) to require a health care facility to notify the surrogate upon a finding of incapacity. The notification requirement also requires notice to the attorney in fact if the health care facility knows of a durable power of attorney. The bill limits liability of the health care provider when relying upon a health care surrogate acting when the principal lacks capacity and provides that the effect of the surrogate's authority is only that of the principal. When the medical directions of the principal and surrogate conflict, the principal's decision supersedes the surrogate's decision.
- Adds that an alternate may also act where the primary surrogate is not reasonably available. Current law such as s. 765.202(3), F.S., (**section 8**) provides that an alternate health care surrogate may act where the primary surrogate is unwilling or unable to act.

Section 765.203, F.S., (**section 9**) is amended to add a suggested form for the designation of a health care surrogate and delete the current form. The information on the form includes:

- The principal's name;
- A statement that the principal designates as his or her health care surrogate;
- The name, address, and phone number of the surrogate;
- A statement relating to the healthcare surrogate who is not willing, able, or reasonably available to perform his or her duties, and an opportunity to designate an alternate health care surrogate;
- Instructions and authorization for health care that includes some fill in the blank, some required initialing, and further specific instructions and restrictions;
- Instructions and notice of how to amend or revoke the surrogate designation;
- Acknowledgements as to understanding and authority delegated;
- Signature and date, printed name and address of the principal; and

¹² The list includes, in order, a person with a power of attorney to provide consent for the minor, a stepparent, a grandparent, an adult brother or sister, and an adult aunt or uncle.

- Signature and date, printed name and address of two witnesses.

Health Care Surrogate for a Minor

The bill creates s. 765.2035, F.S., (**section 10**) to create statutory authority for a parent or legal guardian to designate a health care surrogate who may consent to medical care for a minor. The designation must be in writing and signed by two witnesses. The designated surrogate may not be a witness.

Like a surrogate for an adult, an alternate surrogate may be appointed to act if the original surrogate is not willing, able, or reasonably available to act.

In addition to regular and emergency treatment, a health care surrogate for a minor is authorized to consent to mental health treatment unless the document specifically provides otherwise. The appointment of a health care surrogate for a minor remains in place until the termination date provided in the designation (if any), the minor reaches the age of majority, or the designation is revoked.

The bill also creates a sample form for minors at s. 765.2038, F.S. (**section 11**).

The bill amends s. 743.0645, F.S., (**section 1**) the statute on other persons who may consent to medical care or treatment of a minor, to conform to the changes made in the bill. The bill also amends that statute to recognize that a power of attorney regarding consent to authorize health care for a minor, executed between July 1, 2001 and September 30, 2015, (the day before the effective date of this bill) will be recognized as authority to consent to treatment. A designation of health care surrogate or a power of attorney is deemed to include authority to consent to surgery or anesthesia unless those procedures are specifically excluded.

Other

The bill amends ss. 765.102 and 765.202, F.S., (**sections 3 and 8**) to specify that a right to consent to treatment of an individual (adult or minor) also includes the right to obtain health information regarding that individual. Section 765.101, F.S., (**section 2**) is amended to add a definition for the term “health information” to be consistent with the Health Insurance Portability and Accountability Act (known as “HIPAA”). The terms “health care,” “health information,” “minor’s principal,” “primary physician,” and “reasonably available” are also added and defined. The definitions of the terms “advanced directive,” “attending physician,” “close personal friend,” “health care decision,” and “principal” are amended.

The term “surrogate” that is currently defined to mean “any competent adult expressly designated by a principal to make health care decisions” is amended to add “and receive health information. The principal may stipulate whether the authority of the surrogate to make health care decisions or to receive health information is exercisable immediately without the necessity for a determination of capacity or only upon the principal’s incapacity as provided in s. 765.204.” The phrase “on behalf of the principal upon the principal’s incapacity” in the current definition is deleted.

The bill makes technical changes by revising references to the type of physician (i.e., attending or primary) consistent with the definitions in statutes related to advance directives, health care surrogates, pain management, palliative care, capacity, living wills, determination of patient condition, persistent vegetative state, and anatomical gifts. This change in terminology should have no practical effect.

Finally, technical and conforming changes are made throughout the bill.

The bill takes effect on October 1, 2015.

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:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

In the bill's definition of the term "surrogate" is a statement of the delegated authority:

The principal may stipulate whether the authority of the surrogate to make health care decisions or to receive health information is exercisable immediately without the necessity for a determination of capacity or only upon the principal's incapacity as provided in s. 765.204.

This authority does not contribute to clarifying who the surrogate is. It is substantive and would fit better in part II, relating to the health care surrogate.¹³

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 743.0645, 765.101, 765.102, 765.104, 765.105, 765.1103, 765.1105, 765.202, 765.203, 765.204, 765.205, 765.302, 765.303, 765.304, 765.306, 765.404, and 765.516.

This bill creates sections 765.2035 and 765.2038 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/CS by Rules on April 20, 2015:

The CS adds language to the Designation of Health Care Surrogate form which provides when the principal and the surrogate's medical instructions are in material conflict, the principal's decision while possessing capacity supersedes the surrogate's decision. The CS also clarifies when a surrogate's authority commences and ends as the principal gains and loses capacity. It limits liability of the health care provider when relying upon a health care surrogate acting when the principal lacks capacity and provides that the effect of the surrogate's authority is only that of the principal. When the medical directions of the principal and surrogate conflict, the principal's decision supersedes the surrogate's decision.

CS by Judiciary on March 31, 2015:

The CS makes the following changes to the bill:

- Deletes the requirement that power of attorney documents affected by the changes in the bill must be executed before October 1, 2015.
- Reinstates the definition of "attending physician" and revises the meaning to the physician providing treatment and care of the patient while the patient receives treatment or care in a hospital defined in s. 395.002(12), F.S.
- Revises the definition of the term "close personal friend" to change the type of physician referenced from attending or treating to primary.
- Modifies the surrogate designation form to add instructions and notice of how to amend or revoke the surrogate designation.
- Adds the condition that an attending physician must notify the primary physician of his or her determination that the principal lacks capacity.

¹³ See Office of Bill Drafting Services, The Florida Senate, *Manual for Drafting Legislation*, p. 45 (6th ed. 2009).

- Removes the caveat that even though a surrogate has been designated, self-determination of the principal is controlling and that the primary physician does not have to communication to the principal the decision made by the surrogate. Changes the references to an attending and/or treating physician to references to a primary physician and makes other conforming changes.

B. Amendments:

None.

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



402896

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/20/2015	.	
	.	
	.	
	.	

The Committee on Rules (Joyner) recommended the following:

Senate Amendment

1
2
3 Delete line 473
4 and insert:
5 IMMEDIATELY. PURSUANT TO SECTION 765.204(3), ANY INSTRUCTIONS OR
6 HEALTH CARE DECISIONS I MAKE, EITHER VERBALLY OR IN WRITING,
7 WHILE I POSSESS CAPACITY SHALL SUPERCEDE ANY INSTRUCTIONS OR
8 HEALTH CARE DECISIONS MADE BY MY SURROGATE THAT ARE IN MATERIAL
9 CONFLICT WITH THOSE MADE BY ME.



688460

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/20/2015	.	
	.	
	.	
	.	

The Committee on Rules (Joyner) recommended the following:

Senate Amendment (with title amendment)

Delete lines 671 - 682

and insert:

(3) The surrogate's authority shall commence either upon a determination under subsection (2) that the principal lacks capacity, or upon a stipulation of such authority pursuant to s. 765.101(21). ~~and~~ Such authority shall remain in effect until a determination that the principal has regained such capacity when the authority commenced as a result of incapacity, or until its revocation in such cases where the authority commenced



688460

12 immediately pursuant to 765.101(21). Upon commencement of the
13 surrogate's authority, a surrogate who is not the principal's
14 spouse shall notify the principal's spouse or adult children of
15 the principal's designation of the surrogate. Except where the
16 principal provided immediately exercisable authority to the
17 surrogate pursuant to s. 765.101(21), in the event the primary
18 or attending physician determines that the principal has
19 regained capacity, the authority of the surrogate shall cease,
20 but shall recommence if the principal subsequently loses
21 capacity as determined pursuant to this section. A health care
22 provider will not be liable for relying upon health care
23 decisions made by a surrogate while a principal lacks capacity.
24 At any time when a principal lacks capacity, a health care
25 decision made on a principal's behalf by a surrogate shall be
26 effective to the same extent as a decision made by the
27 principal. When a principal possesses capacity, health care
28 decisions of the principal will take precedence over decisions
29 made by the surrogate that present a material conflict.

30
31 ===== T I T L E A M E N D M E N T =====

32 And the title is amended as follows:

33 Delete line 44

34 and insert:

35 notification of incapacity of a principal; providing
36 that a health care provider may justifiably rely on
37 decisions made by a surrogate; providing for when
38 there are conflicting decisions between surrogate and
39 patient; amending s.

By the Committee on Judiciary; and Senator Joyner

590-03296-15

20151224c1

1 A bill to be entitled
 2 An act relating to health care representatives;
 3 amending s. 743.0645, F.S.; conforming provisions to
 4 changes made by the act; amending s. 765.101, F.S.;
 5 defining terms for purposes of provisions relating to
 6 health care advanced directives; revising definitions
 7 to conform to changes made by the act; amending s.
 8 765.102, F.S.; revising legislative intent to include
 9 reference to surrogate authority that is not dependent
 10 on a determination of incapacity; amending s. 765.104,
 11 F.S.; conforming provisions to changes made by the
 12 act; amending s. 765.105, F.S.; conforming provisions
 13 to changes made by the act; providing an exception for
 14 a patient who has designated a surrogate to make
 15 health care decisions and receive health information
 16 without a determination of incapacity being required;
 17 amending ss. 765.1103 and 765.1105, F.S.; conforming
 18 provisions to changes made by the act; amending s.
 19 765.202, F.S.; revising provisions relating to the
 20 designation of health care surrogates; amending s.
 21 765.203, F.S.; revising the suggested form for
 22 designation of a health care surrogate; creating s.
 23 765.2035, F.S.; providing for the designation of
 24 health care surrogates for minors; providing for
 25 designation of an alternate surrogate; providing for
 26 decisionmaking if neither the designated surrogate nor
 27 the designated alternate surrogate is willing, able,
 28 or reasonably available to make health care decisions
 29 for the minor on behalf of the minor's principal;

Page 1 of 30

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

590-03296-15

20151224c1

30 authorizing designation of a separate surrogate to
 31 consent to mental health treatment for a minor;
 32 providing that the health care surrogate authorized to
 33 make health care decisions for a minor is also the
 34 minor's principal's choice to make decisions regarding
 35 mental health treatment for the minor unless provided
 36 otherwise; providing that a written designation of a
 37 health care surrogate establishes a rebuttable
 38 presumption of clear and convincing evidence of the
 39 minor's principal's designation of the surrogate;
 40 creating s. 765.2038, F.S.; providing a suggested form
 41 for the designation of a health care surrogate for a
 42 minor; amending s. 765.204, F.S.; conforming
 43 provisions to changes made by the act; providing for
 44 notification of incapacity of a principal; amending s.
 45 765.205, F.S.; conforming provisions to changes made
 46 by the act; amending ss. 765.302, 765.303, 765.304,
 47 765.306, 765.404, and 765.516, F.S.; conforming
 48 provisions to changes made by the act; providing an
 49 effective date.

50
 51 Be It Enacted by the Legislature of the State of Florida:

52
 53 Section 1. Paragraph (b) of subsection (1) and paragraph
 54 (a) of subsection (2) of section 743.0645, Florida Statutes, are
 55 amended to read:

56 743.0645 Other persons who may consent to medical care or
 57 treatment of a minor.—

58 (1) As used in this section, the term:

Page 2 of 30

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

590-03296-15

20151224c1

59 (b) "Medical care and treatment" includes ordinary and
 60 necessary medical and dental examination and treatment,
 61 including blood testing, preventive care including ordinary
 62 immunizations, tuberculin testing, and well-child care, but does
 63 not include surgery, general anesthesia, provision of
 64 psychotropic medications, or other extraordinary procedures for
 65 which a separate court order, health care surrogate designation
 66 under s. 765.2035 executed after September 30, 2015, power of
 67 attorney executed after July 1, 2001, or informed consent as
 68 provided by law is required, except as provided in s. 39.407(3).

69 (2) Any of the following persons, in order of priority
 70 listed, may consent to the medical care or treatment of a minor
 71 who is not committed to the Department of Children and Families
 72 or the Department of Juvenile Justice or in their custody under
 73 chapter 39, chapter 984, or chapter 985 when, after a reasonable
 74 attempt, a person who has the power to consent as otherwise
 75 provided by law cannot be contacted by the treatment provider
 76 and actual notice to the contrary has not been given to the
 77 provider by that person:

78 (a) A health care surrogate designated under s. 765.2035
 79 after September 30, 2015, or a person who possesses a power of
 80 attorney to provide medical consent for the minor. A health care
 81 surrogate designation under s. 765.2035 executed after September
 82 30, 2015, and a power of attorney executed after July 1, 2001,
 83 to provide medical consent for a minor includes the power to
 84 consent to medically necessary surgical and general anesthesia
 85 services for the minor unless such services are excluded by the
 86 individual executing the health care surrogate for a minor or
 87 power of attorney.

Page 3 of 30

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

590-03296-15

20151224c1

88
 89 There shall be maintained in the treatment provider's records of
 90 the minor documentation that a reasonable attempt was made to
 91 contact the person who has the power to consent.

92 Section 2. Section 765.101, Florida Statutes, is amended to
 93 read:

94 765.101 Definitions.—As used in this chapter:

95 (1) "Advance directive" means a witnessed written document
 96 or oral statement in which instructions are given by a principal
 97 or in which the principal's desires are expressed concerning any
 98 aspect of the principal's health care or health information, and
 99 includes, but is not limited to, the designation of a health
 100 care surrogate, a living will, or an anatomical gift made
 101 pursuant to part V of this chapter.

102 (2) "Attending physician" means the ~~primary~~ physician who
 103 has primary responsibility for the treatment and care of the
 104 patient while the patient receives such treatment or care in a
 105 hospital as defined in s. 395.002(12).

106 (3) "Close personal friend" means any person 18 years of
 107 age or older who has exhibited special care and concern for the
 108 patient, and who presents an affidavit to the health care
 109 facility or to the primary attending or treating physician
 110 stating that he or she is a friend of the patient; is willing
 111 and able to become involved in the patient's health care; and
 112 has maintained such regular contact with the patient so as to be
 113 familiar with the patient's activities, health, and religious or
 114 moral beliefs.

115 (4) "End-stage condition" means an irreversible condition
 116 that is caused by injury, disease, or illness which has resulted

Page 4 of 30

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

590-03296-15

20151224c1

117 in progressively severe and permanent deterioration, and which,
 118 to a reasonable degree of medical probability, treatment of the
 119 condition would be ineffective.

120 (5) "Health care" means care, services, or supplies related
 121 to the health of an individual and includes, but is not limited
 122 to, preventive, diagnostic, therapeutic, rehabilitative,
 123 maintenance, or palliative care, and counseling, service,
 124 assessment, or procedure with respect to the individual's
 125 physical or mental condition or functional status or that affect
 126 the structure or function of the individual's body.

127 ~~(6)(5)~~ "Health care decision" means:

128 (a) Informed consent, refusal of consent, or withdrawal of
 129 consent to any and all health care, including life-prolonging
 130 procedures and mental health treatment, unless otherwise stated
 131 in the advance directives.

132 (b) The decision to apply for private, public, government,
 133 or veterans' benefits to defray the cost of health care.

134 (c) The right of access to health information ~~all records~~
 135 of the principal reasonably necessary for a health care
 136 surrogate or proxy to make decisions involving health care and
 137 to apply for benefits.

138 (d) The decision to make an anatomical gift pursuant to
 139 part V of this chapter.

140 ~~(7)(6)~~ "Health care facility" means a hospital, nursing
 141 home, hospice, home health agency, or health maintenance
 142 organization licensed in this state, or any facility subject to
 143 part I of chapter 394.

144 ~~(8)(7)~~ "Health care provider" or "provider" means any
 145 person licensed, certified, or otherwise authorized by law to

590-03296-15

20151224c1

146 administer health care in the ordinary course of business or
 147 practice of a profession.

148 (9) "Health information" means any information, whether
 149 oral or recorded in any form or medium, as defined in 45 C.F.R.
 150 s. 160.103 and the Health Insurance Portability and
 151 Accountability Act of 1996, 42 U.S.C. s. 1320d, as amended,
 152 that:

153 (a) Is created or received by a health care provider,
 154 health care facility, health plan, public health authority,
 155 employer, life insurer, school or university, or health care
 156 clearinghouse; and

157 (b) Relates to the past, present, or future physical or
 158 mental health or condition of the principal; the provision of
 159 health care to the principal; or the past, present, or future
 160 payment for the provision of health care to the principal.

161 ~~(10)(8)~~ "Incapacity" or "incompetent" means the patient is
 162 physically or mentally unable to communicate a willful and
 163 knowing health care decision. For the purposes of making an
 164 anatomical gift, the term also includes a patient who is
 165 deceased.

166 ~~(11)(9)~~ "Informed consent" means consent voluntarily given
 167 by a person after a sufficient explanation and disclosure of the
 168 subject matter involved to enable that person to have a general
 169 understanding of the treatment or procedure and the medically
 170 acceptable alternatives, including the substantial risks and
 171 hazards inherent in the proposed treatment or procedures, and to
 172 make a knowing health care decision without coercion or undue
 173 influence.

174 ~~(12)(10)~~ "Life-prolonging procedure" means any medical

590-03296-15 20151224c1

175 procedure, treatment, or intervention, including artificially
 176 provided sustenance and hydration, which sustains, restores, or
 177 supplants a spontaneous vital function. The term does not
 178 include the administration of medication or performance of
 179 medical procedure, when such medication or procedure is deemed
 180 necessary to provide comfort care or to alleviate pain.

181 ~~(13)-(11)~~ "Living will" or "declaration" means:

182 (a) A witnessed document in writing, voluntarily executed
 183 by the principal in accordance with s. 765.302; or

184 (b) A witnessed oral statement made by the principal
 185 expressing the principal's instructions concerning life-
 186 prolonging procedures.

187 (14) "Minor's principal" means a principal who is a natural
 188 guardian as defined in s. 744.301(1); legal custodian; or,
 189 subject to chapter 744, legal guardian of the person of a minor.

190 ~~(15)-(12)~~ "Persistent vegetative state" means a permanent
 191 and irreversible condition of unconsciousness in which there is:

192 (a) The absence of voluntary action or cognitive behavior
 193 of any kind.

194 (b) An inability to communicate or interact purposefully
 195 with the environment.

196 ~~(16)-(13)~~ "Physician" means a person licensed pursuant to
 197 chapter 458 or chapter 459.

198 (17) "Primary physician" means a physician designated by an
 199 individual or the individual's surrogate, proxy, or agent under
 200 a durable power of attorney, as provided in chapter 709, to have
 201 primary responsibility for the individual's health care or, in
 202 the absence of a designation or if the designated physician is
 203 not reasonably available, a physician who undertakes the

590-03296-15 20151224c1

204 responsibility.

205 ~~(18)-(14)~~ "Principal" means a competent adult executing an
 206 advance directive and on whose behalf health care decisions are
 207 to be made or health care information is to be received, or
 208 both.

209 ~~(19)-(15)~~ "Proxy" means a competent adult who has not been
 210 expressly designated to make health care decisions for a
 211 particular incapacitated individual, but who, nevertheless, is
 212 authorized pursuant to s. 765.401 to make health care decisions
 213 for such individual.

214 (20) "Reasonably available" means readily able to be
 215 contacted without undue effort and willing and able to act in a
 216 timely manner considering the urgency of the patient's health
 217 care needs.

218 ~~(21)-(16)~~ "Surrogate" means any competent adult expressly
 219 designated by a principal to make health care decisions and to
 220 receive health information. The principal may stipulate whether
 221 the authority of the surrogate to make health care decisions or
 222 to receive health information is exercisable immediately without
 223 the necessity for a determination of incapacity or only upon the
 224 principal's incapacity as provided in s. 765.204 on behalf of
 225 the principal upon the principal's incapacity.

226 ~~(22)-(17)~~ "Terminal condition" means a condition caused by
 227 injury, disease, or illness from which there is no reasonable
 228 medical probability of recovery and which, without treatment,
 229 can be expected to cause death.

230 Section 3. Subsections (3) through (6) of section 765.102,
 231 Florida Statutes, are renumbered as subsections (4) through (7),
 232 respectively, present subsections (2) and (3) are amended, and a

590-03296-15

20151224c1

233 new subsection (3) is added to that section, to read:

234 765.102 Legislative findings and intent.—

235 (2) To ensure that such right is not lost or diminished by
236 virtue of later physical or mental incapacity, the Legislature
237 intends that a procedure be established to allow a person to
238 plan for incapacity by executing a document or orally
239 designating another person to direct the course of his or her
240 health care or receive his or her health information, or both,
241 ~~medical treatment~~ upon his or her incapacity. Such procedure
242 should be less expensive and less restrictive than guardianship
243 and permit a previously incapacitated person to exercise his or
244 her full right to make health care decisions as soon as the
245 capacity to make such decisions has been regained.

246 (3) The Legislature also recognizes that some competent
247 adults may want to receive immediate assistance in making health
248 care decisions or accessing health information, or both, without
249 a determination of incapacity. The Legislature intends that a
250 procedure be established to allow a person to designate a
251 surrogate to make health care decisions or receive health
252 information, or both, without the necessity for a determination
253 of incapacity under this chapter.

254 ~~(4)(3)~~ The Legislature recognizes that for some the
255 administration of life-prolonging medical procedures may result
256 in only a precarious and burdensome existence. In order to
257 ensure that the rights and intentions of a person may be
258 respected even after he or she is no longer able to participate
259 actively in decisions concerning himself or herself, and to
260 encourage communication among such patient, his or her family,
261 and his or her physician, the Legislature declares that the laws

590-03296-15

20151224c1

262 of this state recognize the right of a competent adult to make
263 an advance directive instructing his or her physician to
264 provide, withhold, or withdraw life-prolonging procedures, or to
265 designate another to make the health care treatment decision for
266 him or her in the event that such person should become
267 incapacitated and unable to personally direct his or her health
268 ~~medical~~ care.

269 Section 4. Subsection (1) of section 765.104, Florida
270 Statutes, is amended to read:

271 765.104 Amendment or revocation.—

272 (1) An advance directive ~~or designation of a surrogate~~ may
273 be amended or revoked at any time by a competent principal:

274 (a) By means of a signed, dated writing;

275 (b) By means of the physical cancellation or destruction of
276 the advance directive by the principal or by another in the
277 principal's presence and at the principal's direction;

278 (c) By means of an oral expression of intent to amend or
279 revoke; or

280 (d) By means of a subsequently executed advance directive
281 that is materially different from a previously executed advance
282 directive.

283 Section 5. Section 765.105, Florida Statutes, is amended to
284 read:

285 765.105 Review of surrogate or proxy's decision.—

286 (1) The patient's family, the health care facility, or the
287 primary attending physician, or any other interested person who
288 may reasonably be expected to be directly affected by the
289 surrogate or proxy's decision concerning any health care
290 decision may seek expedited judicial intervention pursuant to

590-03296-15

20151224c1

291 rule 5.900 of the Florida Probate Rules, if that person
292 believes:

293 ~~(a)(1)~~ The surrogate or proxy's decision is not in accord
294 with the patient's known desires or ~~the provisions of this~~
295 chapter;

296 ~~(b)(2)~~ The advance directive is ambiguous, or the patient
297 has changed his or her mind after execution of the advance
298 directive;

299 ~~(c)(3)~~ The surrogate or proxy was improperly designated or
300 appointed, or the designation of the surrogate is no longer
301 effective or has been revoked;

302 ~~(d)(4)~~ The surrogate or proxy has failed to discharge
303 duties, or incapacity or illness renders the surrogate or proxy
304 incapable of discharging duties;

305 ~~(e)(5)~~ The surrogate or proxy has abused his or her powers;
306 or

307 ~~(f)(6)~~ The patient has sufficient capacity to make his or
308 her own health care decisions.

309 (2) This section does not apply to a patient who is not
310 incapacitated and who has designated a surrogate who has
311 immediate authority to make health care decisions and receive
312 health information, or both, on behalf of the patient.

313 Section 6. Subsection (1) of section 765.1103, Florida
314 Statutes, is amended to read:

315 765.1103 Pain management and palliative care.—

316 (1) A patient shall be given information concerning pain
317 management and palliative care when he or she discusses with the
318 primary attending or treating physician, or such physician's
319 designee, the diagnosis, planned course of treatment,

590-03296-15

20151224c1

320 alternatives, risks, or prognosis for his or her illness. If the
321 patient is incapacitated, the information shall be given to the
322 patient's health care surrogate or proxy, court-appointed
323 guardian as provided in chapter 744, or attorney in fact under a
324 durable power of attorney as provided in chapter 709. The court-
325 appointed guardian or attorney in fact must have been delegated
326 authority to make health care decisions on behalf of the
327 patient.

328 Section 7. Section 765.1105, Florida Statutes, is amended
329 to read:

330 765.1105 Transfer of a patient.—

331 (1) A health care provider or facility that refuses to
332 comply with a patient's advance directive, or the treatment
333 decision of his or her surrogate or proxy, shall make reasonable
334 efforts to transfer the patient to another health care provider
335 or facility that will comply with the directive or treatment
336 decision. This chapter does not require a health care provider
337 or facility to commit any act which is contrary to the
338 provider's or facility's moral or ethical beliefs, if the
339 patient:

340 (a) Is not in an emergency condition; and

341 (b) Has received written information upon admission
342 informing the patient of the policies of the health care
343 provider or facility regarding such moral or ethical beliefs.

344 (2) A health care provider or facility that is unwilling to
345 carry out the wishes of the patient or the treatment decision of
346 his or her surrogate or proxy because of moral or ethical
347 beliefs must within 7 days either:

348 (a) Transfer the patient to another health care provider or

590-03296-15 20151224c1

349 facility. The health care provider or facility shall pay the
 350 costs for transporting the patient to another health care
 351 provider or facility; or

352 (b) If the patient has not been transferred, carry out the
 353 wishes of the patient or the patient's surrogate or proxy,
 354 unless ~~the provisions of s. 765.105 applies apply.~~

355 Section 8. Subsections (1), (3), and (4) of section
 356 765.202, Florida Statutes, are amended, subsections (6) and (7)
 357 are renumbered as subsections (7) and (8), respectively, and a
 358 new subsection (6) is added to that section, to read:

359 765.202 Designation of a health care surrogate.—

360 (1) A written document designating a surrogate to make
 361 health care decisions for a principal or receive health
 362 information on behalf of a principal, or both, shall be signed
 363 by the principal in the presence of two subscribing adult
 364 witnesses. A principal unable to sign the instrument may, in the
 365 presence of witnesses, direct that another person sign the
 366 principal's name as required herein. An exact copy of the
 367 instrument shall be provided to the surrogate.

368 (3) A document designating a health care surrogate may also
 369 designate an alternate surrogate provided the designation is
 370 explicit. The alternate surrogate may assume his or her duties
 371 as surrogate for the principal if the original surrogate is not
 372 willing, able, or reasonably available ~~unwilling or unable~~ to
 373 perform his or her duties. The principal's failure to designate
 374 an alternate surrogate shall not invalidate the designation of a
 375 surrogate.

376 (4) If neither the designated surrogate nor the designated
 377 alternate surrogate is willing, able, or reasonably available

590-03296-15 20151224c1

378 ~~able or willing~~ to make health care decisions on behalf of the
 379 principal and in accordance with the principal's instructions,
 380 the health care facility may seek the appointment of a proxy
 381 pursuant to part IV.

382 (6) A principal may stipulate in the document that the
 383 authority of the surrogate to receive health information or make
 384 health care decisions or both is exercisable immediately without
 385 the necessity for a determination of incapacity as provided in
 386 s. 765.204.

387 Section 9. Section 765.203, Florida Statutes, is amended to
 388 read:

389 765.203 Suggested form of designation.—A written
 390 designation of a health care surrogate executed pursuant to this
 391 chapter may, but need not be, in the following form:

392 DESIGNATION OF HEALTH CARE SURROGATE

393 I, ...name..., designate as my health care surrogate under s.
 394 765.202, Florida Statutes:

395 Name: ...(name of health care surrogate)...

396 Address: ...(address)...

397 Phone: ...(telephone)...

398 If my health care surrogate is not willing, able, or reasonably
 399 available to perform his or her duties, I designate as my
 400 alternate health care surrogate:

401 Name: ...(name of alternate health care surrogate)...

590-03296-15 20151224c1

407 Address: ...(address)...
408 Phone: ...(telephone)...

410 INSTRUCTIONS FOR HEALTH CARE

411
412 I authorize my health care surrogate to:
413 ...(Initial here)... Receive any of my health information,
414 whether oral or recorded in any form or medium, that:

415 1. Is created or received by a health care provider, health
416 care facility, health plan, public health authority, employer,
417 life insurer, school or university, or health care
418 clearinghouse; and

419 2. Relates to my past, present, or future physical or
420 mental health or condition; the provision of health care to me;
421 or the past, present, or future payment for the provision of
422 health care to me.

423 I further authorize my health care surrogate to:
424 ...(Initial here)... Make all health care decisions for me,
425 which means he or she has the authority to:

426 1. Provide informed consent, refusal of consent, or
427 withdrawal of consent to any and all of my health care,
428 including life-prolonging procedures.

429 2. Apply on my behalf for private, public, government, or
430 veterans' benefits to defray the cost of health care.

431 3. Access my health information reasonably necessary for
432 the health care surrogate to make decisions involving my health
433 care and to apply for benefits for me.

434 4. Decide to make an anatomical gift pursuant to part V of
435 chapter 765, Florida Statutes.

590-03296-15 20151224c1

436 ...(Initial here)... Specific instructions and
437 restrictions:.....
438
439

440
441 To the extent I am capable of understanding, my health care
442 surrogate shall keep me reasonably informed of all decisions
443 that he or she has made on my behalf and matters concerning me.

444
445 THIS HEALTH CARE SURROGATE DESIGNATION IS NOT AFFECTED BY MY
446 SUBSEQUENT INCAPACITY EXCEPT AS PROVIDED IN CHAPTER 765, FLORIDA
447 STATUTES.

448
449 PURSUANT TO SECTION 765.104, FLORIDA STATUTES, I UNDERSTAND THAT
450 I MAY, AT ANY TIME WHILE I RETAIN MY CAPACITY, REVOKE OR AMEND
451 THIS DESIGNATION BY:

452 (1) SIGNING A WRITTEN AND DATED INSTRUMENT WHICH EXPRESSES
453 MY INTENT TO AMEND OR REVOKE THIS DESIGNATION;

454 (2) PHYSICALLY DESTROYING THIS DESIGNATION THROUGH MY OWN
455 ACTION OR BY THAT OF ANOTHER PERSON IN MY PRESENCE AND UNDER MY
456 DIRECTION;

457 (3) VERBALLY EXPRESSING MY INTENTION TO AMEND OR REVOKE
458 THIS DESIGNATION; OR

459 (4) SIGNING A NEW DESIGNATION THAT IS MATERIALLY DIFFERENT
460 FROM THIS DESIGNATION.

461
462 MY HEALTH CARE SURROGATE'S AUTHORITY BECOMES EFFECTIVE WHEN MY
463 PRIMARY PHYSICIAN DETERMINES THAT I AM UNABLE TO MAKE MY OWN
464 HEALTH CARE DECISIONS UNLESS I INITIAL EITHER OR BOTH OF THE

590-03296-15 20151224c1

465 FOLLOWING BOXES:

466

467 IF I INITIAL THIS BOX [...], MY HEALTH CARE SURROGATE'S

468 AUTHORITY TO RECEIVE MY HEALTH INFORMATION TAKES EFFECT

469 IMMEDIATELY.

470

471 IF I INITIAL THIS BOX [...], MY HEALTH CARE SURROGATE'S

472 AUTHORITY TO MAKE HEALTH CARE DECISIONS FOR ME TAKES EFFECT

473 IMMEDIATELY.

474

475 SIGNATURES: Sign and date the form here:

476 ...(date)... ...(sign your name)...

477 ...(address)... ...(print your name)...

478 ...(city)... ...(state)...

479

480 SIGNATURES OF WITNESSES:

481 First witness _____ Second witness _____

482 ...(print name)... ...(print name)...

483 ...(address)... ...(address)...

484 ...(city)... ...(state)... ...(city)... ...(state)...

485 ...(signature of witness)... ...(signature of witness)...

486 ...(date)... ...(date)...

487

488 Name:....(Last)....(First)....(Middle Initial)....

489 In the event that I have been determined to be

490 incapacitated to provide informed consent for medical treatment

491 and surgical and diagnostic procedures, I wish to designate as

492 my surrogate for health care decisions:

493

590-03296-15 20151224c1

494 Name:.....

495 Address:.....

Zip

..... Code:.....

496

497 Phone:.....

498 If my surrogate is unwilling or unable to perform his or

499 her duties, I wish to designate as my alternate surrogate:

500 Name:.....

501 Address:.....

Zip

..... Code:.....

502

503 Phone:.....

504 I fully understand that this designation will permit my

505 designee to make health care decisions and to provide, withhold,

506 or withdraw consent on my behalf; to apply for public benefits

507 to defray the cost of health care; and to authorize my admission

508 to or transfer from a health care facility.

509 Additional instructions (optional):.....

510

511

512

513 I further affirm that this designation is not being made as

514 a condition of treatment or admission to a health care facility.

515 I will notify and send a copy of this document to the following

516 persons other than my surrogate, so they may know who my

517 surrogate is.

518 Name:.....

590-03296-15 20151224c1

519 Name:.....
520
521
522 Signed:.....
523 Date:.....

524 Witnesse
525 s+ 1.....
526
527 2.....

528 Section 10. Section 765.2035, Florida Statutes, is created
529 to read:

530 765.2035 Designation of a health care surrogate for a
531 minor.-

532 (1) A natural guardian as defined in s. 744.301(1), legal
533 custodian, or legal guardian of the person of a minor may
534 designate a competent adult to serve as a surrogate to make
535 health care decisions for the minor. Such designation shall be
536 made by a written document signed by the minor's principal in
537 the presence of two subscribing adult witnesses. If a minor's
538 principal is unable to sign the instrument, the principal may,
539 in the presence of witnesses, direct that another person sign
540 the minor's principal's name as required by this subsection. An
541 exact copy of the instrument shall be provided to the surrogate.

542 (2) The person designated as surrogate may not act as
543 witness to the execution of the document designating the health
544 care surrogate.

545 (3) A document designating a health care surrogate may also
546 designate an alternate surrogate; however, such designation must

590-03296-15 20151224c1

545 be explicit. The alternate surrogate may assume his or her
546 duties as surrogate if the original surrogate is not willing,
547 able, or reasonably available to perform his or her duties. The
548 minor's principal's failure to designate an alternate surrogate
549 does not invalidate the designation.

550 (4) If neither the designated surrogate or the designated
551 alternate surrogate is willing, able, or reasonably available to
552 make health care decisions for the minor on behalf of the
553 minor's principal and in accordance with the minor's principal's
554 instructions, s. 743.0645(2) shall apply as if no surrogate had
555 been designated.

556 (5) A natural guardian as defined in s. 744.301(1), legal
557 custodian, or legal guardian of the person of a minor may
558 designate a separate surrogate to consent to mental health
559 treatment for the minor. However, unless the document
560 designating the health care surrogate expressly states
561 otherwise, the court shall assume that the health care surrogate
562 authorized to make health care decisions for a minor under this
563 chapter is also the minor's principal's choice to make decisions
564 regarding mental health treatment for the minor.

565 (6) Unless the document states a time of termination, the
566 designation shall remain in effect until revoked by the minor's
567 principal. An otherwise valid designation of a surrogate for a
568 minor shall not be invalid solely because it was made before the
569 birth of the minor.

570 (7) A written designation of a health care surrogate
571 executed pursuant to this section establishes a rebuttable
572 presumption of clear and convincing evidence of the minor's
573 principal's designation of the surrogate and becomes effective

590-03296-15 20151224c1

574 pursuant to s. 743.0645(2) (a).
575 Section 11. Section 765.2038, Florida Statutes, is created
576 to read:

577 765.2038 Designation of health care surrogate for a minor;
578 suggested form.—A written designation of a health care surrogate
579 for a minor executed pursuant to this chapter may, but need not
580 be, in the following form:

581 DESIGNATION OF HEALTH CARE SURROGATE

582 FOR MINOR

583 I/We, ... (name/names) ..., the [...] natural guardian(s)
584 as defined in s. 744.301(1), Florida Statutes; [...] legal
585 custodian(s); [...] legal guardian(s) [check one] of the
586 following minor(s):

587;
588;
589;

590 pursuant to s. 765.2035, Florida Statutes, designate the
591 following person to act as my/our surrogate for health care
592 decisions for such minor(s) in the event that I/we am/are not
593 able or reasonably available to provide consent for medical
594 treatment and surgical and diagnostic procedures:

595 Name: ... (name) ...
596 Address: ... (address) ...
597 Zip Code: ... (zip code) ...
598 Phone: ... (telephone) ...

590-03296-15 20151224c1

603 If my/our designated health care surrogate for a minor is
604 not willing, able, or reasonably available to perform his or her
605 duties, I/we designate the following person as my/our alternate
606 health care surrogate for a minor:

607 Name: ... (name) ...
608 Address: ... (address) ...
609 Zip Code: ... (zip code) ...
610 Phone: ... (telephone) ...

611 I/We authorize and request all physicians, hospitals, or
612 other providers of medical services to follow the instructions
613 of my/our surrogate or alternate surrogate, as the case may be,
614 at any time and under any circumstances whatsoever, with regard
615 to medical treatment and surgical and diagnostic procedures for
616 a minor, provided the medical care and treatment of any minor is
617 on the advice of a licensed physician.

618 I/We fully understand that this designation will permit
619 my/our designee to make health care decisions for a minor and to
620 provide, withhold, or withdraw consent on my/our behalf, to
621 apply for public benefits to defray the cost of health care, and
622 to authorize the admission or transfer of a minor to or from a
623 health care facility.

624 I/We will notify and send a copy of this document to the
625 following person(s) other than my/our surrogate, so that they
626 may know the identity of my/our surrogate:

590-03296-15

20151224c1

632 Name: ...(name)...633 Name: ...(name)...

634

635 Signed: ...(signature)...636 Date: ...(date)...

637

638 WITNESSES:639 1. ...(witness)...640 2. ...(witness)...

641 Section 12. Section 765.204, Florida Statutes, is amended
642 to read:

643 765.204 Capacity of principal; procedure.—

644 (1) A principal is presumed to be capable of making health
645 care decisions for herself or himself unless she or he is
646 determined to be incapacitated. Incapacity may not be inferred
647 from the person's voluntary or involuntary hospitalization for
648 mental illness or from her or his intellectual disability.

649 (2) If a principal's capacity to make health care decisions
650 for herself or himself or provide informed consent is in
651 question, the primary or attending physician shall evaluate the
652 principal's capacity and, if the evaluating physician concludes
653 that the principal lacks capacity, enter that evaluation in the
654 principal's medical record. If the evaluating attending
655 physician has a question as to whether the principal lacks
656 capacity, another physician shall also evaluate the principal's
657 capacity, and if the second physician agrees that the principal
658 lacks the capacity to make health care decisions or provide
659 informed consent, the health care facility shall enter both
660 physician's evaluations in the principal's medical record. If

590-03296-15

20151224c1

661 the principal has designated a health care surrogate or has
662 delegated authority to make health care decisions to an attorney
663 in fact under a durable power of attorney, the health care
664 facility shall notify such surrogate or attorney in fact in
665 writing that her or his authority under the instrument has
666 commenced, as provided in chapter 709 or s. 765.203. If an
667 attending physician determines that the principal lacks
668 capacity, the hospital in which the attending physician made
669 such a determination shall notify the principal's primary
670 physician of the determination.

671 (3) The surrogate's authority shall commence upon a
672 determination under subsection (2) that the principal lacks
673 capacity, and such authority shall remain in effect until a
674 determination that the principal has regained such capacity.
675 Upon commencement of the surrogate's authority, a surrogate who
676 is not the principal's spouse shall notify the principal's
677 spouse or adult children of the principal's designation of the
678 surrogate. In the event the primary attending physician
679 determines that the principal has regained capacity, the
680 authority of the surrogate shall cease, but shall recommence if
681 the principal subsequently loses capacity as determined pursuant
682 to this section.

683 (4) Notwithstanding subsections (2) and (3), if the
684 principal has designated a health care surrogate and has
685 stipulated that the authority of the surrogate is to take effect
686 immediately, or has appointed an agent under a durable power of
687 attorney as provided in chapter 709 to make health care
688 decisions for the principal, the health care facility shall
689 notify such surrogate or agent in writing when a determination

590-03296-15 20151224c1

690 of incapacity has been entered into the principal's medical
691 record.

692 ~~(5)(4)~~ A determination made pursuant to this section that a
693 principal lacks capacity to make health care decisions shall not
694 be construed as a finding that a principal lacks capacity for
695 any other purpose.

696 ~~(6)(5) If in the event~~ the surrogate is required to consent
697 to withholding or withdrawing life-prolonging procedures, ~~the~~
698 ~~provisions of part III applies shall apply.~~

699 Section 13. Paragraph (d) of subsection (1) and subsection
700 (2) of section 765.205, Florida Statutes, are amended to read:

701 765.205 Responsibility of the surrogate.-

702 (1) The surrogate, in accordance with the principal's
703 instructions, unless such authority has been expressly limited
704 by the principal, shall:

705 (d) Be provided access to the appropriate health
706 information ~~medical records~~ of the principal.

707 (2) The surrogate may authorize the release of health
708 information ~~and medical records~~ to appropriate persons to ensure
709 the continuity of the principal's health care and may authorize
710 the admission, discharge, or transfer of the principal to or
711 from a health care facility or other facility or program
712 licensed under chapter 400 or chapter 429.

713 Section 14. Subsection (2) of section 765.302, Florida
714 Statutes, is amended to read:

715 765.302 Procedure for making a living will; notice to
716 physician.-

717 (2) It is the responsibility of the principal to provide
718 for notification to her or his primary attending or treating

590-03296-15 20151224c1

719 physician that the living will has been made. In the event the
720 principal is physically or mentally incapacitated at the time
721 the principal is admitted to a health care facility, any other
722 person may notify the physician or health care facility of the
723 existence of the living will. A primary ~~An attending or treating~~
724 physician or health care facility which is so notified shall
725 promptly make the living will or a copy thereof a part of the
726 principal's medical records.

727 Section 15. Subsection (1) of section 765.303, Florida
728 Statutes, is amended to read:

729 765.303 Suggested form of a living will.-

730 (1) A living will may, BUT NEED NOT, be in the following
731 form:

732 Living Will

733 Declaration made this ... day of ..., ...(year)..., I,
734, willfully and voluntarily make known my desire that my
735 dying not be artificially prolonged under the circumstances set
736 forth below, and I do hereby declare that, if at any time I am
737 incapacitated and

738 ... (initial)... I have a terminal condition

739 or ... (initial)... I have an end-stage condition

740 or ... (initial)... I am in a persistent vegetative state

741 and if my primary attending or treating physician and another
742 consulting physician have determined that there is no reasonable
743 medical probability of my recovery from such condition, I direct
744 that life-prolonging procedures be withheld or withdrawn when
745 the application of such procedures would serve only to prolong
746 artificially the process of dying, and that I be permitted to
747 die naturally with only the administration of medication or the

590-03296-15 20151224c1

748 performance of any medical procedure deemed necessary to provide
749 me with comfort care or to alleviate pain.

750 It is my intention that this declaration be honored by my
751 family and physician as the final expression of my legal right
752 to refuse medical or surgical treatment and to accept the
753 consequences for such refusal.

754 In the event that I have been determined to be unable to
755 provide express and informed consent regarding the withholding,
756 withdrawal, or continuation of life-prolonging procedures, I
757 wish to designate, as my surrogate to carry out the provisions
758 of this declaration:

759 Name:.....

760 Address:.....

Zip

..... Code:.....

762

763 Phone:.....

764 I understand the full import of this declaration, and I am
765 emotionally and mentally competent to make this declaration.

766 Additional Instructions (optional):

767

768

769

770(Signed)....

771Witness....

772Address....

773Phone....

774Witness....

590-03296-15 20151224c1

775Address....

776Phone....

777 Section 16. Subsection (1) of section 765.304, Florida
778 Statutes, is amended to read:

779 765.304 Procedure for living will.-

780 (1) If a person has made a living will expressing his or
781 her desires concerning life-prolonging procedures, but has not
782 designated a surrogate to execute his or her wishes concerning
783 life-prolonging procedures or designated a surrogate under part
784 II, the person's primary attending physician may proceed as
785 directed by the principal in the living will. In the event of a
786 dispute or disagreement concerning the primary attending
787 physician's decision to withhold or withdraw life-prolonging
788 procedures, the primary attending physician shall not withhold
789 or withdraw life-prolonging procedures pending review under s.
790 765.105. If a review of a disputed decision is not sought within
791 7 days following the primary attending physician's decision to
792 withhold or withdraw life-prolonging procedures, the primary
793 ~~attending~~ physician may proceed in accordance with the
794 principal's instructions.

795 Section 17. Section 765.306, Florida Statutes, is amended
796 to read:

797 765.306 Determination of patient condition.-In determining
798 whether the patient has a terminal condition, has an end-stage
799 condition, or is in a persistent vegetative state or may recover
800 capacity, or whether a medical condition or limitation referred
801 to in an advance directive exists, the patient's primary
802 ~~attending or treating~~ physician and at least one other
803 consulting physician must separately examine the patient. The

590-03296-15 20151224c1

804 findings of each such examination must be documented in the
805 patient's medical record and signed by each examining physician
806 before life-prolonging procedures may be withheld or withdrawn.

807 Section 18. Section 765.404, Florida Statutes, is amended
808 to read:

809 765.404 Persistent vegetative state.—For persons in a
810 persistent vegetative state, as determined by the person's
811 primary attending physician in accordance with currently
812 accepted medical standards, who have no advance directive and
813 for whom there is no evidence indicating what the person would
814 have wanted under such conditions, and for whom, after a
815 reasonably diligent inquiry, no family or friends are available
816 or willing to serve as a proxy to make health care decisions for
817 them, life-prolonging procedures may be withheld or withdrawn
818 under the following conditions:

819 (1) The person has a judicially appointed guardian
820 representing his or her best interest with authority to consent
821 to medical treatment; and

822 (2) The guardian and the person's primary attending
823 physician, in consultation with the medical ethics committee of
824 the facility where the patient is located, conclude that the
825 condition is permanent and that there is no reasonable medical
826 probability for recovery and that withholding or withdrawing
827 life-prolonging procedures is in the best interest of the
828 patient. If there is no medical ethics committee at the
829 facility, the facility must have an arrangement with the medical
830 ethics committee of another facility or with a community-based
831 ethics committee approved by the Florida Bio-ethics Network. The
832 ethics committee shall review the case with the guardian, in

590-03296-15 20151224c1

833 consultation with the person's primary attending physician, to
834 determine whether the condition is permanent and there is no
835 reasonable medical probability for recovery. The individual
836 committee members and the facility associated with an ethics
837 committee shall not be held liable in any civil action related
838 to the performance of any duties required in this subsection.

839 Section 19. Paragraph (c) of subsection (1) of section
840 765.516, Florida Statutes, is amended to read:

841 765.516 Donor amendment or revocation of anatomical gift.—

842 (1) A donor may amend the terms of or revoke an anatomical
843 gift by:

844 (c) A statement made during a terminal illness or injury
845 addressed to the primary an-attending physician, who must
846 communicate the revocation of the gift to the procurement
847 organization.

848 Section 20. This act shall take effect October 1, 2015.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-20-15

Meeting Date

6224

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Maryna Edenfield

Job Title _____

Address 215 So Monroe Street #815

Phone 850-999-4100

Street

Tallahassee

FL

32301

City

State

Zip

Email medenfield@deanreed.com

Speaking: For Against Information

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

Representing The Real Property, Probate & Trust Law Section of the Florida Bar

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

Tallahassee, Florida 32399-1100

✓
COMMITTEES:
Appropriations Subcommittee on Criminal and
Civil Justice, *Vice Chair*
Appropriations
Health Policy
Higher Education
Judiciary
Rules

JOINT COMMITTEE:
Joint Legislative Budget Commission

SENATOR ARTHENIA L. JOYNER

Democratic Leader
19th District

April 7, 2015

Senator David Simmons, Chair
Senate Committee on Rules
402 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Simmons:

This is to request that CS/Senate Bill 1224, Health Care Representatives, be placed on the agenda for the Committee on Rules. Your consideration of this request is greatly appreciated.

Sincerely,

A handwritten signature in cursive script, reading "Arthenia L. Joyner".

Arthenia L. Joyner
State Senator, District 19

REPLY TO:

- 508 W. Dr. Martin Luther King, Jr. Blvd., Suite C, Tampa, Florida 33603-3415 (813) 233-4277
- 200 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5019 FAX: (813) 233-4280

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/CS/SB 564

INTRODUCER: Governmental Oversight and Accountability Committee; Commerce and Tourism
Committee and Senator Richter

SUBJECT: Trade Secrets

DATE: April 17, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harmsen</u>	<u>McKay</u>	<u>CM</u>	<u>Fav/CS</u>
2.	<u>Kim</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
3.	<u>Harmsen</u>	<u>Phelps</u>	<u>RC</u>	<u>Favorable</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/CS/SB 564 expands the definition of the term “trade secret,” as provided in s. 812.081, F.S., to expressly include financial information.

An individual who steals, copies without authorization, or misappropriates a trade secret is subject to a third degree felony under s. 812.081, F.S.

II. Present Situation:

Trade Secret

Section 812.081, F.S., defines a “trade secret” as information¹ used in the operation of a business, which provides the business an advantage or an opportunity to obtain an advantage, over those who do not know or use it. The test provided for in statute, and adopted by Florida courts,² requires that a trade secret be actively protected from loss or public availability to any person not selected by the secret’s owner to have access thereto, and be:

- Secret;
- Of value;

¹ A trade secret may manifest as any scientific, technical, or commercial information, including any design, process, procedure, list of suppliers, list of customers, business code, or improvement thereof. Section 812.081, F.S.

² See, e.g., *Sepro Corp. v. Dep’t. of Env’t. Prot.*, 839 So. 2d 781 (Fla. 1st DCA 2003).

- For use or in use by the business; and
- Of advantage to the business, or providing an opportunity to obtain an advantage, over those who do not know or use it.³

Penalties

Florida law criminalizes the disclosure or theft of trade secrets. For example:

- Section 815.04, F.S., makes it a third degree felony⁴ for a person to willfully, knowingly, and without authorization disclose or take data, programs, or supporting documentation that are trade secrets that reside or exist internal or external to a computer, computer system, computer network, or electronic device.⁵
- Section 812.081, F.S., makes it a third degree felony for a person to steal, embezzle, or copy without authorization an article that represents a trade secret, when done with an intent to:
 - Deprive or withhold from the trade secret's owner the control of a trade secret, or
 - Appropriate a trade secret to his or her own use or to the use of another.
- Section 581.199, F.S., makes it unlawful for a designated employee, inspector, or collaborator of the Florida Department of Agriculture and Consumer Services' Division of Plant Industry or the United States Department of Agriculture who, in an official capacity obtains under ch. 581, F.S., any information entitled to protection as a trade secret, to use such information for personal gain or to reveal it to an unauthorized person.

A number of statutes also provide non-criminal protections for trade secrets. The majority of these statutes provide public record exemptions for trade secrets,⁶ but others provide procedural safeguards or civil remedies instead.⁷

Related Definitions and Law

The federal Freedom of Information Act exempts "trade secrets and commercial or financial information" from public disclosure.⁸ In order to withhold financial or commercial information from public review, it must be shown that the release of the information is likely to (1) impair the government's ability to obtain necessary information in the future; or (2) cause substantial harm to the competitive position of the person from whom the information was obtained.⁹ "Substantial harm" may manifest as the disclosure of a company's assets, profits, losses, and market shares.¹⁰

Florida law also defines "trade secret" in the Florida Uniform Trade Secrets Act¹¹ as a "formula, pattern, compilation, program, device, method, technique, or process" that derives actual or

³ Section 812.081(1)(c), F.S.

⁴ A third degree felony is punishable by up to 5 years imprisonment and a \$5,000 fine. (ss. 775.082 and 775.083, F.S.)

⁵ The offense is a second degree felony if committed for the purpose of creating or executing any scheme or artifice to defraud or to obtain property.

⁶ Sections 119.071(1)(f), 125.0104(9)(d), 288.1226(8), 331.326, 365.174, 381.83, 403.7046(2)-(3), 403.73, 499.012(g), (m), 499.0121(7), 499.051(7), 499.931, 502.222, 570.48(3), 573.123(2), 581.199, 601.10(8)(a), 601.15(7)(d), 601.152(8)(c), 601.76, and 815.045, F.S.

⁷ Sections 721.071 and 812.035, F.S.

⁸ 5 USC §552(b)(4).

⁹ 110 Am. Jur, Trials 367, Pt. 3 (February 2015).

¹⁰ *Id.*

¹¹ Section 688.002(4), F.S.

potential economic independent economic value from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use when it is the subject of reasonable efforts under the circumstances to maintain its secrecy.

III. Effect of Proposed Changes:

Section 1 adds financial information to protected information classified as a trade secret, which is exempt from public records disclosure requirements.¹²

Section 2 provides an effective date of October 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

This bill expands the definition of trade secrets as found in s. 812.081, F.S.. The companion, SB 564, addresses the impact of this expansion on public records and open meetings.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Businesses previously hesitant to enter into contracts with the state because of fear of release of their trade secrets may now feel more secure entering into such contracts.

C. Government Sector Impact:

The Criminal Justice Impact Conference (CJIC) met March 11, 2015, and determined that HB 91, which is substantively identical to this committee substitute, will have a positive insignificant impact on state prison beds. This means CJIC estimates that this bill may increase the department's prison bed population by less than 10 inmates annually.

¹² Section 119.07 and s. 24(a), Art. I, Fla. Const.

In response to public records requests, state agencies will be required to interpret what constitutes a financial information trade secret. In turn, agencies may incur costs related to litigation regarding its determination to protect a document as trade secret or provide it as a public record.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill does not define what type of documents constitute “financial information.”

VIII. Statutes Affected:

This bill substantially amends section 812.081, 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.)

CS/CS by Governmental Oversight and Accountability on April 7, 2015:

The CS modifies “or financial information” to “including financial information”

CS by Commerce and Tourism on March 30, 2015:

The committee substitute deletes Section 2 of the bill, which unnecessarily reenacted s. 499.931, F.S., requiring trade secret information submitted to the Department of Business and Professional Regulation in the administration and enforcement of medical gas to be maintained as required by s. 499.051, F.S. CS/SB 566’s amendment to s. 499.051, F.S. provides the necessary update to the definition of “trade secret” in s. 499.931, F.S.

B. Amendments:

None.

By the Committees on Governmental Oversight and Accountability;
and Commerce and Tourism; and Senator Richter

585-03641-15

2015564c2

1 A bill to be entitled
2 An act relating to trade secrets; amending s. 812.081,
3 F.S.; including financial information in provisions
4 prohibiting the theft, embezzlement, or unlawful
5 copying of trade secrets; providing criminal
6 penalties; providing an effective date.
7
8 Be It Enacted by the Legislature of the State of Florida:
9
10 Section 1. Section 812.081, Florida Statutes, is amended to
11 read:
12 812.081 Trade secrets; theft, embezzlement; unlawful
13 copying; definitions; penalty.—
14 (1) As used in this section, the term:
15 (a) "Article" means any object, device, machine, material,
16 substance, or composition of matter, or any mixture or copy
17 thereof, whether in whole or in part, including any complete or
18 partial writing, record, recording, drawing, sample, specimen,
19 prototype model, photograph, microorganism, blueprint, map, or
20 copy thereof.
21 (b) "Representing" means completely or partially
22 describing, depicting, embodying, containing, constituting,
23 reflecting, or recording.
24 (c) "Trade secret" means the whole or any portion or phase
25 of any formula, pattern, device, combination of devices, or
26 compilation of information which is for use, or is used, in the
27 operation of a business and which provides the business an
28 advantage, or an opportunity to obtain an advantage, over those
29 who do not know or use it. The term "~~Trade secret~~" includes any

Page 1 of 3

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

585-03641-15

2015564c2

30 scientific, technical, or commercial information, including
31 financial information, and includes ~~including~~ any design,
32 process, procedure, list of suppliers, list of customers,
33 business code, or improvement thereof. Irrespective of novelty,
34 invention, patentability, the state of the prior art, and the
35 level of skill in the business, art, or field to which the
36 subject matter pertains, a trade secret is considered to be:
37 1. Secret;
38 2. Of value;
39 3. For use or in use by the business; and
40 4. Of advantage to the business, or providing an
41 opportunity to obtain an advantage, over those who do not know
42 or use it
43
44 when the owner thereof takes measures to prevent it from
45 becoming available to persons other than those selected by the
46 owner to have access thereto for limited purposes.
47 (d) "Copy" means any facsimile, replica, photograph, or
48 other reproduction in whole or in part of an article and any
49 note, drawing, or sketch made of or from an article or part or
50 portion thereof.
51 (2) Any person who, with intent to deprive or withhold from
52 the owner thereof the control of a trade secret, or with an
53 intent to appropriate a trade secret to his or her own use or to
54 the use of another, steals or embezzles an article representing
55 a trade secret or without authority makes or causes to be made a
56 copy of an article representing a trade secret commits ~~is guilty~~
57 ~~of~~ a felony of the third degree, punishable as provided in s.
58 775.082 or s. 775.083.

Page 2 of 3

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

585-03641-15

2015564c2

59 (3) In a prosecution for a violation of ~~the provisions of~~
60 this section, the fact ~~it is no defense~~ that the person so
61 charged returned or intended to return the article so stolen,
62 embezzled, or copied is not a defense.

63 Section 2. This act shall take effect October 1, 2015.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/20

Meeting Date

564

Bill Number (if applicable)

Topic Trade Secrets

Amendment Barcode (if applicable)

Name Cynthia Henderson

Job Title _____

Address 108 E Jefferson St Ste A

Phone 850-559-0855

Tall FL 32301

Email cynthenderson@me.com

City State Zip

Speaking: For Against Information

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

Representing LGBS

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

Committee Agenda Request

To: Senator David Simmons, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: April 8, 2015

Dear Chair Simmons,

I respectfully request that **Committee Substitute for Senate Bill #564**, relating to Trade Secrets, be placed on the committee agenda at your earliest possible convenience. The Committee on Rules is Committee Substitute for Senate Bill #564's final committee of reference. Any questions pertaining to this legislation, please contact me or my office.

Thank you in advance for your consideration.

A handwritten signature in black ink, appearing to read "Garrett Richter".

Senator Garrett Richter
Florida Senate, District 23

cc: John B. Phelps, Staff Director
Cissy DuBose, Administrative Assistant

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/CS/CS/SB 566

INTRODUCER: Rules Committee; Governmental Oversight and Accountability Committee; Commerce and Tourism Committee and Senator Richter

SUBJECT: Public Records/Trade Secrets

DATE: April 20, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harmsen</u>	<u>McKay</u>	<u>CM</u>	<u>Fav/CS</u>
2.	<u>Kim</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
3.	<u>Harmsen</u>	<u>Phelps</u>	<u>RC</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 566 reenacts several public records exemptions of trade secret information to conform to the definition of trade secret proposed in SB 564, which expressly includes financial information in the definition of "trade secret" in s. 812.081, F.S. This exemption allows state agencies to refuse to disclose financial information as a trade secret if there is a public records request.

The bill provides that the public record exemptions are subject to the Open Government Sunset Review Act and stands repealed on October 2, 2020, unless reviewed and saved from repeal through reenactment by the Legislature. It also provides a public necessity statement as required by the Florida Constitution.

Because this bill expands public records and meetings exemption, it will require a two-thirds vote of each house in order to pass.

II. Present Situation:

Public Records and Open Meetings Requirements

The Florida Constitution provides that the public has the right to access government records and meetings. The public may inspect or copy any public record made or received in connection with

the official business of any public body, officer, or employee of the state, or of persons acting on their behalf.¹ The public also has a right to be afforded notice and access to meetings of any collegial public body of the executive branch of state government or of any local government.² The Legislature's meetings must also be open and noticed to the public, unless there is an exception provided by the constitution.³

In addition to the Florida Constitution, the Florida Statutes specify conditions under which public access must be provided to government records and meetings. The Public Records Act⁴ guarantees every person's right to inspect and copy any state or local government public record.⁵ The Sunshine Law⁶ requires all meetings of any board or commission of any state or local agency or authority at which official acts are to be taken to be noticed and open to the public.⁷

The Legislature may create an exemption to public records or open meetings requirements.⁸ An exemption must specifically state the public necessity justifying the exemption⁹ and must be tailored to accomplish the stated purpose of the law.¹⁰

Open Government Sunset Review Act

The Open Government Sunset Review Act ("OGSR Act") prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions.¹¹ The

¹ FLA. CONST., art. I, s. 24(a).

² FLA. CONST., art. I, s. 24(b).

³ FLA. CONST., art. I, s. 24(b).

⁴ Chapter 119, F.S.

⁵ Section 119.011(12), F.S., defines "public record" to mean "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency." Section 119.011(2), F.S., defines "agency" to mean "any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency." The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So.2d 32 (Fla. 1992). The Legislature's records are public pursuant to s. 11.0431, F.S.

⁶ Section 286.011, F.S.

⁷ Section 286.011(1)-(2), F.S. The Sunshine Law does not apply to the Legislature; rather, open meetings requirements for the Legislature are set out in the Florida Constitution. Article III, s. 4(e) of the Florida Constitution provides that legislative committee meetings must be open and noticed to the public. In addition, prearranged gatherings, between more than two members of the Legislature, or between the Governor, the President of the Senate, or the Speaker of the House of Representatives, the purpose of which is to agree upon or to take formal legislative action, must be reasonably open to the public.

⁸ FLA. CONST., art. I, s. 24(c). There is a difference between records the Legislature designates as exempt from public records requirements and those the Legislature designates *confidential* and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004).

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ FLA. CONST., art. I, s. 24(c).

¹¹ Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more information or to include meetings. The OGSR Act does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to s. 119.15(2), F.S.

OGSR Act provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption.¹²

The OGSR Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.¹³ An exemption serves an identifiable purpose if it meets one of the following criteria:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;¹⁴
- Releasing sensitive personal information would be defamatory or would jeopardize an individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;¹⁵ or
- It protects trade or business secrets.¹⁶

In addition, the Legislature must find that the identifiable public purpose is compelling enough to override Florida's open government public policy and that the purpose of the exemption cannot be accomplished without the exemption.¹⁷

The OGSR Act also requires specified questions to be considered during the review process.¹⁸ In examining an exemption, the OGSR Act asks the Legislature to carefully question the purpose and necessity of reenacting the exemption.

If, in reenacting an exemption, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.¹⁹ If the exemption is reenacted without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.²⁰

Trade Secrets

A "trade secret" in accordance with s. 812.081(1)(c), F.S., is "any scientific, technical, or commercial information, including any design, process, procedure, list of suppliers, list of

¹² Section 119.15(3), F.S.

¹³ Section 119.15(6)(b), F.S.

¹⁴ Section 119.15(6)(b)1., F.S.

¹⁵ Section 119.15(6)(b)2., F.S.

¹⁶ Section 119.15(6)(b)3., F.S.

¹⁷ Section 119.15(6)(b), F.S.

¹⁸ Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

¹⁹ FLA. CONST., art. I, s. 24(c).

²⁰ Section 119.15(7), F.S.

customers, business code, or improvement thereof. Irrespective of novelty, invention, patentability, the state of the prior art, and the level of skill in the business, art, or field to which the subject matter pertains.”

Section 812.081, F.S., further defines a “trade secret” as information used in the operation of a business, which provides the business an advantage or an opportunity to obtain an advantage, over those who do not know or use it. The test provided for in statute, requires that a trade secret be actively protected from loss or public availability to any person not selected by the secret’s owner to have access thereto, and be:

- Secret;
- Of value;
- For use or in use by the business; and
- Of advantage to the business, or providing an opportunity to obtain an advantage, over those who do not know or use it.²¹

Courts similarly use this factor test to determine whether a document is trade secret subject to protection from public records laws. In *Sevro v. Department of Environmental Protection*,²² the court held that a document was subject to disclosure because the business failed the first prong of the test (that the document be secret) because it had not actively protected or held out the document as a trade secret.

Florida law contains a variety of provisions making trade secret information exempt or confidential and exempt from public records requirements. The following sections of the Florida Statutes exempt from public disclosure trade secrets as defined by s. 812.081, F.S.:

- Section 119.071(1)(f), F.S., exempts data processing software obtained by an agency under a licensing agreement that prohibits its disclosure where the software is trade secret;
- Section 125.0104(9)(d), F.S., exempts trade secrets held by a county tourism promotion agency;
- Section 288.1226(8), F.S., exempts trade secrets relating to projects conducted by the Florida Tourism Industry Marketing Corporation (Visit Florida);
- Section 331.326, F.S., makes trade secrets held by Space Florida confidential and exempt; makes portions of meetings in which trade secrets are discussed exempt from open meetings requirements; recordings of closed meetings are confidential and exempt;²³
- Section 365.174(3), F.S., makes trade secret business information submitted to the E911 Board or the Department of Management Services confidential and exempt;
- Section 381.83, F.S., makes trade secret information obtained by the Department of Health confidential and exempt;

²¹ Section 812.081(1)(c), F.S.

²² 839 So. 2d 781 (Fla. 1st DCA 2003).

²³ Records designated as exempt from public record requirements by the Legislature are distinct from those deemed confidential and exempt. Exempt records may be disclosed under certain circumstances. See *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). Confidential and exempt records may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. See Attorney General Opinion 85-62 (August 1, 1985).

- Sections 403.7046(2) and (3) and 403.73, F.S., make trade secret information reported to the Department of Environmental Protection pursuant to specified regulations confidential and exempt;
- Section 499.012(8)(g) and (m), F.S., makes trade secret information provided to the Department of Business and Professional Regulation (DBPR) in a prescription drug permit application confidential and exempt;
- Section 499.0121(7), F.S., makes trade secret information reported to DBPR in a list of prescription drug wholesalers confidential and exempt;
- Section 499.051(7), F.S., makes trade secret information obtained by DBPR during an investigation of a permit holder confidential and exempt;
- Section 499.931, F.S., makes trade secrets related to the regulation of medical gases that are submitted to DBPR by an applicant or permit holder confidential and exempt.
- Section 502.222, F.S., makes trade secret information of a dairy industry business held by the Department of Agriculture and Consumer Services (DACS) confidential and exempt;
- Section 570.48(3), F.S., makes records containing trade secrets held by DACS' Division of Fruit and Vegetables confidential and exempt;
- Section 573.123(2), F.S., makes records containing trade secrets provided to DACS by specified persons confidential and exempt;
- Section 601.10(8)(a), F.S., makes any information held by the Department of Citrus that contains trade secrets confidential and exempt;
- Section 601.15(7)(d), F.S., makes trade secret information that is provided by noncommodity advertising and promotional program participants to Department of Citrus confidential and exempt;
- Section 601.152(8)(c), F.S., makes trade secret information provided by citrus handlers to Department of Citrus confidential and exempt;
- Section 601.76, F.S., makes formulas containing trade secrets that are submitted to DACS confidential and exempt; and
- Section 815.04(3), F.S., makes trade secret information that is held by an agency and exists internal or external to a computer, computer system, computer network, or electronic device confidential and exempt.

III. Effect of Proposed Changes:

The bill conforms and reenacts provisions that make trade secrets confidential and exempt to the new definition of trade secret proposed by SB 564, which adds “financial information” into the current definition.

By adding “financial information” to the definition of trade secrets, all the public records exemptions which cite to s. 812.081, F.S., are also expanded. Some trade secret exemptions were enacted before the Florida Constitution was amended in 2002. The constitutional amendment made the records of all three branches of state government public record but still preserved any public records exemption which existed before the constitutional amendment was enacted.²⁴ This bill amends the older statutes to make them exempt from the public records requirements of the Florida Constitution.

²⁴ FLA. CONST. art. 1 s. 24.

This bill expands public records exemption for Space Florida meetings in which the trade secrets are discussed and closed to the public.²⁵

The expansion of an exemption makes the exemptions subject to review and repeal on October 2, 2020, unless the Legislature continues the exemptions, pursuant to the OGSR.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Vote Requirement

Section 24(c) of Article I of the Florida Constitution requires a two-thirds vote of the members present and voting for passage of a newly created or expanded public-records or public-meetings exemption. Therefore, this bill requires a two-thirds vote for passage.

Public Necessity Statement

Section 24(c) of Article I of the Florida Constitution requires a public necessity statement for a newly created or expanded public-records or public-meetings exemption. The Constitution provides that an exemption must state with specificity the public necessity of the exemption. The public necessity statement for this bill provides that financial information be made confidential and exempt from s. 119.07(1), F.S. and Article I, section 24(a) of the Florida Constitution. This bill also includes an exemption for public meetings discussing trade secrets, and makes those meeting exempt from the requirements of s. 286.011, F.S. and Article I, section 24(b) of the Florida Constitution. This public necessity statement provides that disclosure of financial information would be detrimental to businesses.

Breadth of Exemption

Section 24(c) of Article I of the Florida Constitution requires a public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill expands public record exemptions to include financial information. Generally, the exemption does not appear to be in conflict with the constitutional requirement that the exemption be no broader than necessary to accomplish its purpose.

C. Trust Funds Restrictions:

None.

²⁵ Section 286.011, F.S. and FLA. CONST. art. 1 s. 24(b).

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

None.

B. Private Sector Impact:

Businesses previously hesitant to enter into contracts with the state because of fear of release of their financial trade secrets may now attempt to enter that marketplace.

C. Government Sector Impact:

Government entities will have to train their staff on excluding trade secret financial information from public disclosure.

In response to public records requests, state agencies will be required to interpret what constitutes a financial information trade secret. In turn, agencies may incur costs related to litigation regarding its determination to protect a document as trade secret or provide it as a public record.

VI. Technical Deficiencies:

None.

VII. Related Issues:

State agencies must balance this exemption against the general policy that “all state, county, and municipal records shall be open for personal inspection by any person.”²⁶ This may prove difficult because what constitutes “financial information” under the bill may entail a highly fact-specific determination based on, e.g., the business’ treatment of the information as secret and the value of the information to the business. This may result in the same type of information being classified as trade secret for one business, but not another.

VIII. Statutes Affected:

This bill substantially amends sections 119.071, 125.0104, 288.1226, 331.326, 365.174, 381.83, 403.7046, 403.73, 499.051, 502.222, 570.48, 573.123, 601.10, 601.15, 601.152, 601.76, and 815.04 of the Florida Statutes.

This bill reenacts sections 499.012 and 499.0121 of the Florida Statutes.

²⁶ Section 119.01(1), F.S.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS/CS by Rules Committee on April 20, 2015:

The committee substitute clarifies that the exemption provided for in s. 499.941, F.S., applies to trade secret information contained in the complaint in addition to all trade secret information obtained by the department pursuant to the investigation. This clarification is in accordance with current s. 499.051, F.S.

CS/CS by Governmental Oversight and Accountability on April 7, 2015:

- The CS adds s. 499.931, F.S., which deals with trade secrets given to DBPR because of its regulation of medical gases.
- The CS adds public meetings to the public necessity statement.

CS by Commerce and Tourism on March 30, 2015:

- The committee substitute reenacts s. 499.0121(7), F.S., which makes trade secret the information reported to the DBPR in a list of prescription drug wholesalers confidential and exempt; and
- Clarifies the public necessity statement.

- B. **Amendments:**

None.



180286

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/20/2015	.	
	.	
	.	
	.	

The Committee on Rules (Richter) recommended the following:

Senate Amendment

Delete line 415
and insert:
as defined in s. 812.081, information contained in the complaint
and obtained by the department pursuant to the investigation

By the Committees on Governmental Oversight and Accountability;
and Commerce and Tourism; and Senator Richter

585-03642-15

2015566c2

1 A bill to be entitled
2 An act relating to public records and meetings;
3 amending ss. 119.071, 125.0104, 288.1226, 331.326,
4 365.174, 381.83, 403.7046, 403.73, 499.012, 499.0121,
5 499.051, 499.931, 502.222, 570.48, 573.123, 601.10,
6 601.15, 601.152, 601.76, and 815.04, F.S.; expanding
7 public records exemptions for certain data processing
8 software obtained by an agency, certain information
9 held by a county tourism promotion agency, information
10 related to trade secrets held by the Florida Tourism
11 Industry Marketing Corporation, information related to
12 trade secrets held by Space Florida, proprietary
13 confidential business information submitted to the
14 Department of Revenue, trade secret information held
15 by the Department of Health, trade secret information
16 reported or submitted to the Department of
17 Environmental Protection, trade secret information in
18 an application for a permit for a prescription drug
19 wholesale distributor or an out-of-state prescription
20 drug wholesale distributor, trade secret information
21 contained in an application for a permit for a
22 secondary wholesale distributor, trade secret
23 information contained in the prescription drug
24 purchase list, trade secret information relating to
25 medical gas submitted to the Department of Business
26 and Professional Regulation, trade secret information
27 contained in a complaint and any investigatory
28 documents held by the Department of Business and
29 Professional Regulation, trade secret information of a

Page 1 of 23

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

585-03642-15

2015566c2

30 dairy industry business held by the Department of
31 Agriculture and Consumer Services, trade secret
32 information held by the Division of Fruits and
33 Vegetables of the Department of Agriculture and
34 Consumer Services, trade secret information of a
35 person subject to a marketing order held by the
36 Department of Agriculture and Consumer Services, trade
37 secret information provided to the Department of
38 Citrus, trade secret information of noncommodity
39 advertising and promotional program participants held
40 by the Department of Citrus, trade secret information
41 contained in a citrus handler's return filed with the
42 Department of Citrus, a manufacturer's formula filed
43 with the Department of Agriculture and Consumer
44 Services, and specified data, programs, or supporting
45 documentation held by an agency, respectively, to
46 incorporate the amendment made to the definition of
47 the term "trade secret" in s. 812.081, F.S., by SB
48 564; amending s. 331.326, F.S.; expanding a public
49 meetings exemption for any meeting or portion of a
50 meeting of Space Florida's board at which trade
51 secrets are discussed to incorporate the amendment
52 made to the definition of the term "trade secret" in
53 s. 812.081, F.S., by SB 564; providing for future
54 legislative review and repeal of the exemptions;
55 making editorial and technical changes; providing a
56 statement of public necessity; providing a contingent
57 effective date.
58

Page 2 of 23

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

585-03642-15

2015566c2

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

60
61 Section 1. Paragraph (f) of subsection (1) of section
62 119.071, Florida Statutes, is amended to read:

63 119.071 General exemptions from inspection or copying of
64 public records.—

65 (1) AGENCY ADMINISTRATION.—

66 (f) Data processing software obtained by an agency under a
67 licensing agreement that prohibits its disclosure and which
68 software is a trade secret, as defined in s. 812.081, and
69 agency-produced data processing software that is sensitive are
70 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
71 Constitution. The designation of agency-produced software as
72 sensitive does shall not prohibit an agency head from sharing or
73 exchanging such software with another public agency. This
74 paragraph is subject to the Open Government Sunset Review Act in
75 accordance with s. 119.15 and shall stand repealed on October 2,
76 2020, unless reviewed and saved from repeal through reenactment
77 by the Legislature.

78 Section 2. Paragraph (d) of subsection (9) of section
79 125.0104, Florida Statutes, is amended to read:

80 125.0104 Tourist development tax; procedure for levying;
81 authorized uses; referendum; enforcement.—

82 (9) COUNTY TOURISM PROMOTION AGENCIES.—In addition to any
83 other powers and duties provided for agencies created for the
84 purpose of tourism promotion by a county levying the tourist
85 development tax, such agencies are authorized and empowered to:

86 (d) Undertake marketing research and advertising research
87 studies and provide reservations services and convention and

585-03642-15

2015566c2

88 meetings booking services consistent with the authorized uses of
89 revenue as set forth in subsection (5).

90 1. Information given to a county tourism promotion agency
91 which, if released, would reveal the identity of persons or
92 entities who provide data or other information as a response to
93 a sales promotion effort, an advertisement, or a research
94 project or whose names, addresses, meeting or convention plan
95 information or accommodations or other visitation needs become
96 booking or reservation list data, is exempt from s. 119.07(1)
97 and from s. 24(a), Art. I of the State Constitution.

98 2. The following information, when held by a county tourism
99 promotion agency, is exempt from s. 119.07(1) and ~~from~~ s. 24(a),
100 Art. I of the State Constitution:

101 a. ~~A trade secret, as defined in s. 812.081.~~

102 ~~b.~~ Booking business records, as defined in s. 255.047.

103 ~~b.e.~~ Trade secrets and commercial or financial information
104 gathered from a person and privileged or confidential, as
105 defined and interpreted under 5 U.S.C. s. 552(b)(4), or any
106 amendments thereto.

107 3. A trade secret, as defined in s. 812.081, held by a
108 county tourism agency is exempt from s. 119.07(1) and s. 24(a),
109 Art. I of the State Constitution. This subparagraph is subject
110 to the Open Government Sunset Review Act in accordance with s.
111 119.15 and shall stand repealed on October 2, 2020, unless
112 reviewed and saved from repeal through reenactment by the
113 Legislature.

114 Section 3. Subsection (8) of section 288.1226, Florida
115 Statutes, is amended to read:

116 288.1226 Florida Tourism Industry Marketing Corporation;

585-03642-15

2015566c2

117 use of property; board of directors; duties; audit.—
 118 (8) PUBLIC RECORDS EXEMPTION.—The identity of any person
 119 who responds to a marketing project or advertising research
 120 project conducted by the corporation in the performance of its
 121 duties on behalf of Enterprise Florida, Inc., or trade secrets
 122 as defined by s. 812.081 obtained pursuant to such activities,
 123 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 124 Constitution. This subsection is subject to the Open Government
 125 Sunset Review Act in accordance with s. 119.15 and shall stand
 126 repealed on October 2, 2020, unless reviewed and saved from
 127 repeal through reenactment by the Legislature.

128 Section 4. Section 331.326, Florida Statutes, is amended to
 129 read:

130 331.326 Information relating to trade secrets
 131 confidential.—The records of Space Florida regarding matters
 132 encompassed by this act are public records subject to ~~the~~
 133 ~~provisions of~~ chapter 119. Any information held by Space Florida
 134 which is a trade secret, as defined in s. 812.081, including
 135 trade secrets of Space Florida, any spaceport user, or the space
 136 industry business, is confidential and exempt from ~~the~~
 137 ~~provisions of~~ s. 119.07(1) and s. 24(a), Art. I of the State
 138 Constitution and may not be disclosed. If Space Florida
 139 determines that any information requested by the public will
 140 reveal a trade secret, it shall, in writing, inform the person
 141 making the request of that determination. The determination is a
 142 final order as defined in s. 120.52. Any meeting or portion of a
 143 meeting of Space Florida's board is exempt from ~~the provisions~~
 144 ~~of~~ s. 286.011 and s. 24(b), Art. I of the State Constitution
 145 when the board is discussing trade secrets. Any public record

Page 5 of 23

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

585-03642-15

2015566c2

146 generated during the closed portions of the meetings, such as
 147 minutes, tape recordings, and notes, is confidential and exempt
 148 from ~~the provisions of~~ s. 119.07(1) and s. 24(a), Art. I of the
 149 State Constitution. This section is subject to the Open
 150 Government Sunset Review Act in accordance with s. 119.15 and
 151 shall stand repealed on October 2, 2020, unless reviewed and
 152 saved from repeal through reenactment by the Legislature.

153 Section 5. Subsection (2) of section 365.174, Florida
 154 Statutes, is amended to read:

155 365.174 Proprietary confidential business information.—
 156 (2) (a) All proprietary confidential business information
 157 submitted by a provider to the Department of Revenue, as an
 158 agent of the board, is confidential and exempt from s. 119.07(1)
 159 and s. 24(a), Art. I of the State Constitution.

160 (b) The Department of Revenue may provide information
 161 relative to s. 365.172(9) to the Secretary of Management
 162 Services, or his or her authorized agent, or to the E911 Board
 163 established in s. 365.172(5) for use in the conduct of the
 164 official business of the Department of Management Services or
 165 the E911 Board.

166 (c) This subsection is subject to the Open Government
 167 Sunset Review Act in accordance with s. 119.15 and shall stand
 168 repealed on October 2, 2020 ~~2019~~, unless reviewed and saved from
 169 repeal through reenactment by the Legislature.

170 Section 6. Section 381.83, Florida Statutes, is amended to
 171 read:

172 381.83 Trade secrets; confidentiality.—
 173 (1) Records, reports, or information obtained from any
 174 person under this chapter, unless otherwise provided by law,

Page 6 of 23

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

585-03642-15

2015566c2

175 shall be available to the public, except upon a showing
 176 satisfactory to the department by the person from whom the
 177 records, reports, or information is obtained that such records,
 178 reports, or information, or a particular part thereof, contains
 179 trade secrets as defined in s. 812.081(1)(c). Such trade secrets
 180 ~~are shall be~~ confidential and ~~are~~ exempt from ~~the provisions of~~
 181 s. 119.07(1) and s. 24(a), Art. I of the State Constitution. The
 182 person submitting such trade secret information to the
 183 department must request that it be kept confidential and must
 184 inform the department of the basis for the claim of trade
 185 secret. The department shall, subject to notice and opportunity
 186 for hearing, determine whether the information, or portions
 187 thereof, claimed to be a trade secret is or is not a trade
 188 secret. Such trade secrets may be disclosed, however, to
 189 authorized representatives of the department or, pursuant to
 190 request, to other governmental entities in order for them to
 191 properly perform their duties, or when relevant in any
 192 proceeding under this chapter. Authorized representatives and
 193 other governmental entities receiving such trade secret
 194 information shall retain its confidentiality. Those involved in
 195 any proceeding under this chapter, including a hearing officer
 196 or judge or justice, shall retain the confidentiality of any
 197 trade secret information revealed at such proceeding.

198 (2) This section is subject to the Open Government Sunset
 199 Review Act in accordance with s. 119.15 and shall stand repealed
 200 on October 2, 2020, unless reviewed and saved from repeal by
 201 reenactment by the Legislature.

202 Section 7. Subsection (2) and paragraph (b) of subsection
 203 (3) of section 403.7046, Florida Statutes, are amended to read:

Page 7 of 23

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

585-03642-15

2015566c2

204 403.7046 Regulation of recovered materials.-

205 (2) Information reported pursuant to the requirements of
 206 this section or any rule adopted pursuant to this section which,
 207 if disclosed, would reveal a trade secret, as defined in s.
 208 812.081(1)(c), is confidential and exempt from ~~the provisions of~~
 209 s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For
 210 reporting or information purposes, however, the department may
 211 provide this information in such form that the names of the
 212 persons reporting such information and the specific information
 213 reported are not revealed. This subsection is subject to the
 214 Open Government Sunset Review Act in accordance with s. 119.15
 215 and shall stand repealed on October 2, 2020, unless reviewed and
 216 saved from repeal through reenactment by the Legislature.

217 (3) Except as otherwise provided in this section or
 218 pursuant to a special act in effect on or before January 1,
 219 1993, a local government may not require a commercial
 220 establishment that generates source-separated recovered
 221 materials to sell or otherwise convey its recovered materials to
 222 the local government or to a facility designated by the local
 223 government, nor may the local government restrict such a
 224 generator's right to sell or otherwise convey such recovered
 225 materials to any properly certified recovered materials dealer
 226 who has satisfied the requirements of this section. A local
 227 government may not enact any ordinance that prevents such a
 228 dealer from entering into a contract with a commercial
 229 establishment to purchase, collect, transport, process, or
 230 receive source-separated recovered materials.

231 (b)1. Before engaging in business within the jurisdiction
 232 of the local government, a recovered materials dealer must

Page 8 of 23

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

585-03642-15 2015566c2

233 provide the local government with a copy of the certification
 234 provided for in this section. In addition, the local government
 235 may establish a registration process whereby a recovered
 236 materials dealer must register with the local government before
 237 engaging in business within the jurisdiction of the local
 238 government. Such registration process is limited to requiring
 239 the dealer to register its name, including the owner or operator
 240 of the dealer, and, if the dealer is a business entity, its
 241 general or limited partners, its corporate officers and
 242 directors, its permanent place of business, evidence of its
 243 certification under this section, and a certification that the
 244 recovered materials will be processed at a recovered materials
 245 processing facility satisfying the requirements of this section.
 246 The local government may not use the information provided in the
 247 registration application to compete unfairly with the recovered
 248 materials dealer until 90 days after receipt of the application.
 249 All counties, and municipalities whose population exceeds 35,000
 250 according to the population estimates determined pursuant to s.
 251 186.901, may establish a reporting process ~~that which~~ shall be
 252 limited to the regulations, reporting format, and reporting
 253 frequency established by the department pursuant to this
 254 section, which shall, at a minimum, include requiring the dealer
 255 to identify the types and approximate amount of recovered
 256 materials collected, recycled, or reused during the reporting
 257 period; the approximate percentage of recovered materials
 258 reused, stored, or delivered to a recovered materials processing
 259 facility or disposed of in a solid waste disposal facility; and
 260 the locations where any recovered materials were disposed of as
 261 solid waste. ~~Information reported under this subsection which,~~

585-03642-15 2015566c2

262 ~~if disclosed, would reveal a trade secret, as defined in s.~~
 263 ~~812.081(1)(c), is confidential and exempt from the provisions of~~
 264 ~~s. 24(a), Art. I of the State Constitution and s. 119.07(1).~~ The
 265 local government may charge the dealer a registration fee
 266 commensurate with and no greater than the cost incurred by the
 267 local government in operating its registration program.
 268 Registration program costs are limited to those costs associated
 269 with the activities described in this paragraph. Any reporting
 270 or registration process established by a local government with
 271 regard to recovered materials shall be governed by ~~the~~
 272 ~~provisions of~~ this section and department rules adopted pursuant
 273 thereto.
 274 2. Information reported under this subsection which, if
 275 disclosed, would reveal a trade secret, as defined in s.
 276 812.081, is confidential and exempt from s. 119.07(1) and s.
 277 24(a), Art. I of the State Constitution. This subparagraph is
 278 subject to the Open Government Sunset Review Act in accordance
 279 with s. 119.15 and shall stand repealed on October 2, 2020,
 280 unless reviewed and saved from repeal through reenactment by the
 281 Legislature.
 282 Section 8. Section 403.73, Florida Statutes, is amended to
 283 read:
 284 403.73 Trade secrets; confidentiality.—
 285 (1) Records, reports, or information obtained from any
 286 person under this part, unless otherwise provided by law, shall
 287 be available to the public, except upon a showing satisfactory
 288 to the department by the person from whom the records, reports,
 289 or information is obtained that such records, reports, or
 290 information, or a particular part thereof, contains trade

585-03642-15

2015566c2

291 secrets as defined in s. 812.081~~(1)(e)~~. Such trade secrets are
 292 ~~shall be confidential and are exempt from the provisions of s.~~
 293 119.07(1) and s. 24(a), Art. I of the State Constitution. The
 294 person submitting such trade secret information to the
 295 department must request that it be kept confidential and must
 296 inform the department of the basis for the claim of trade
 297 secret. The department shall, subject to notice and opportunity
 298 for hearing, determine whether the information, or portions
 299 thereof, claimed to be a trade secret is or is not a trade
 300 secret. Such trade secrets may be disclosed, however, to
 301 authorized representatives of the department or, pursuant to
 302 request, to other governmental entities in order for them to
 303 properly perform their duties, or when relevant in any
 304 proceeding under this part. Authorized representatives and other
 305 governmental entities receiving such trade secret information
 306 shall retain its confidentiality. Those involved in any
 307 proceeding under this part, including an administrative law
 308 judge, a hearing officer, or a judge or justice, shall retain
 309 the confidentiality of any trade secret information revealed at
 310 such proceeding.

311 (2) This section is subject to the Open Government Sunset
 312 Review Act in accordance with s. 119.15 and shall stand repealed
 313 on October 2, 2020, unless reviewed and saved from repeal
 314 through reenactment by the Legislature.

315 Section 9. Paragraphs (g) and (m) of subsection (8) of
 316 section 499.012, Florida Statutes, are amended to read:

317 499.012 Permit application requirements.—

318 (8) An application for a permit or to renew a permit for a
 319 prescription drug wholesale distributor or an out-of-state

585-03642-15

2015566c2

320 prescription drug wholesale distributor submitted to the
 321 department must include:

322 (g)1. For an application for a new permit, the estimated
 323 annual dollar volume of prescription drug sales of the
 324 applicant, the estimated annual percentage of the applicant's
 325 total company sales that are prescription drugs, the applicant's
 326 estimated annual total dollar volume of purchases of
 327 prescription drugs, and the applicant's estimated annual total
 328 dollar volume of prescription drug purchases directly from
 329 manufacturers.

330 2. For an application to renew a permit, the total dollar
 331 volume of prescription drug sales in the previous year, the
 332 total dollar volume of prescription drug sales made in the
 333 previous 6 months, the percentage of total company sales that
 334 were prescription drugs in the previous year, the total dollar
 335 volume of purchases of prescription drugs in the previous year,
 336 and the total dollar volume of prescription drug purchases
 337 directly from manufacturers in the previous year.

338 3. Such portions of the information required pursuant to
 339 this paragraph which are a trade secret, as defined in s.
 340 812.081, shall be maintained by the department as trade secret
 341 information is required to be maintained under s. 499.051. This
 342 subparagraph is subject to the Open Government Sunset Review Act
 343 in accordance with s. 119.15 and shall stand repealed on October
 344 2, 2020, unless reviewed and saved from repeal through
 345 reenactment by the Legislature.

346 (m) For an applicant that is a secondary wholesale
 347 distributor, each of the following:

348 1. A personal background information statement containing

585-03642-15 2015566c2

349 the background information and fingerprints required pursuant to
 350 subsection (9) for each person named in the applicant's response
 351 to paragraphs (k) and (l) and for each affiliated party of the
 352 applicant.

353 2. If any of the five largest shareholders of the
 354 corporation seeking the permit is a corporation, the name,
 355 address, and title of each corporate officer and director of
 356 each such corporation; the name and address of such corporation;
 357 the name of such corporation's resident agent, such
 358 corporation's resident agent's address, and such corporation's
 359 state of its incorporation; and the name and address of each
 360 shareholder of such corporation that owns 5 percent or more of
 361 the stock of such corporation.

362 3.a. The name and address of all financial institutions in
 363 which the applicant has an account which is used to pay for the
 364 operation of the establishment or to pay for drugs purchased for
 365 the establishment, together with the names of all persons that
 366 are authorized signatories on such accounts.

367 b. The portions of the information required pursuant to
 368 this subparagraph which are a trade secret, as defined in s.
 369 812.081, shall be maintained by the department as trade secret
 370 information is required to be maintained under s. 499.051. This
 371 sub-subparagraph is subject to the Open Government Sunset Review
 372 Act in accordance with s. 119.15 and shall stand repealed on
 373 October 2, 2020, unless reviewed and saved from repeal through
 374 reenactment by the Legislature.

375 4. The sources of all funds and the amounts of such funds
 376 used to purchase or finance purchases of prescription drugs or
 377 to finance the premises on which the establishment is to be

585-03642-15 2015566c2

378 located.

379 5. If any of the funds identified in subparagraph 4. were
 380 borrowed, copies of all promissory notes or loans used to obtain
 381 such funds.

382 Section 10. Subsection (7) of section 499.0121, Florida
 383 Statutes, is amended to read:

384 499.0121 Storage and handling of prescription drugs;
 385 recordkeeping.—The department shall adopt rules to implement
 386 this section as necessary to protect the public health, safety,
 387 and welfare. Such rules shall include, but not be limited to,
 388 requirements for the storage and handling of prescription drugs
 389 and for the establishment and maintenance of prescription drug
 390 distribution records.

391 (7) PRESCRIPTION DRUG PURCHASE LIST.—

392 (a) Each wholesale distributor, except for a manufacturer,
 393 shall annually provide the department with a written list of all
 394 wholesale distributors and manufacturers from whom the wholesale
 395 distributor purchases prescription drugs. A wholesale
 396 distributor, except a manufacturer, shall notify the department
 397 not later than 10 days after any change to either list.

398 (b) Such portions of the information required pursuant to
 399 this subsection which are a trade secret, as defined in s.
 400 812.081, shall be maintained by the department as trade secret
 401 information is required to be maintained under s. 499.051. This
 402 paragraph is subject to the Open Government Sunset Review Act in
 403 accordance with s. 119.15 and shall stand repealed on October 2,
 404 2020, unless reviewed and saved from repeal through reenactment
 405 by the Legislature.

406 Section 11. Subsection (7) of section 499.051, Florida

585-03642-15

2015566c2

407 Statutes, is amended to read:

408 499.051 Inspections and investigations.—

409 (7) (a) The complaint and all information obtained pursuant
410 to the investigation by the department are confidential and
411 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
412 Constitution until the investigation and the enforcement action
413 are completed.

414 (b) Information that constitutes a trade secret,
415 as defined in s. 812.081, information contained in the complaint
416 therein as defined by s. 812.081(1)(c) shall remain confidential
417 and exempt from the provisions of s. 119.07(1) and s. 24(a),
418 Art. I of the State Constitution, as long as the information is
419 retained by the department. This paragraph is subject to the
420 Open Government Sunset Review Act in accordance with s. 119.15
421 and shall stand repealed on October 2, 2020, unless reviewed and
422 saved from repeal through reenactment by the Legislature.

423 (c) This subsection does not prohibit the department from
424 using such information for regulatory or enforcement proceedings
425 under this chapter or from providing such information to any law
426 enforcement agency or any other regulatory agency. However, the
427 receiving agency shall keep such records confidential and exempt
428 as provided in this subsection. In addition, this subsection is
429 not intended to prevent compliance with ~~the provisions of~~ s.
430 499.01212, and the pedigree papers required in that section are
431 ~~shall not be~~ deemed a trade secret.

432 Section 12. Section 499.931, Florida Statutes, is amended
433 to read:

434 499.931 Trade secret information.—Information required to
435 be submitted under this part which is a trade secret as defined

585-03642-15

2015566c2

436 in s. 812.081(1)(c) and designated as a trade secret by an
437 applicant or permit holder must be maintained as required under
438 s. 499.051. This section is subject to the Open Government
439 Sunset Review Act in accordance with s. 119.15 and shall stand
440 repealed on October 2, 2020, unless reviewed and saved from
441 repeal through reenactment by the Legislature.

442 Section 13. Section 502.222, Florida Statutes, is amended
443 to read:

444 502.222 Information relating to trade secrets
445 confidential.—The records of the department regarding matters
446 encompassed by this chapter are public records, subject to ~~the~~
447 provisions of chapter 119, except that any information that
448 which would reveal a trade secret, as defined in s. 812.081, of
449 a dairy industry business is confidential and exempt from the
450 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
451 Constitution. If the department determines that any information
452 requested by the public will reveal a trade secret, it shall, in
453 writing, inform the person making the request of that
454 determination. The determination is a final order as defined in
455 s. 120.52. This section is subject to the Open Government Sunset
456 Review Act in accordance with s. 119.15 and shall stand repealed
457 on October 2, 2020, unless reviewed and saved from repeal
458 through reenactment by the Legislature.

459 Section 14. Subsection (3) of section 570.48, Florida
460 Statutes, is amended to read:

461 570.48 Division of Fruit and Vegetables; powers and duties;
462 records.—The duties of the Division of Fruit and Vegetables
463 include, but are not limited to:

464 (3) Maintaining the records of the division. The records of

585-03642-15 2015566c2

465 the division are public records; however, trade secrets as
 466 defined in s. 812.081 are confidential and exempt from ~~the~~
 467 ~~provisions of~~ s. 119.07(1) and s. 24(a), Art. I of the State
 468 Constitution. This subsection is subject to the Open Government
 469 Sunset Review Act in accordance with s. 119.15 and shall stand
 470 repealed on October 2, 2020, unless reviewed and saved from
 471 repeal through reenactment by the Legislature. This section ~~may~~
 472 ~~shall~~ not be construed to prohibit:

- 473 (a) A disclosure necessary to enforcement procedures.
 474 (b) The department from releasing information to other
 475 governmental agencies. Other governmental agencies that receive
 476 confidential information from the department under this
 477 subsection shall maintain the confidentiality of that
 478 information.
 479 (c) The department or other agencies from compiling and
 480 publishing appropriate data regarding procedures, yield,
 481 recovery, quality, and related matters, provided such released
 482 data do not reveal by whom the activity to which the data relate
 483 was conducted.

484 Section 15. Subsection (2) of section 573.123, Florida
 485 Statutes, is amended to read:

- 486 573.123 Maintenance and production of records.—
 487 (2) Information that, if disclosed, would reveal a trade
 488 secret, as defined in s. 812.081, of any person subject to a
 489 marketing order is confidential and exempt from ~~the provisions~~
 490 ~~of~~ s. 119.07(1) and s. 24(a), Art. I of the State Constitution
 491 and ~~may shall~~ not be disclosed except to an attorney who
 492 provides legal advice to the division about enforcing a market
 493 order or by court order. A person who receives confidential

Page 17 of 23

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

585-03642-15 2015566c2

494 information under this subsection shall maintain the
 495 confidentiality of that information. This subsection is subject
 496 to the Open Government Sunset Review Act in accordance with s.
 497 119.15 and shall stand repealed on October 2, 2020, unless
 498 reviewed and saved from repeal through reenactment by the
 499 Legislature.

500 Section 16. Subsection (8) of section 601.10, Florida
 501 Statutes, is amended to read:

502 601.10 Powers of the Department of Citrus.—The department
 503 shall have and shall exercise such general and specific powers
 504 as are delegated to it by this chapter and other statutes of the
 505 state, which powers shall include, but are not limited to, the
 506 following:

- 507 (8) (a) To prepare and disseminate information of importance
 508 to citrus growers, handlers, shippers, processors, and industry-
 509 related and interested persons and organizations relating to
 510 department activities and the production, handling, shipping,
 511 processing, and marketing of citrus fruit and processed citrus
 512 products. ~~Any information that constitutes a trade secret as~~
 513 ~~defined in s. 812.081(1)(c) is confidential and exempt from s.~~
 514 ~~119.07(1) and shall not be disclosed.~~ For referendum and other
 515 notice and informational purposes, the department may prepare
 516 and maintain, from the best available sources, a citrus grower
 517 mailing list. Such list shall be a public record available as
 518 other public records, but is not it shall not be subject to the
 519 purging provisions of s. 283.55.

520 (b) Any information provided to the department which
 521 constitutes a trade secret, as defined in s. 812.081, is
 522 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I

Page 18 of 23

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

585-03642-15 2015566c2

523 of the State Constitution. This paragraph is subject to the Open
 524 Government Sunset Review Act in accordance with s. 119.15 and
 525 shall stand repealed on October 2, 2020, unless reviewed and
 526 saved from repeal through reenactment by the Legislature.

527 ~~(c)(b)~~ Any nonpublished reports or data related to studies
 528 or research conducted, caused to be conducted, or funded by the
 529 department under s. 601.13 is confidential and exempt from s.
 530 119.07(1) and s. 24(a), Art. I of the State Constitution. This
 531 paragraph is subject to the Open Government Sunset Review Act in
 532 accordance with s. 119.15 and shall stand repealed on October 2,
 533 2017, unless reviewed and saved from repeal through reenactment
 534 by the Legislature.

535 Section 17. Paragraph (d) of subsection (7) of section
 536 601.15, Florida Statutes, is amended to read:

537 601.15 Advertising campaign; methods of conducting;
 538 assessments; emergency reserve fund; citrus research.—

539 (7) All assessments levied and collected under this chapter
 540 shall be paid into the State Treasury on or before the 15th day
 541 of each month. Such moneys shall be accounted for in a special
 542 fund to be designated as the Florida Citrus Advertising Trust
 543 Fund, and all moneys in such fund are appropriated to the
 544 department for the following purposes:

545 (d)1. The pro rata portion of moneys allocated to each type
 546 of citrus product in noncommodity programs shall be used by the
 547 department to encourage substantial increases in the
 548 effectiveness, frequency, and volume of noncommodity
 549 advertising, merchandising, publicity, and sales promotion of
 550 such citrus products through rebates and incentive payments to
 551 handlers and trade customers for these activities. The

585-03642-15 2015566c2

552 department shall adopt rules providing for the use of such
 553 moneys. The rules shall establish alternate incentive programs,
 554 including at least one incentive program for product sold under
 555 advertised brands, one incentive program for product sold under
 556 private label brands, and one incentive program for product sold
 557 in bulk. For each incentive program, the rules shall establish
 558 eligibility and performance requirements and shall provide
 559 appropriate limitations on amounts payable to a handler or trade
 560 customer for a particular season. Such limitations may relate to
 561 the amount of citrus assessments levied and collected on the
 562 citrus product handled by such handler or trade customer during
 563 a 12-month representative period.

564 2. The department may require from participants in
 565 noncommodity advertising and promotional programs commercial
 566 information necessary to determine eligibility for and
 567 performance in such programs. Any information ~~is~~ required which
 568 ~~that~~ constitutes a "trade secret," as defined in s. 812.081, is
 569 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
 570 of the State Constitution. This subparagraph is subject to the
 571 Open Government Sunset Review Act in accordance with s. 119.15
 572 and shall stand repealed on October 2, 2020, unless reviewed and
 573 saved from repeal through reenactment by the Legislature.

574 Section 18. Paragraph (c) of subsection (8) of section
 575 601.152, Florida Statutes, is amended to read:

576 601.152 Special marketing orders.—

577 (8)

578 (c)1. Every handler shall, at such times as the department
 579 may require, file with the department a return, not under oath,
 580 on forms to be prescribed and furnished by the department,

585-03642-15 2015566c2

581 certified as true and correct, stating the quantity of the type,
 582 variety, and form of citrus fruit or citrus product specified in
 583 the marketing order first handled in the primary channels of
 584 trade in the state by such handler during the period of time
 585 specified in the marketing order. Such returns shall contain any
 586 further information deemed by the department to be reasonably
 587 necessary to properly administer or enforce this section or any
 588 marketing order implemented under this section.

589 2. Information that, if disclosed, would reveal a trade
 590 secret, as defined in s. 812.081, of any person subject to a
 591 marketing order is confidential and exempt from s. 119.07(1) and
 592 s. 24(a), Art. I of the State Constitution. This subparagraph is
 593 subject to the Open Government Sunset Review Act in accordance
 594 with s. 119.15 and shall stand repealed on October 2, 2020,
 595 unless reviewed and saved from repeal through reenactment by the
 596 Legislature.

597 Section 19. Section 601.76, Florida Statutes, is amended to
 598 read:

599 601.76 Manufacturer to furnish formula and other
 600 information.—Any formula required to be filed with the
 601 Department of Agriculture shall be deemed a trade secret as
 602 defined in s. 812.081, is confidential and exempt from s.
 603 119.07(1) and s. 24(a), Art. I of the State Constitution, and
 604 shall ~~only~~ be divulged only to the Department of Agriculture or
 605 to its duly authorized representatives or upon court order
 606 ~~orders of a court of competent jurisdiction~~ when necessary in
 607 the enforcement of this law. A person who receives such a
 608 formula from the Department of Agriculture under this section
 609 shall maintain the confidentiality of the formula. This section

Page 21 of 23

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

585-03642-15 2015566c2

610 is subject to the Open Government Sunset Review Act in
 611 accordance with s. 119.15 and shall stand repealed on October 2,
 612 2020, unless reviewed and saved from repeal through reenactment
 613 by the Legislature.

614 Section 20. Subsections (3) and (6) of section 815.04,
 615 Florida Statutes, are amended to read:

616 815.04 Offenses against intellectual property; public
 617 records exemption.—

618 (3) Data, programs, or supporting documentation that is a
 619 trade secret as defined in s. 812.081, that is held by an agency
 620 as defined in chapter 119, and that resides or exists internal
 621 or external to a computer, computer system, computer network, or
 622 electronic device is confidential and exempt from ~~the provisions~~
 623 ~~of~~ s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

624 (6) Subsection ~~Subsections (3) and (4)~~ is ~~are~~ subject to
 625 the Open Government Sunset Review Act in accordance with s.
 626 119.15, and shall stand repealed on October 2, 2019, unless
 627 reviewed and saved from repeal through reenactment by the
 628 Legislature. Subsection (3) is subject to the Open Government
 629 Sunset Review Act in accordance with s. 119.15, and shall stand
 630 repealed on October 2, 2020, unless reviewed and saved from
 631 repeal through reenactment by the Legislature.

632 Section 21. The Legislature finds that it is a public
 633 necessity that financial information comprising a trade secret
 634 as defined in s. 812.081, Florida Statutes, be made exempt or
 635 confidential and exempt from s. 119.07(1), Florida Statutes, and
 636 s. 24(a), Article I of the State Constitution. The Legislature
 637 also finds that it is a public necessity that any portion of a
 638 meeting in which a trade secret, as defined in s. 812.081,

Page 22 of 23

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

585-03642-15

2015566c2

639 Florida Statutes, is discussed be made exempt from s. 286.011,
640 Florida Statutes and s. 24(b), Article I of the State
641 Constitution. The Legislature recognizes that in many instances,
642 businesses are required to provide financial information for
643 regulatory or other purposes to governmental entities and that
644 disclosure of such information to competitors of those
645 businesses would be detrimental to the businesses. The
646 Legislature's intent is to protect trade secret information of a
647 confidential nature that includes, but is not limited to, a
648 formula, a pattern, a device, a combination of devices, or a
649 compilation of information used to protect or further a business
650 advantage over those who do not know or use the information, the
651 disclosure of which would injure the affected business in the
652 marketplace. Therefore, the Legislature finds that the need to
653 protect trade secret financial information is sufficiently
654 compelling to override this state's public policy of open
655 government and that the protection of such information cannot be
656 accomplished without these exemptions.

657 Section 22. This act shall take effect on the same date
658 that SB 564 or similar legislation relating to trade secrets
659 takes effect, if such legislation is adopted in the same
660 legislative session or an extension thereof and becomes a law.

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/20

Meeting Date

Slab

Bill Number (if applicable)

Topic Trade Secrets

Amendment Barcode (if applicable)

Name Cynthia Henderson

Job Title

Address 108 E Jefferson St Ste A

Phone 850 559 0855

Street

Tall

FL

32301

Email cjhenderson@me.com

City

State

Zip

Speaking: For Against Information

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

Representing LGBS

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

Committee Agenda Request

To: Senator David Simmons, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: April 8, 2015

Dear Chair Simmons,

I respectfully request that **Committee Substitute for Senate Bill #566**, relating to Public Records/Trade Secrets, be placed on the committee agenda at your earliest possible convenience. The Committee on Rules is Committee Substitute for Senate Bill #566's final committee of reference. Any questions pertaining to this legislation, please contact me or my office.

Thank you in advance for your consideration.

A handwritten signature in black ink, appearing to read "Garrett Richter".

Senator Garrett Richter
Florida Senate, District 23

cc: John B. Phelps, Staff Director
Cissy DuBose, Administrative Assistant

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/SB 678

INTRODUCER: Banking and Insurance Committee and Senator Diaz de la Portilla

SUBJECT: Reciprocal Insurers

DATE: April 17, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Knudson</u>	<u>Knudson</u>	<u>BI</u>	Fav/CS
2.	<u>Siples</u>	<u>McKay</u>	<u>CM</u>	Favorable
3.	<u>Knudson</u>	<u>Phelps</u>	<u>RC</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 678 creates an additional process for a domestic reciprocal insurer to distribute unassigned funds, such as unused premiums, savings, and credits, to policyholders. The process created by the bill differs from current law primarily by not requiring the reciprocal insurer to create subscriber accounts to make distributions to policyholders. Distributions using this method may not exceed 50 percent of the insurer's net income from the previous calendar year, and may be up to 10 percent of the insurer's surplus.

II. Present Situation:

A reciprocal insurance company is an unincorporated group of subscribers who exchange risk, with each member serving as both the insurer and insured.¹ The subscribers operate through an attorney in fact to provide reciprocal insurance among themselves.² Reciprocal insurers may transact any line of insurance other than life or title.³ Reciprocal insurers are not common and primarily write motor vehicle insurance.⁴ Two of the larger reciprocal insurance companies are

¹ Robert W. Klein, *A Regulator's Introduction to the Insurance Industry*, 5-4 (National Association of Insurance Commissioners 1999), available at http://www.naic.org/documents/prod_serv_marketreg_rii_zb.pdf (last visited Mar. 9, 2015).

² Section 629.021, F.S.

³ Section 629.041(1), F.S.

⁴ See *supra* note 1, at 61.

Farmers Insurance and United Services Automobile Association (USAA). In Florida, authorized reciprocal insurers are governed by the provisions of ch. 629, F.S.

A domestic reciprocal insurer may be organized by 25 or more persons domiciled in Florida, provided the reciprocal insurer is formed in accordance with the requirements of ch. 629, F.S., and is approved by the Office of Insurance Regulation.⁵ The reciprocal insurer must have a subscribers' advisory committee with powers set forth in the subscribers' agreement. These powers must include supervising the finances of the insurer, supervising the insurer's operations to assure conformity with the subscribers' agreement and power of attorney, and procuring the audit of the accounts and records of the insurer and the attorney in fact.⁶

Section 629.271, F.S., governs the distribution of savings from reciprocal insurers to their subscribers. Reciprocal insurers may distribute to subscribers unused premiums, savings, or credits accruing to their subscriber savings accounts. Distributions may not unfairly discriminate between classes of risks, or policies, or between subscribers but may vary as to classes of subscribers based upon the experience of such subscriber classes.

The Internal Revenue Code provides that a reciprocal insurer may claim a deduction from taxable income for amounts that are added to subscriber savings accounts.⁷ For an insurer to claim the deduction, the amounts in subscriber savings accounts must be immediately payable to the subscriber at the end of the taxable year if the subscriber ends his or her account. The credit to the subscriber account is considered a paid or declared dividend to the subscriber.

III. Effect of Proposed Changes:

Section 1 amends s. 629.271, F.S., to create an additional process for a domestic reciprocal insurer to distribute unassigned funds, such as unused premiums, savings, and credits, to policyholders. The process created by the bill differs from current law primarily by not requiring the reciprocal insurer to create subscriber accounts to make distributions to policyholders. Only domestic reciprocal insurers may use the distribution process created by the bill.

The new policyholder distribution process created by the bill instead creates limits on the total amount of distributions if subscriber accounts are not used, and provides that such distributions are subject to written approval from the Office of Insurance Regulation. The distribution may not exceed 50 percent of the insurer's net income from the previous calendar year and may be up to 10 percent of the insurer's surplus.⁸ As under current law for distributions using subscriber accounts, these distributions may not unfairly discriminate between classes of risks, policies, or subscribers, but may vary as to the classes of subscribers based on the experience of such classes.

Section 2 provides that the effective date of the bill is July 1, 2015.

⁵ See s. 629.081, F.S.

⁶ Section 629.201, F.S.

⁷ 26 U.S.C. 832(f).

⁸ Section 629.071, F.S., requires reciprocal insurers to maintain a surplus fund of at least \$250,000.

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:

A domestic reciprocal insurer may save administrative costs by using the distribution method created by this bill rather than establishing and maintaining subscriber savings accounts. The method created by this bill will create savings for those domestic reciprocal insurers for whom the federal tax deduction for monies placed in a subscriber savings accounts is exceeded by the administrative savings of using the procedure created by this bill.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 629.271 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 Banking and Insurance on March 4, 2015:

The CS provides that only domestic reciprocal insurers may use the subscriber distribution method created by the bill.

- B. **Amendments:**

None.

By the Committee on Banking and Insurance; and Senator Diaz de la Portilla

597-01932-15

2015678c1

1 A bill to be entitled
2 An act relating to reciprocal insurers; amending s.
3 629.271, F.S.; authorizing domestic reciprocal
4 insurers to return a portion of unassigned funds to
5 their subscribers; providing limitations; providing an
6 effective date.
7
8 Be It Enacted by the Legislature of the State of Florida:
9
10 Section 1. Section 629.271, Florida Statutes, is amended to
11 read:
12 629.271 Distribution of savings.—
13 (1) A reciprocal insurer may ~~from time to time~~ return to
14 its subscribers any unused premiums, savings, or credits
15 accruing to their accounts. ~~Any~~ Such distribution may ~~shall~~ not
16 unfairly discriminate between classes of risks, or policies, or
17 between subscribers, but ~~such distribution~~ may vary as to
18 classes of subscribers based on ~~upon~~ the experience of the ~~such~~
19 classes.
20 (2) In addition to the option provided in subsection (1), a
21 domestic reciprocal insurer may, upon the prior written approval
22 of the office, pay to its subscribers a portion of unassigned
23 funds of up to 10 percent of surplus with such distribution
24 limited to 50 percent of net income from the previous calendar
25 year. Such distribution may not unfairly discriminate between
26 classes of risks or policies, or between subscribers, but may
27 vary as to classes of subscribers based on the experience of
28 such classes.
29 Section 2. This act shall take effect July 1, 2015.

THE FLORIDA SENATE

APPEARANCE RECORD

4-20-2015

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

678

Meeting Date

Bill Number (if applicable)

Topic Reciprocal Insurance

Amendment Barcode (if applicable)

Name Sean Stafford

Job Title

Address 115 E. Park Ave

Phone 727-5000

Street

Tallahassee

Email

City

State

Zip

Speaking: For Against Information

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

Representing Star & Shield Insurance Group

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

Tallahassee, Florida 32399-1100

✓
COMMITTEES:
Judiciary, *Chair*
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Community Affairs
Finance and Tax
Regulated Industries
Rules

SENATOR MIGUEL DIAZ de la PORTILLA
40th District

March 16, 2015

The Honorable David Simmons
Chairman
Rules Committee

Via email

Dear Chair Simmons:

Senate bill 678, Reciprocal Insurers, passed the second committee of reference today. The next reference is Rules, and I respectfully request that you agenda the bill at your earliest opportunity.

Thank you for your consideration.

Sincerely,

Miguel Diaz de la Portilla
Senator, District 40

Cc: Mr. John Phelps, Staff Director; Ms. Cissy DuBose, Administrative Assistant

REPLY TO:

- 2100 Coral Way, Suite 505, Miami, Florida 33145 (305) 643-7200
- 406 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5040

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/CS/CS/SB 1372

INTRODUCER: Rules Committee; Community Affairs Committee; Ethics and Elections Committee; and Senator Gaetz

SUBJECT: Government Accountability

DATE: April 21, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Carlton</u>	<u>Roberts</u>	<u>EE</u>	<u>Fav/CS</u>
2.	<u>Stearns</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/CS</u>
3.	<u>Carlton</u>	<u>Phelps</u>	<u>RC</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 1372 is an omnibus government accountability bill. The bill includes changes to Florida's governmental ethics policies including broadening the water management district lobbyist registration provisions to apply to many more special districts, and applying post-employment lobbying restrictions to certain individuals with Enterprise Florida, its divisions, and the Florida Development Finance Corporation. The bill extends the conflicting contractual relationship ban in s. 112.313(7)(a), F.S., to include contracts held by a business entity in which a public officer or public employee holds a controlling interest in a business entity or are an officer, director, or a member who manages such an entity.

The bill also requires local governmental entities to keep their final budgets, and any amendments thereto, on their website for a period of 2 years after adoption.

The bill requires various governmental entities to adopt internal controls to prevent and detect fraud, waste, and abuse.

The bill makes it a first degree misdemeanor to provide prohibited compensation. The bill requires governmental entities to investigate claims of unauthorized compensation and authorizes litigation to enforce the civil penalty and treble damages provisions. Finally, it provides a reward structure and extends Whistle-blower's Protection Act coverage to those reporting prohibited compensation. The bill also makes compensation claims in violation of s. 215.425, F.S., a false

claim against the state. Thus, the state would be authorized to sue to recover damages and civil penalties as provided in ss. 68.082 and 68.083, F.S. (The False Claims Act). Additionally, the Department of Financial Services is authorized to file suit under the False Claims Act.

The bill allows the Governor or Commissioner of Education, or their designees, to report that a local governmental entity has failed to comply with applicable auditing, financial reporting, bond issuance notification, bond verification provisions, or failed to disclose a financial emergency or provide information required during a financial emergency. It increases the Single Audit Act threshold from \$500,000 to \$750,000 and allows the Auditor General to review the threshold periodically and make appropriate recommendations to the Legislature. It makes changes to the financial reporting requirements and independent audit requirements. The bill specifies who can serve as members of the auditor selection committees for local governmental entities. It requires the Florida Virtual School to have an independent financial audit each year.

If an audit report of a school district, Florida College System institution, or other institution or agency under the supervision of the State Board of Education and state universities under the supervision of the Board of Governors includes a recommendation that was in the preceding financial audit report, the entity must indicate its intent regarding corrective action within 60 days after the delivery of the audit report. This response must occur during a regularly scheduled public meeting.

The bill also requires the Florida Clerk of Courts Corporation to notify the Legislature quarterly of any clerk of court not meeting workload requirements and provide corrective action plans within 45 days of the end of the quarter.

The bill requires a water management district monthly financial report to be provided in the format required by the Department of Financial Services.

Finally, the Governor or the Commissioner of Education must notify the Legislative Auditing Committee of financial emergencies instead of notifying the members of the Legislative Auditing Committee.

II. Present Situation:

For the purposes of this bill analysis, the Present Situation will be addressed in the Effect of Proposed Changes section below.

III. Effect of Proposed Changes:

Statement of Legislative Findings and Intent

The bill explains that the intent of the bill is to prevent fraud, waste, and abuse, and to safeguard government resources. Specifically, section 31 of the bill provides: “The Legislature finds that a proper and legitimate state purpose is served when internal controls are established to prevent and detect fraud, waste, and abuse and to safeguard and account for government funds and property. Therefore, the Legislature determines and declares that this act fulfills an important state interest.”

Governmental Ethics Laws

Collection Methods for Unpaid Financial Disclosure Fines

Present Situation:

Section 112.31455, F.S., authorizes the Florida Commission on Ethics to engage in common-law withholding of wages and to seek garnishment in order to collect unpaid financial disclosure fines. Prior to referring such a fine to the Department of Financial Services, the Florida Commission on Ethics must attempt to determine whether or not the filer is a current public officer or public employee.¹ If the person is currently a public officer or public employee, the Florida Commission on Ethics may notify the Chief Financial Officer or the governing body of the appropriate county, municipality, or special district of the total amount of the fine owed to the Florida Commission on Ethics. After receipt and verification of the notice from the Florida Commission on Ethics, the appropriate governing body is required to begin withholding the lesser of 10 percent or the maximum amount allowed under federal law from any salary-related payment. The withheld payments shall be remitted to the Florida Commission on Ethics until the fine is satisfied. Additionally, the Chief Financial Officer or appropriate governing body may retain an amount from each withheld payment to cover administrative costs incurred under s. 112.31455(1)(b), F.S. In the event that the Florida Commission on Ethics determines that the person is no longer a public officer, or is unable to make such a determination, the Florida Commission on Ethics must wait for 6 months. After that period of time, the Florida Commission on Ethics can seek garnishment pursuant to ch. 77, F.S. Additionally, the Florida Commission on Ethics can refer the unpaid fine to a collection agency.² The collection agency can use any legal tool it may possess to collect the unpaid fine. The statute of limitations for an unpaid financial disclosure fine is 20 years.³

Effect of Proposed Changes:

The bill amends s. 112.31455, F.S., in two ways. First, the bill expressly authorizes school districts to withhold public salary-related payments after receiving notice from the commission that an employee has an unpaid fine, including a portion to cover any administrative costs incurred under this section.

Secondly, the bill creates s. 112.31456, F.S., and moves the authority to seek garnishment of wages to that section. None of those provisions are changed from existing law.

Lobbying Registration and Reporting Requirements for Certain Districts

Present Situation:

Section 112.3261, F.S., requires a person who seeks to lobby a water management district to register as a lobbyist before he or she begins to lobby. The lobbyist must present a signed statement authorizing him or her to act on the principal's behalf. The statement must also state the principal's main business. Changes to this information must be reported within 15 days. Water management districts may create their own lobbyist registration forms or use a legislative or executive branch lobbyist registration form. Districts are required to be diligent in ascertaining whether lobbyists have properly registered and may not knowingly allow a lobbyist to lobby if

¹ Section 112.31455(1), F.S.

² Section 112.31455(3), F.S.

³ Section 112.31455(4), F.S.

he or she is not registered. The Florida Commission on Ethics is charged with investigating complaints alleging that a lobbyist has failed to register or provided false information in a report or registration. The Governor has the authority to enforce the Florida Commission on Ethics' findings and recommendation. The water management districts were granted rulemaking authority to adopt rules and establish procedures to govern lobbyist registration, including the adoption of forms and the establishment of a lobbyist registration fee not to exceed \$40.

Effect of Proposed Changes:

The bill expands the scope of these lobbyist registration and reporting requirements to apply to hospital districts, a children's services district, expressway authorities, port authorities, or any independent special district with annual revenues of more than \$5 million which exercises ad valorem taxing authority.

Post Service Lobbying Restrictions

Present Situation:

Section 288.92, F.S., authorizes Enterprise Florida to create and dissolve divisions as necessary to carry out its mission. That section also requires Enterprise Florida to have certain divisions. The law also provides for hiring of officers and members of the divisions of Enterprise Florida and subjects certain officers and members to several standards of conduct in the Code of Ethics for Public Officers and Employees.⁴ The law currently does not contain any post-employment or post-service restrictions.

The Florida Development Finance Authority is created in s. 288.9604, F.S. That provision addresses appointment of members of the board of directors and powers of the corporation. It also subjects directors to several standards of conduct in the Code of Ethics for Public Officers and Employees.⁵ The law currently does not contain any post-employment or post-service restrictions.

Effect of Proposed Changes:

The bill prohibits officers and members of the boards of directors of the divisions of Enterprise Florida, subsidiaries of Enterprise Florida, corporations created to carry out the missions of Enterprise Florida, and corporations with which a division is required by law to contract to carry out its missions, from representing another person or entity for compensation before Enterprise Florida, Inc., divisions of Enterprise Florida, subsidiaries of Enterprise Florida, corporations created to carry out the missions of Enterprise Florida, and corporations with which a division is required by law to contract to carry out its missions, for a period of 2 years after retirement or termination of service to a division.

The bill also prohibits directors of the Florida Development Finance Authority from representing another person or entity for compensation before the corporation, for a period of 2 years after retirement or termination of service.

⁴ Part III, Chapter 112, Florida Statutes.

⁵ Part III, Chapter 112, Florida Statutes.

Conflicting Employment and Contractual Relationships

Present Situation:

Section 112.313(7)(a), F.S., prohibits public officers and employees of an agency from having employment or contractual relationships with a business entity or agency that is subject to the regulation of, or doing business with, his or her agency. That section further prohibits public officers and employees of an agency from having employment or a contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties.

In its annual reports to the Legislature for the last several years, the Commission on Ethics has advised that the law needs to be amended. Specifically, the Commission has advised that individuals were creating a fictitious legal entity then using those fictitious legal entities to engage in contracts that would be prohibited if the people entered them individually.

Effective of Proposed Changes:

The bill provides that if a public officer or public employee holds a controlling interest in a business entity or is an officer, director, or a member who manages such an entity, contractual relationships held by the business entity are deemed to be held by the public officer. As such, if a public officer or public employee holds a controlling interest in a business entity or is an officer, director, or a member who manages such an entity, it would be a violation for the business entity to have a contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties. The public officer or public employee would face penalties ranging from censure and reprimand to removal from office. The penalties also permit a civil fine up to \$10,000 per violation.

Online Posting of Governmental Budgets

Counties, Municipalities, and Special Districts

Present Situation:

Counties⁶, municipalities⁷, and special districts⁸ are required to post their tentative budgets on their websites 2 days prior to consideration of the budget. The final budget of a county, municipality or special district must be posted on the county's, municipality's, or special district's website within 30 days after adoption. An amendment to a budget must be posted to the county's, municipality's, or special district's website within 5 days of adoption. Current law does not specify how long those items must remain available on the website.

⁶ Section 129.03, F.S.

⁷ Section 166.241, F.S.

⁸ Section 189.016, F.S.

Effect of Proposed Changes:

The bill requires the tentative budget to remain on the county's, municipality's, or special district's website for at least 45 days. The bill also requires that the final adopted budget must remain on the county's, municipality's, or special district's website for at least 2 years. Finally, the bill requires an adopted amendment to the budget to remain on a county's, municipality's, or special district's website for at least 2 years.

Water Management Districts**Present Situation:**

Chapter 373 governs Florida's water resource management. That chapter includes provisions authorizing the creation of water management districts and provides those districts with taxing authority. Section 373.536, F.S., governs water management districts' budget process. That section also requires financial audits, 5-year capital improvement plans, and 5-year water resource development work programs. All of these items must be submitted to the Department of Environmental Protection as specified in s. 373.536(6), F.S. The tentative budget is required to be posted on the water management district's website at least 2 days before the budget hearings are conducted. The law requires the final budget to be posted on the district's official website within 30 days of adoption.

Effect of Proposed Changes:

The bill requires the tentative budget to remain on the district's website for at least 45 days. The bill requires the final budget to remain on the district's website for at least 2 years.

Internal Controls to Prevent and Detect Fraud, Waste, and Abuse**Present Situation:**

State Agencies and the Judicial Branch: Section 215.86, F.S., provides:

Each state agency and the judicial branch as defined in s. 216.011 shall establish and maintain management systems and controls that promote and encourage compliance; economic, efficient, and effective operations; reliability of records and reports; and safeguarding of assets. Accounting systems and procedures shall be designed to fulfill the requirements of generally accepted accounting principles.

Local Governmental Entities: Section 218.33, F.S., requires each local governmental entity to begin its fiscal year on October 1 and end it on September 30. Section 218.33(2), F.S., requires each local governmental entity shall follow uniform accounting practices and procedures as provided by rule of the department to assure the use of proper accounting and fiscal management by such units. Such rules shall include a uniform classification of accounts.

Charter Schools: Section 1002.33, F.S., authorizes charter schools as part of Florida's state program of education. In addition to the creation of charter schools, that section also imposes certain requirements on charter schools. In pertinent part, the law requires that the governing body of a charter school is responsible for: ensuring that the charter school has retained a certified public accountant to perform its annual audit; reviewing the audit report; establishing a corrective plan, if necessary; monitoring a financial recovery plan to ensure compliance; and,

participating in governance training approved by the Department of Education. That governance training is required to address government in the sunshine, conflicts of interest, ethics, and financial responsibility.

School Districts and Florida College System Institutions: The financial records and accounts of each school district, Florida College System institution, and other institution or agency under the supervision of the State Board of Education shall be prepared and maintained as prescribed by law and rules of the State Board of Education. The financial records and accounts of each state university under the supervision of the Board of Governors shall be prepared and maintained as prescribed by law and rules of the Board of Governors. Rules of the State Board of Education and rules of the Board of Governors shall incorporate the requirements of law and accounting principles generally accepted in the United States. Such rules shall include a uniform classification of accounts. Each state university shall annually file with the Board of Governors financial statements prepared in conformity with accounting principles generally accepted by the United States and the uniform classification of accounts prescribed by the Board of Governors. The Board of Governors' rules shall prescribe the filing deadline for the financial statements. Required financial accounts and reports shall include provisions that are unique to each of the following: K-12 school districts, Florida College System institutions, and state universities, and shall provide for the data to be reported to the National Center of Educational Statistics and other governmental and professional educational data information services as appropriate.

Justice Administration Commission: The Justice Administration Commission is created in s. 43.16, F.S. Among its duties, the Commission is charged with maintaining a central state office for administrative services and assistance when possible, and on behalf of the state attorneys and public defenders of Florida, the capital collateral regional counsel of Florida, the criminal conflict and civil regional counsel, and the Guardian Ad Litem Program. Additionally, the Commission records and submits necessary budgets, vouchers that represent valid claims for reimbursement by the state for authorized expenses, and other things incidental to the proper administrative operation of the office, such as revenue transmittals to the Chief Financial Officer and automated systems plans that were created by the state attorney, public defender, and criminal conflict and civil regional counsel and the Guardian Ad Litem Program.

Effect of Proposed Changes:

The bill requires each entity⁹ to maintain internal controls designed to: prevent and detect fraud, waste, and abuse; promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices; support economic, efficient, and effective operations; ensure reliability of records and reports; and, safeguard assets.

Extra Compensation Claims and False Claims Act Changes

Extra Compensation Claims

Present Situation:

Section 215.425, F.S., prohibits extra compensation to any officer, agent, employee, or contractor after the service has been rendered or the contract made; nor shall any money be

⁹ This includes each state attorney, each public defender, the criminal conflict and civil regional counsel, the capital collateral regional counsel, and the Guardian Ad Litem program.

appropriated or paid on any claim the subject matter of which has not been provided for by preexisting laws, unless such compensation or claim is allowed by a law enacted by two-thirds of the members elected to each house of the Legislature. However, when adopting salary schedules for a fiscal year, a district school board or community college district board of trustees may apply the schedule for payment of all services rendered subsequent to July 1 of that fiscal year. That section also requires a contract or employment agreement, or renewal of a contract or employment agreement, containing a provision for severance pay to limit severance pay to 20 weeks and to prohibit severance pay when the individual is terminated for misconduct.

Effect of Proposed Changes:

The bill defines “public funds” as:

any taxes, tuition, grants, fines, fees, or other charges or any other type of revenue collected by the state or any county, municipality, special district, school district, Florida College System institution, state university, or other separate unit of government created pursuant to law, including any office, department, agency, division, subdivision, political subdivision, board, bureau, commission, authority, or institution of such entities.

The bill clarifies that there can be no violation of s. 215.425, F.S., for payment of a bonus or severance pay that is paid from sources other than public funds. Additionally, if allowed under the Code of Ethics for Public Officers and Employees in Part III, Chapter 112, F.S., the following funds may be used to pay extra compensation:

- Revenues received by state universities through or from faculty practice plans; health services support organizations; hospitals with which state universities are affiliated; direct-support organizations; or federal, auxiliary, or private sources, except for tuition;
- Revenues received by Florida College System institutions through or from faculty practice plans; health services support organizations; direct-support organizations; or federal, auxiliary, or private sources, except for tuition;
- Certain revenues that are received by a hospital licensed under chapter 395 which has entered into a Medicaid Provider Contract and that:
 - Are not derived from the levy of an ad valorem tax;
 - Are not derived from patient services paid through the Medicaid or Medicare program;
 - Are derived from patient services pursuant to contracts with private insurers or private managed care entities; or
 - Are not appropriated by the Legislature or by any county, municipality, special district, school district, Florida College System institution, state university, or other separate unit of government created pursuant to law, including any office, department, agency, division, subdivision, political subdivision, board, bureau, commission, authority, or institution of such entities, except for revenues otherwise authorized to be used pursuant to subparagraphs 2. and 3.
- Revenues or fees received by a seaport or airport from sources other than through the levy of a tax, or funds appropriated by any county or municipality or the Legislature.

CS/CS/CS/SB 1372 requires new contracts or renewal contracts, in which state universities are a party, to contain a requirement that severance pay from public funds may not exceed 20 weeks

and to prohibit severance paid from public funds when the officer, agent, employee, or contractor has been fired for misconduct.

The bill requires a unit of government that has made a prohibited compensation payment to investigate and take all actions necessary to recover the prohibited compensation. If the compensation was provided unintentionally, the unit of government must recover the prohibited compensation through its normal recovery methods. If the prohibited payment was willfully made, the unit of government must recover the payment from either the recipient or the person who authorized the prohibited payment. Willfully providing a prohibited payment would become a first degree misdemeanor under the bill. The bill provides for suspension and removal of officers as follows: An officer who exercises the powers and duties of a state or county office may be suspended by the Governor and removed by the Florida Senate. Any other officer may be suspended and removed by the Governor pursuant to s. 112.51, F.S.

A person who reports the making of a prohibited extra compensation payment is eligible for a reward of at least \$500, or the lesser of 10 percent of the funds recovered or \$10,000 per incident. There is an exception to the reward provision where the recovery of the prohibited compensation is based on disclosures of information relating to allegations or transactions in a criminal, civil, or administrative hearing; a legislative, administrative, inspector general, or other government report; auditor general report, hearing, audit, or investigation; or from the news media. If the person was involved in the authorization, or was convicted for his role in the unauthorized compensation, he or she is not eligible for the reward. Whistle-blowers are granted full protection under the Whistle-blower's Act.¹⁰

If the unit of government fails to recover the prohibited extra compensation payment within 90 days, a lawsuit is authorized to recover those funds using the legal procedures in ss. 68.082, (governing false claims against the state) and 68.083, F.S., (governing civil actions for false claims). Litigation to recover such funds must be brought in the circuit court of the county in which the unit of local government is located.

False Claims Against the State

Present Situation:

Section 68.082, F.S., prohibits a person from:

- Knowingly presenting a false or fraudulent claim for payment or approval;
- Knowingly making or using a false record or statement material to a false or fraudulent claim;
- Conspiring to commit a violation of this subsection;
- Having possession, custody, or control of property or money used or to be used by the state and knowingly delivering less than all of that money or property;
- Making or delivering a document certifying receipt of property used or to be used by the state and, intending to defraud the state, making or delivering the receipt without knowing that the information on the receipt is true;
- Knowingly buying or receiving, as a pledge of an obligation or a debt, public property from an officer or employee of the state who may not sell or pledge the property; or

¹⁰ Section 112.3187, F.S.

- Knowingly making or using a false record or statement material to an obligation to pay or transmit money or property to the state, or knowingly concealing or knowingly and improperly avoiding or decreasing an obligation to pay or transmit money or property to the state.

A person who does any of the foregoing is liable to the state for a civil penalty of not less than \$5,500 and not more than \$11,000 and for treble the amount of damages the state sustains.

Section 68.083, F.S., authorizes the Department of Legal Affairs to investigate an allegation of a false claim against the state. If the Department of Legal Affairs determines a violation has occurred, it is authorized to commence a civil action against the violator. Additionally, the Department of Financial Services may bring such a suit if the Department of Legal Affairs has not done so.

Effect of Proposed Changes:

The bill makes it a “false claim against the state” for any person to knowingly authorize, approve, or receive payment of prohibited extra compensation in violation of s. 215.425, F.S. A person who authorizes, approves, or receives payment of prohibited extra compensation is subject to the civil penalty ranging from \$5,500 to \$11,000 and for treble the amount of damages that the state sustains as a result of the authorization, approval, or receipt of prohibited compensation.

The bill authorizes the Department of Financial Services to bring a civil action if the action arises from an investigation by that Department concerning a violation of the prohibited extra compensation claim and the Department of Legal Affairs has not filed an action to recover the civil penalty and damages.

Auditing

Joint Legislative Auditing Committee

Present Situation:

Section 11.40, F.S., provides:

Following notification by the Auditor General, the Department of Financial Services, or the Division of Bond Finance of the State Board of Administration of the failure of a local governmental entity, district school board, charter school, or charter technical career center to comply with the applicable provisions within s. 11.45(5)-(7),¹¹ s. 218.32(1),¹² s. 218.38,¹³ or s. 218.503(3),¹⁴ the Legislative Auditing Committee may schedule a hearing to determine if the entity should be subject to further state action.

¹¹ Section 11.45, F.S., governs certain audits to be conducted by the Auditor General.

¹² Section 218.32(1), F.S., requires annual financial reports from local governmental entities.

¹³ Section 218.38, F.S., requires notice of bond issuance and contains verification requirements.

¹⁴ Section 218.503(3), F.S., requires those entities to disclose a financial emergency and provide certain information concerning a financial emergency.

Section 11.45, F.S., defines the types of audits that may be conducted. That section requires the Auditor General to conduct certain state and local governmental audits and specifies the frequency with which the audits must occur. Section 11.45, F.S., also allows the Auditor General to conduct other audits he or she determines to be appropriate. For purposes of s. 11.45, F.S., the term local governmental entity means “a county agency, municipality, or special district as defined in s. 189.012, but does not include any housing authority established under chapter 421.”

The Auditor General is required to transmit, by July 15, to the President of the Senate, the Speaker of the House of Representatives, and the Department of Financial Services a list of all school districts, charter schools, charter technical career centers, Florida College System institutions, state universities, and water management districts that have failed to comply with the transparency requirements as identified in the audit reports reviewed pursuant to paragraph (b) and those conducted pursuant to subsection (2).

Effect of Proposed Changes:

The bill provides that the Governor or his or her designee, or the Commissioner of Education or his or her designee, may also notify the Joint Legislative Auditing Committee that a local governmental entity has failed to comply with applicable auditing, financial reporting, bond issuance notification, bond verification provisions, or failed to disclose a financial emergency or provide information required during a financial emergency.

The bill defines the terms “abuse,” “fraud,” and “waste” in s. 11.45, F.S., as follows:

- “Abuse” means behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary operational practice given the facts and circumstances. The term includes the misuse of authority or position for personal gain.
- “Fraud” means obtaining something of value through willful misrepresentation, including, but not limited to, the intentional misstatements or omissions of amounts or disclosures in financial statements to deceive users of financial statements, theft of an entity’s assets, bribery, or the use of one’s position for personal enrichment through the deliberate misuse or misapplication of an organization’s resources.
- “Waste” means the act of using or expending resources unreasonably, carelessly, extravagantly, or for no useful purpose.

The bill also redefines the term “Local governmental entity” for purposes of s. 11.45, F.S., to include tourist development councils and county tourism promotion agencies.

The bill exempts water management districts from being subject to audits pursuant to s. 11.45(2)(j), F.S. The bill allows the Auditor General to conduct audits or other engagements of tourist development councils and county tourism promotion agencies. The bill also conforms the Auditor General’s reporting requirement to the President of the Senate, the Speaker of the House of Representatives, and the Department of Financial Services, by removing the obsolete reference to water management districts and replacing it with the phrase “local governmental entity.”

Single Audit Act

Present Situation:

The Florida Single Audit Act, s. 215.97, F.S., is designed to establish uniform state audit requirements for state financial assistance provided by state agencies to nonstate entities to carry out state projects; promote sound financial management, including effective internal controls, with respect to state financial assistance administered by nonstate entities; promote audit economy and efficiency by relying to the extent possible on already required audits of federal financial assistance provided to nonstate entities; provide for identification of state financial assistance transactions in the state accounting records and recipient organization records; promote improved coordination and cooperation within and between affected state agencies providing state financial assistance and nonstate entities receiving state assistance; and, ensure, to the maximum extent possible, that state agencies monitor, use, and follow-up on audits of state financial assistance provided to nonstate entities. Pursuant to the Single Audit Act, certain entities that exceed the “audit threshold” are subject to a state single audit or a project specific audit. Currently, the “audit threshold” is defined as:

the threshold amount used to determine when a state single audit or project-specific audit of a nonstate entity shall be conducted in accordance with this section. Each nonstate entity that expends a total amount of state financial assistance equal to or in excess of \$500,000 in any fiscal year of such nonstate entity shall be required to have a state single audit, or a project-specific audit, for such fiscal year in accordance with the requirements of this section. Every 2 years the Auditor General, after consulting with the Executive Office of the Governor, the Department of Financial Services, and all state awarding agencies, shall review the threshold amount for requiring audits under this section and may adjust such threshold amount consistent with the purposes of this section. Section 215.97(2)(a), F.S.

Effect of Proposed Changes:

The bill changes the audit threshold from \$500,000 to \$750,000. Additionally, the bill changes the requirement that the Auditor General review the threshold amount for requiring audits from every 2 years to “periodically.” The term “periodically” is not defined in the bill. Finally, the bill authorizes the Auditor General to recommend to the Legislature a statutory change to revise the threshold amount in the annual report submitted pursuant to s. 11.45(7)(f), F.S.

Local Government Entity Annual Financial Reports

Present Situation:

Section 218.32, F.S., requires certain local governmental entities to submit an annual financial report for the previous fiscal year. The annual financial report is required to be signed by the chair of the governing body and the chief financial officer of the local governmental entity. That section also specifies what information is required to be in the report.

Additionally, the Department of Financial Services is required to file a verified report with the Governor, the Legislature, the Auditor General, and the Special District Accountability Program of the Department of Economic Opportunity showing the revenues, both locally derived and derived from intergovernmental transfers, and the expenditures of each local governmental

entity, regional planning council, local government finance commission, and municipal power corporation that is required to submit an annual financial report.¹⁵

Effect of Proposed Changes:

The bill requires an independent certified public accountant completing an audit of a unit of local government pursuant to s. 218.39, F.S., to report, as part of the audit, whether or not the entity's annual financial report is in agreement with the audit report. The accountant's audit report must be supported by the same level of detail required for the annual financial report. If the reports are not in agreement, the bill requires the audit to specify the differences that exist between the annual financial report and the audit report.

The bill also provides that, in preparing the verified report, the Department of Financial Services may request additional information from the local governmental entity. Any additional information requested must be provided within 45 days of the request. If the local governmental entity does not comply with the request, the Department of Financial Services must notify the Legislative Auditing Committee, which may take action pursuant to s. 11.40(2), F.S.

Annual Financial Audit Reports

Present Situation:

If certain types of governmental entities are not notified by the first day of the fiscal year that they will be audited by the Auditor General, those entities must have an annual financial audit performed by an independent certified public accountant completed within 9 months.¹⁶ Section 218.39, F.S., lays out the minimum required information for the independent audits and provides for discussion between the governing body and the independent certified public accountant regarding certain specified conditions. If corrective action is required and has not been taken, the Legislative Auditing Committee can request a statement explaining why the corrective action has not been taken and provides for corrective steps including actions pursuant to s. 11.40(2), F.S.

Effect of Proposed Changes:

The bill provides that if the audit report contains a recommendation from the preceding financial audit report, the governing body, within 60 days, must indicate its intent regarding corrective action, the corrective action to be taken, and when the corrective action will occur. If the governing body does not intend to take any corrective action, it shall explain why such action will not be taken at the regularly scheduled public meeting.

Auditor Selection Procedures

Present Situation:

Section 218.391, F.S., lays out the process that specified governmental entities¹⁷ must follow in selecting its independent certified public accountant to act as an auditor. Noncharter counties are required to create a committee consisting of each of its elected county constitutional officers and one member of the board of county commissioners or their designee. Those entities must create

¹⁵ Section 218.32(2), F.S.

¹⁶ Section 218.39, F.S.

¹⁷ The entities are: the governing body of a charter county, municipality, special district, district school board, charter school, or charter technical career center.

an audit committee which must make a request for proposals. The law lays out what must be considered in selecting the firm and discusses negotiating for compensation.

Effect of Proposed Changes:

The bill requires all counties to have an auditor selection committee consisting of each of its officers elected pursuant to the county charter or Florida Constitution. The bill requires municipalities, special districts, district school boards, charter schools, or charter technical career centers to create an audit committee with at least three members, one of which must be a member of the governing body of the entity. That member will serve as the committee's chair. Members of county, municipal, or special district audit committees may not exercise financial management responsibilities for the county, municipality, or special district. The bill provides that the contract period may not exceed 5 years. The bill creates a 2-year period of ineligibility for a firm to get a new contract after its 5-year contract has expired.

The audit report submitted pursuant to s. 218.39, F.S., must include an affidavit executed by the chair of the audit committee affirming that the committee complied with the auditor selection requirements. If the Auditor General determines that an entity failed to comply with the requirements in selecting an auditor, the entity shall select a replacement auditor to conduct audits for the remaining subsequent fiscal year(s) remaining in the contract.

The Florida Virtual School

Present Situation:

The Florida Virtual School is created to develop and deliver online and distance learning. The Commissioner of Education is charged with monitoring the Florida Virtual School. In pertinent part, the law requires the board of trustees to submit an annual report to the Governor, the Legislature, the Commissioner of Education, and the State Board of Education. The report is required to address: operations and accomplishments of the Florida Virtual School within the state and those occurring outside the state as Florida Virtual School Global; marketing and operational plan for the Florida Virtual School and Florida Virtual School Global, including recommendations regarding methods for improving the delivery of education through the Internet and other distance learning technology; assets and liabilities of the Florida Virtual School and Florida Virtual School Global at the end of the fiscal year; a copy of an annual financial audit of the accounts and records of the Florida Virtual School and Florida Virtual School Global, conducted by an independent certified public accountant and performed in accordance with rules adopted by the Auditor General; recommendations regarding the unit cost of providing services to students through the Florida Virtual School and Florida Virtual School Global; and, recommendations regarding an accountability mechanism to assess the effectiveness of the services provided by the Florida Virtual School and Florida Virtual School Global.¹⁸

The Auditor General is required to conduct an operational audit of the Florida Virtual School, including Florida Virtual School Global. The scope of the audit must include, but not be limited to, the administration of responsibilities relating to personnel; procurement and contracting; revenue production; school funds, including internal funds; student enrollment records; franchise agreements; information technology utilization, assets, and security; performance measures and

¹⁸ Section 1002.37(6), F.S.

standards; and accountability. The final report on the audit shall be submitted to the President of the Senate and the Speaker of the House of Representatives no later than January 31, 2014.

Effect of Proposed Changes:

The bill eliminates the requirement that the Auditor General conduct an operation audit and report to the President of the Senate and the Speaker of the House of Representatives by January 31, 2014. That provision is replaced with requiring the Florida Virtual School to have an annual financial audit of its accounts and records completed by an independent auditor who is a licensed certified public accountant. The independent auditor must conduct the audit in accordance with the rules adopted by the Auditor General governing such audits. The audit report is required to include a written statement of the board of trustees describing corrective action to be taken in response to each of the independent auditor's recommendations. Upon completion of the audits, the independent auditor is required to submit an audit report to the board of trustees and the Auditor General no later than 9 months after the end of the prior fiscal year. The bill also makes conforming changes to the annual report provided to the Governor, the Legislature, the Commissioner of Education, and the State Board of Education, by requiring a copy of the audit report be submitted with the annual statement. That audit report is to provide a written statement of the board of trustees describing corrective action to be taken in response to each finding of the independent auditor's recommendations included in the audit report.

Required Audits of Certain Educational Institutions

Present Situation:

School districts, Florida College System institutions, and other institutions and agencies under the supervision of the State Board of Education and state universities under the supervision of the Board of Governors are subject to the audit provisions of ss. 11.45 and 218.39, F.S. If an audit contains a significant finding, the district school board, the Florida College System institution board of trustees, or the university board of trustees shall conduct an audit overview during a public meeting.

Effect of Proposed Changes:

If any audit report includes a recommendation that was previously included in the preceding financial audit report, the district school board, the Florida College System institution board of trustees, or the university board of trustees, must indicate its intent regarding corrective action, the corrective action to be taken, and when the corrective action will occur within 60 days after the delivery of the audit report. This response must occur during a regularly scheduled public meeting. If the district school board, Florida College System institution board of trustees, or university board of trustees does not intend to take corrective action, it shall explain why such action will not be taken at the regularly scheduled public meeting.

Other Provisions

Florida Clerk of Courts Corporation

Present Situation:

Currently, s. 28.35, F.S., requires the Florida Clerk of Courts Corporation to develop and certify a uniform system of workload measures and applicable workload standards for court-related functions as developed by the corporation and clerk workload performance in meeting the

workload performance standards. These workload measures and workload performance standards must be designed to facilitate an objective determination of the performance of each clerk in accordance with minimum standards for fiscal management, operational efficiency, and effective collection of fines, fees, service charges, and court costs. The corporation shall develop the workload measures and workload performance standards in consultation with the Legislature. When the corporation finds a clerk has not met the workload performance standards, the corporation shall identify the nature of each deficiency and any corrective action recommended and taken by the affected clerk of the court. The corporation shall notify the Legislature of any clerk not meeting workload performance standards and provide a copy of any corrective action plans.

Effect of Proposed Changes:

The bill requires the Florida Clerk of Courts Corporation to notify the Legislature of any clerk not meeting the workload performance standards and provide a copy of any corrective action plans within 45 days after the end of each quarter. For purposes of s. 28.35, F.S., the quarters end on the last day of March, June, September, and December of each year.

Transparency in Government Spending

Present Situation:

The Transparency Florida Act, located in s. 215.985, F.S., requires the Governor, in consultation with the appropriations committees of the House and Senate, to maintain a central website providing access to all other websites required to be linked under the Act. That law requires certain budget information to be readily available online, certain contract information, and minimum functionality standards. In pertinent part, s. 215.985(11), F.S., requires: “Each water management district shall provide a monthly financial statement to its governing board and make such statement available for public access on its website.”

Effect of Proposed Changes:

The bill requires the monthly financial statement to be in the form and manner prescribed by the Department of Financial Services to the district’s governing board and make such monthly financial statement available to the public on its website.

Financial Emergencies

Present Situation:

Local governmental entities, charter schools, charter technical career centers, and district school boards are subject to review and oversight by the Governor, the charter school sponsor, the charter technical career center sponsor, or the Commissioner of Education, as appropriate, under certain circumstances.¹⁹ If a financial emergency occurs, the Governor or the Commissioner of Education must contact the entity to determine what steps have been taken to rectify, resolve, or prevent the financial emergency. Any information requested must be provided within 45 days. If the local governmental entity or the district school board does not comply with the request, the Governor or Commissioner of Education must notify the *members* of the Legislative Auditing Committee who may take action pursuant to s. 11.40, F.S. The Governor or the Commissioner of Education must then determine whether the entity needs state assistance. If so, the entity is

¹⁹ Section 218.503(1), F.S.

considered to be in a state of financial emergency. The Governor or the Commissioner of Education then has the authority to take steps to resolve the financial emergency.²⁰

Effect of Proposed Changes:

The bill provides that the Governor, or his or her designee, or the Commissioner of Education, or his or her designee, must notify the Legislative Auditing Committee instead of notifying the members of the Legislative Auditing Committee.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The county/municipality mandates provision of Art. VII, s. 18 of the State Constitution may apply because the bill requires county and municipal governments to establish and maintain specified internal controls. An exemption may apply if the bill results in an insignificant fiscal impact to county or municipal governments. An exemption also may apply because similarly situated persons are all required to comply and the bill articulates a threshold finding of serving an important state interest.

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:

The bill requires members of the public to register as a lobbyist when lobbying a specified unit of local government. Current law authorizes a fee for each registration, which may not exceed \$40.

C. Government Sector Impact:

The bill requires state agencies, the court system, court-related entities, local governments, district school boards, charter schools, and state colleges and universities to establish specified internal controls. Such requirement may require additional time and expense to create the internal controls.

²⁰ Section 218.503(3), F.S.

The bill amends provisions related to the prohibition against extra compensation. It requires investigations of allegations and repayment of any prohibited compensation. It also requires the payment of rewards to individuals who report violations. The changes may result in the recovery of prohibited payments, but it also will have an associated increased workload cost for investigations and the payment of rewards.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 112.31456 of the Florida Statutes.

This bill substantially amends the following sections of the Florida Statutes: 11.40, 11.45, 28.35, 43.16, 112.313, 112.31455, 112.3261, 129.03, 129.06, 166.241, 189.016, 215.425, 215.86, 215.97, 215.985, 218.32, 218.33, 218.39, 218.391, 288.92, 288.9604, 373.536, 1002.33, 1002.37, 1010.01, 1010.30, 68.082, 68.083, and 218.503.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS/CS/CS by Rules on April 20, 2015:

Provides that if a public officer or public employee holds a controlling interest in a business entity or is an officer, director, or a member who manages such an entity, contractual relationships held by the business entity are deemed to be held by the public officer; thereby violating the conflicting contractual relationship prohibition in s. 112.313(7)(a), F.S.

If allowed under the Code of Ethics for Public Officers and Employees in Part III, Chapter 112, F.S., the following funds may be used to pay extra compensation:

- Revenues received by state universities through or from faculty practice plans; health services support organizations; hospitals with which state universities are affiliated; direct-support organizations; or federal, auxiliary, or private sources, except for tuition;
- Revenues received by Florida College System institutions through or from faculty practice plans; health services support organizations; direct-support organizations; or federal, auxiliary, or private sources, except for tuition;
- Certain revenues that are received by a hospital licensed under chapter 395 which has entered into a Medicaid Provider Contract; and
- Revenues or fees received by a seaport or airport from sources other than through the levy of a tax, or funds appropriated by any county or municipality or the Legislature.

Requires new contracts or renewal contracts in which state universities are a party to contain a requirement that severance pay from public funds may not exceed 20 weeks and to prohibit severance paid from public funds when the officer, agent, employee, or contractor has been fired for misconduct.

CS/CS by Community Affairs on March 31, 2015:

Clarifies that the definition of “abuse” includes the misuse of authority or position for personal gain.

Reverts to the existing law regarding the withholding of a salary payment related to a public employee’s unpaid fine that resulted from an improper financial disclosure. Requires a school district that has received notification from the Florida Commission on Ethics that a current public employee owes such an unpaid fine to withhold the lesser of 10 percent or the amount allowed under federal law from any salary-related payment. The amended bill also authorizes the school district to withhold additional funds to offset the administrative costs of implementing these withholdings.

CS by Ethics and Elections on March 24, 2015:

- Allows the Auditor General to conduct audits or other engagements of tourist development councils and county tourism promotion agencies;
- Requires a governing body to withhold 25 percent of the amount of the fine from the filer’s next public salary-related payment, plus any administrative costs incurred;
- Requires withholding the same percentage of each successive public salary-related payment until the fine and administrative costs are paid in full;
- Defines “public funds” for purposes of the prohibited compensation statute in s. 215.425, F.S.;
- Clarifies that it is not prohibited compensation to pay a bonus or severance pay from sources other than public funds;
- Provides that state or county officers making or receiving prohibited compensation may be suspended by the Governor and removed by the Florida Senate;
- Allows the Governor to suspend and remove any other officer who makes or receives prohibited compensation pursuant to s. 112.51, F.S.;
- Requires the accountant’s audit to be supported by the same level of detail required for the annual financial report;
- Provides that the contract period may not exceed 5 years;
- Creates a 2-year period of ineligibility for a firm to get a new contract after its 5-year contract has expired;
- Requires the audit report submitted pursuant to s. 218.39, F.S., to include an affidavit executed by the chair of the audit committee affirming that the committee complied with the auditor selection requirements;
- Provides that entities that fail to comply with the requirements in selecting an auditor must replace the auditor for the remaining term of the contract;
- Extends applicability of the 2 year post-service lobbying restriction to prohibit representation before a division of Enterprise Florida, subsidiary of Enterprise Florida, or the board of directors of corporations created to carry out the missions of

Enterprise Florida, Inc., or with which a division is required by law to contract to carry out its missions;

- Requires Florida Virtual Schools to include a written statement describing corrective action to be taken in response to each of the independent auditor's recommendations;
- Requires Florida Virtual Schools to submit its audit report in its annual report to the Governor, the Legislature, the Commissioner of Education, and the State Board of Education; and
- Provides new effective date of October 1, 2015.

B. Amendments:

None.



897662

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
04/21/2015	.	
	.	
	.	
	.	

The Committee on Rules (Gaetz) recommended the following:

Senate Amendment (with title amendment)

Between lines 382 and 383
insert:

Section 1. Subsection (7) of section 112.313, Florida
Statutes, is amended to read:

112.313 Standards of conduct for public officers, employees
of agencies, and local government attorneys.—

(7) CONFLICTING EMPLOYMENT OR CONTRACTUAL RELATIONSHIP.—

(a) No public officer or employee of an agency shall have
or hold any employment or contractual relationship with any



897662

12 business entity or any agency which is subject to the regulation
13 of, or is doing business with, an agency of which he or she is
14 an officer or employee, excluding those organizations and their
15 officers who, when acting in their official capacity, enter into
16 or negotiate a collective bargaining contract with the state or
17 any municipality, county, or other political subdivision of the
18 state; nor shall an officer or employee of an agency have or
19 hold any employment or contractual relationship that will create
20 a continuing or frequently recurring conflict between his or her
21 private interests and the performance of his or her public
22 duties or that would impede the full and faithful discharge of
23 his or her public duties. A contractual relationship held by a
24 business entity in which a public officer or an employee of an
25 agency holds a controlling interest or is an officer, director,
26 or managing member constitutes a contractual relationship
27 prohibited by this subsection.

28 1. When the agency referred to is that certain kind of
29 special tax district created by general or special law and is
30 limited specifically to constructing, maintaining, managing, and
31 financing improvements in the land area over which the agency
32 has jurisdiction, or when the agency has been organized pursuant
33 to chapter 298, then employment with, or entering into a
34 contractual relationship with, such business entity by a public
35 officer or employee of such agency shall not be prohibited by
36 this subsection or be deemed a conflict per se. However, conduct
37 by such officer or employee that is prohibited by, or otherwise
38 frustrates the intent of, this section shall be deemed a
39 conflict of interest in violation of the standards of conduct
40 set forth by this section.



897662

41 2. When the agency referred to is a legislative body and
42 the regulatory power over the business entity resides in another
43 agency, or when the regulatory power which the legislative body
44 exercises over the business entity or agency is strictly through
45 the enactment of laws or ordinances, then employment or a
46 contractual relationship with such business entity by a public
47 officer or employee of a legislative body shall not be
48 prohibited by this subsection or be deemed a conflict.

49 (b) A public officer serving on a county or municipal
50 board, commission, authority, or council who is a member,
51 associate, partner, shareholder, or employee of a firm of
52 licensed professionals is subject to the following:

53 1. A public officer has a contractual relationship only
54 with those clients of the firm:

55 a. For whom he or she has personally performed services;

56 b. Who are clients of a member, associate, partner,
57 shareholder, or employee of the firm who is supervised by, may
58 be terminated by, or whose compensation can be changed by the
59 public officer; or

60 c. Who provide compensation to the public officer which is
61 identifiable as earned from representation of the clients.

62 2. A prohibited continuing or frequently recurring conflict
63 between a public officer's private interests and the performance
64 of his or her public duties does not exist if a member,
65 associate, partner, shareholder, or employee of the public
66 officer's firm infrequently represents a client, other than
67 those described in subparagraph 1., and if:

68 a. The jurisdiction of the board, commission, authority, or
69 council is not limited to the primary practice area of the firm;



897662

70 b. The public officer does not vote, participate, or
71 attempt to influence the outcome of the matter and he or she
72 makes full disclosure of and is in compliance with the
73 requirements of s. 112.3143 and 286.012; and

74 c. The representation by other members, associates,
75 partners, shareholders, or employees of the firm does not result
76 in the public officer abstaining from voting in more than 1
77 percent of the votes, not including procedural votes, in any 12-
78 month period. If abstentions by the public officer as a result
79 of representation by other members, associates, partners,
80 shareholders, or employees of the firm exceed 1 percent in any
81 12-month period, any such future representation shall be deemed
82 a conflict between the public officer's private interests and
83 the performance of his or her public duties for the remainder of
84 the public officer's term.

85 3. This paragraph does not relieve or discharge a public
86 officer or any other individual representing clients before a
87 board, commission, authority, or council from the applicable
88 rules of professional conduct, duties, or responsibilities
89 imposed by the appropriate licensing or regulatory body for the
90 applicable profession.

91 (c) This subsection ~~shall~~ does not prohibit a public
92 officer or employee from practicing in a particular profession
93 or occupation when such practice by persons holding such public
94 office or employment is required or permitted by law or
95 ordinance.

96
97 ===== T I T L E A M E N D M E N T =====

98 And the title is amended as follows:



897662

99 Delete line 26
100 and insert:
101 controls; amending s. 112.313, F.S.; specifying that
102 prohibitions on conflicting employment or contractual
103 relationships for public officers or employees of an
104 agency apply to contractual relationships held by
105 certain business entities; specifying circumstances
106 under which a public officer serving on a county or
107 municipal board, commission, authority, or council is
108 subject to conflicting employment or contractual
109 relationship restrictions; amending s. 112.31455,
110 F.S.; correcting a



287580

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
04/21/2015	.	
	.	
	.	
	.	

The Committee on Rules (Gaetz) recommended the following:

Senate Amendment to Amendment (897662)

Delete lines 23 - 27
and insert:
his or her public duties. For purposes of this subsection, if a public officer or employee of an agency holds a controlling interest in a business entity or is an officer, director, or a member who manages such an entity, contractual relationships held by the business entity are deemed to be held by the public officer or employee.



958928

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/21/2015	.	
	.	
	.	
	.	

The Committee on Rules (Gaetz) recommended the following:

1 **Senate Substitute for Amendment (897662) (with title**
2 **amendment)**

3
4 Between lines 382 and 383
5 insert:

6 Section 5. Subsection (7) of section 112.313, Florida
7 Statutes, is amended to read:

8 112.313 Standards of conduct for public officers, employees
9 of agencies, and local government attorneys.—

10 (7) CONFLICTING EMPLOYMENT OR CONTRACTUAL RELATIONSHIP.—

11 (a) No public officer or employee of an agency shall have



958928

12 or hold any employment or contractual relationship with any
13 business entity or any agency which is subject to the regulation
14 of, or is doing business with, an agency of which he or she is
15 an officer or employee, excluding those organizations and their
16 officers who, when acting in their official capacity, enter into
17 or negotiate a collective bargaining contract with the state or
18 any municipality, county, or other political subdivision of the
19 state; nor shall an officer or employee of an agency have or
20 hold any employment or contractual relationship that will create
21 a continuing or frequently recurring conflict between his or her
22 private interests and the performance of his or her public
23 duties or that would impede the full and faithful discharge of
24 his or her public duties. For purposes of this subsection, if a
25 public officer or employee of an agency holds a controlling
26 interest in a business entity or is an officer, director, or a
27 member who manages such an entity, contractual relationships
28 held by the business entity are deemed to be held by the public
29 officer or employee.

30 1. When the agency referred to is that certain kind of
31 special tax district created by general or special law and is
32 limited specifically to constructing, maintaining, managing, and
33 financing improvements in the land area over which the agency
34 has jurisdiction, or when the agency has been organized pursuant
35 to chapter 298, then employment with, or entering into a
36 contractual relationship with, such business entity by a public
37 officer or employee of such agency shall not be prohibited by
38 this subsection or be deemed a conflict per se. However, conduct
39 by such officer or employee that is prohibited by, or otherwise
40 frustrates the intent of, this section shall be deemed a



958928

41 conflict of interest in violation of the standards of conduct
42 set forth by this section.

43 2. When the agency referred to is a legislative body and
44 the regulatory power over the business entity resides in another
45 agency, or when the regulatory power which the legislative body
46 exercises over the business entity or agency is strictly through
47 the enactment of laws or ordinances, then employment or a
48 contractual relationship with such business entity by a public
49 officer or employee of a legislative body shall not be
50 prohibited by this subsection or be deemed a conflict.

51 (b) This subsection shall not prohibit a public officer or
52 employee from practicing in a particular profession or
53 occupation when such practice by persons holding such public
54 office or employment is required or permitted by law or
55 ordinance.

56
57 ===== T I T L E A M E N D M E N T =====

58 And the title is amended as follows:

59 Delete line 26

60 and insert:

61 controls; amending s. 112.313, F.S.; specifying that
62 prohibitions on conflicting employment or contractual
63 relationships for public officers or employees of an
64 agency apply to contractual relationships held by
65 certain business entities; amending s. 112.31455,
66 F.S.; correcting a



381578

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
04/21/2015	.	
	.	
	.	
	.	

The Committee on Rules (Gaetz) recommended the following:

Senate Amendment (with title amendment)

Delete lines 408 - 649

and insert:

Section 6. Section 112.3261, Florida Statutes, is amended to read:

112.3261 Lobbying before governmental entities ~~water management districts~~; registration and reporting.—

(1) As used in this section, the term:

(a) "Governmental entity" or "entity" ~~"District"~~ means a water management district created in s. 373.069 and operating



12 under the authority of chapter 373, a hospital district, a
13 children's services district, an expressway authority as the
14 term "authority" is defined in s. 348.0002, the term "port
15 authority" as defined in s. 315.02, a county or municipality
16 that has not adopted lobbyist registration and reporting
17 requirements, or an independent special district with annual
18 revenues of more than \$5 million which exercises ad valorem
19 taxing authority.

20 (b) "Lobbies" means seeking, on behalf of another person,
21 to influence a governmental entity ~~district~~ with respect to a
22 decision of the entity ~~district~~ in an area of policy or
23 procurement or an attempt to obtain the goodwill of an a
24 ~~district~~ official or employee of a governmental entity. The term
25 "lobbies" shall be interpreted and applied consistently with the
26 rules of the commission implementing s. 112.3215.

27 (c) "Lobbyist" has the same meaning as provided in s.
28 112.3215.

29 (d) "Principal" has the same meaning as provided in s.
30 112.3215.

31 (2) A person may not lobby a governmental entity ~~district~~
32 until such person has registered as a lobbyist with that entity
33 ~~district~~. Such registration shall be due upon initially being
34 retained to lobby and is renewable on a calendar-year basis
35 thereafter. Upon registration, the person shall provide a
36 statement signed by the principal or principal's representative
37 stating that the registrant is authorized to represent the
38 principal. The principal shall also identify and designate its
39 main business on the statement authorizing that lobbyist
40 pursuant to a classification system approved by the governmental



381578

41 entity ~~district~~. Any changes to the information required by this
42 section must be disclosed within 15 days by filing a new
43 registration form. The registration form shall require each
44 lobbyist to disclose, under oath, the following:

45 (a) The lobbyist's name and business address.

46 (b) The name and business address of each principal
47 represented.

48 (c) The existence of any direct or indirect business
49 association, partnership, or financial relationship with an
50 official ~~any officer~~ or employee of a governmental entity
51 ~~district~~ with which he or she lobbies or intends to lobby.

52 (d) A governmental entity shall create a lobbyist
53 registration form modeled after the ~~In lieu of creating its own~~
54 ~~lobbyist registration forms, a district may accept a completed~~
55 legislative branch or executive branch lobbyist registration
56 form, which must be returned to the governmental entity.

57 (3) A governmental entity ~~district~~ shall make lobbyist
58 registrations available to the public. If a governmental entity
59 ~~district~~ maintains a website, a database of currently registered
60 lobbyists and principals must be available on the entity's
61 ~~district's~~ website.

62 (4) A lobbyist shall promptly send a written statement to
63 the governmental entity ~~district~~ canceling the registration for
64 a principal upon termination of the lobbyist's representation of
65 that principal. A governmental entity ~~district~~ may remove the
66 name of a lobbyist from the list of registered lobbyists if the
67 principal notifies the entity ~~district~~ that a person is no
68 longer authorized to represent that principal.

69 (5) A governmental entity ~~district~~ may establish an annual



381578

70 lobbyist registration fee, not to exceed \$40, for each principal
71 represented. The governmental entity ~~district~~ may use
72 registration fees only to administer this section.

73 (6) A governmental entity ~~district~~ shall be diligent to
74 ascertain whether persons required to register pursuant to this
75 section have complied. A governmental entity ~~district~~ may not
76 knowingly authorize a person who is not registered pursuant to
77 this section to lobby the entity ~~district~~.

78 (7) Upon receipt of a sworn complaint alleging that a
79 lobbyist or principal has failed to register with a governmental
80 entity ~~district~~ or has knowingly submitted false information in
81 a report or registration required under this section, the
82 commission shall investigate a lobbyist or principal pursuant to
83 the procedures established under s. 112.324. The commission
84 shall provide the Governor with a report of its findings and
85 recommendations in any investigation conducted pursuant to this
86 subsection. The Governor is authorized to enforce the
87 commission's findings and recommendations.

88 (8) A governmental entity ~~Water management districts~~ may
89 adopt rules to establish procedures to govern the registration
90 of lobbyists, including the adoption of forms and the
91 establishment of a lobbyist registration fee.

92 Section 7. Paragraph (c) of subsection (3) of section
93 129.03, Florida Statutes, is amended to read:

94 129.03 Preparation and adoption of budget.-

95 (3) The county budget officer, after tentatively
96 ascertaining the proposed fiscal policies of the board for the
97 next fiscal year, shall prepare and present to the board a
98 tentative budget for the next fiscal year for each of the funds



381578

99 provided in this chapter, including all estimated receipts,
100 taxes to be levied, and balances expected to be brought forward
101 and all estimated expenditures, reserves, and balances to be
102 carried over at the end of the year.

103 (c) The board shall hold public hearings to adopt tentative
104 and final budgets pursuant to s. 200.065. The hearings shall be
105 primarily for the purpose of hearing requests and complaints
106 from the public regarding the budgets and the proposed tax
107 levies and for explaining the budget and any proposed or adopted
108 amendments. The tentative budget must be posted on the county's
109 official website at least 2 days before the public hearing to
110 consider such budget and must remain on the website for at least
111 45 days. The final budget must be posted on the website within
112 30 days after adoption and must remain on the website for at
113 least 2 years. The tentative budgets, adopted tentative budgets,
114 and final budgets shall be filed in the office of the county
115 auditor as a public record. Sufficient reference in words and
116 figures to identify the particular transactions shall be made in
117 the minutes of the board to record its actions with reference to
118 the budgets.

119 Section 8. Paragraph (f) of subsection (2) of section
120 129.06, Florida Statutes, is amended to read:

121 129.06 Execution and amendment of budget.—

122 (2) The board at any time within a fiscal year may amend a
123 budget for that year, and may within the first 60 days of a
124 fiscal year amend the budget for the prior fiscal year, as
125 follows:

126 (f) Unless otherwise prohibited by law, if an amendment to
127 a budget is required for a purpose not specifically authorized



381578

128 in paragraphs (a)-(e), the amendment may be authorized by
129 resolution or ordinance of the board of county commissioners
130 adopted following a public hearing.

131 1. The public hearing must be advertised at least 2 days,
132 but not more than 5 days, before the date of the hearing. The
133 advertisement must appear in a newspaper of paid general
134 circulation and must identify the name of the taxing authority,
135 the date, place, and time of the hearing, and the purpose of the
136 hearing. The advertisement must also identify each budgetary
137 fund to be amended, the source of the funds, the use of the
138 funds, and the total amount of each fund's appropriations.

139 2. If the board amends the budget pursuant to this
140 paragraph, the adopted amendment must be posted on the county's
141 official website within 5 days after adoption and must remain on
142 the website for at least 2 years.

143 Section 9. Subsections (3) and (5) of section 166.241,
144 Florida Statutes, are amended to read:

145 166.241 Fiscal years, budgets, and budget amendments.—

146 (3) The tentative budget must be posted on the
147 municipality's official website at least 2 days before the
148 budget hearing, held pursuant to s. 200.065 or other law, to
149 consider such budget, and must remain on the website for at
150 least 45 days. The final adopted budget must be posted on the
151 municipality's official website within 30 days after adoption
152 and must remain on the website for at least 2 years. If the
153 municipality does not operate an official website, the
154 municipality must, within a reasonable period of time as
155 established by the county or counties in which the municipality
156 is located, transmit the tentative budget and final budget to



381578

157 the manager or administrator of such county or counties who
158 shall post the budgets on the county's website.

159 (5) If the governing body of a municipality amends the
160 budget pursuant to paragraph (4)(c), the adopted amendment must
161 be posted on the official website of the municipality within 5
162 days after adoption and must remain on the website for at least
163 2 years. If the municipality does not operate an official
164 website, the municipality must, within a reasonable period of
165 time as established by the county or counties in which the
166 municipality is located, transmit the adopted amendment to the
167 manager or administrator of such county or counties who shall
168 post the adopted amendment on the county's website.

169 Section 10. Subsections (4) and (7) of section 189.016,
170 Florida Statutes, are amended to read:

171 189.016 Reports; budgets; audits.—

172 (4) The tentative budget must be posted on the special
173 district's official website at least 2 days before the budget
174 hearing, held pursuant to s. 200.065 or other law, to consider
175 such budget, and must remain on the website for at least 45
176 days. The final adopted budget must be posted on the special
177 district's official website within 30 days after adoption and
178 must remain on the website for at least 2 years. If the special
179 district does not operate an official website, the special
180 district must, within a reasonable period of time as established
181 by the local general-purpose government or governments in which
182 the special district is located or the local governing authority
183 to which the district is dependent, transmit the tentative
184 budget or final budget to the manager or administrator of the
185 local general-purpose government or the local governing



381578

186 authority. The manager or administrator shall post the tentative
187 budget or final budget on the website of the local general-
188 purpose government or governing authority. This subsection and
189 subsection (3) do not apply to water management districts as
190 defined in s. 373.019.

191 (7) If the governing body of a special district amends the
192 budget pursuant to paragraph (6) (c), the adopted amendment must
193 be posted on the official website of the special district within
194 5 days after adoption and must remain on the website for at
195 least 2 years. If the special district does not operate an
196 official website, the special district must, within a reasonable
197 period of time as established by the local general-purpose
198 government or governments in which the special district is
199 located or the local governing authority to which the district
200 is dependent, transmit the adopted amendment to the manager or
201 administrator of the local general-purpose government or
202 governing authority. The manager or administrator shall post the
203 adopted amendment on the website of the local general-purpose
204 government or governing authority.

205 Section 11. Present subsections (1) through (5) of section
206 215.425, Florida Statutes, are redesignated as subsections (2)
207 through (6), respectively, present subsection (2) and paragraph
208 (a) of present subsection (4) of that section are amended, and a
209 new subsection (1) and subsections (7) through (12) are added to
210 that section, to read:

211 215.425 Extra compensation claims prohibited; bonuses;
212 severance pay.—

213 (1) As used in this section, the term "public funds" means
214 any taxes, tuition, grants, fines, fees, or other charges or any



381578

215 other type of revenue collected by the state or any county,
216 municipality, special district, school district, Florida College
217 System institution, state university, or other separate unit of
218 government created pursuant to law, including any office,
219 department, agency, division, subdivision, political
220 subdivision, board, bureau, commission, authority, or
221 institution of such entities. The term does not include funds
222 contributed or paid to an affiliated direct-support organization
223 or citizen support organization by a private person or entity in
224 good faith and in the ordinary course of such organization's
225 business.

226
227 ===== T I T L E A M E N D M E N T =====

228 And the title is amended as follows:

229 Delete lines 30 - 36

230 and insert:

231 interests to include school districts; amending s.



533978

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/21/2015	.	
	.	
	.	
	.	

The Committee on Rules (Joyner) recommended the following:

1 **Senate Substitute for Amendment (381578) (with title**
2 **amendment)**

3
4 Delete lines 408 - 744

5 and insert:

6 Section 6. Section 112.3261, Florida Statutes, is amended
7 to read:

8 112.3261 Lobbying before governmental entities ~~water~~
9 ~~management districts~~; registration and reporting.—

10 (1) As used in this section, the term:

11 (a) "Governmental entity" or "entity" ~~"District"~~ means a



533978

12 water management district created in s. 373.069 and operating
13 under the authority of chapter 373, a hospital district, a
14 children's services district, an expressway authority as the
15 term "authority" is defined in s. 348.0002, the term "port
16 authority" as defined in s. 315.02, a county or municipality
17 that has not adopted lobbyist registration and reporting
18 requirements, or an independent special district with annual
19 revenues of more than \$5 million which exercises ad valorem
20 taxing authority.

21 (b) "Lobbies" means seeking, on behalf of another person,
22 to influence a governmental entity ~~district~~ with respect to a
23 decision of the entity ~~district~~ in an area of policy or
24 procurement or an attempt to obtain the goodwill of an a
25 ~~district~~ official or employee of a governmental entity. The term
26 "lobbies" shall be interpreted and applied consistently with the
27 rules of the commission implementing s. 112.3215.

28 (c) "Lobbyist" has the same meaning as provided in s.
29 112.3215.

30 (d) "Principal" has the same meaning as provided in s.
31 112.3215.

32 (2) A person may not lobby a governmental entity ~~district~~
33 until such person has registered as a lobbyist with that entity
34 ~~district~~. Such registration shall be due upon initially being
35 retained to lobby and is renewable on a calendar-year basis
36 thereafter. Upon registration, the person shall provide a
37 statement signed by the principal or principal's representative
38 stating that the registrant is authorized to represent the
39 principal. The principal shall also identify and designate its
40 main business on the statement authorizing that lobbyist



533978

41 pursuant to a classification system approved by the governmental
42 entity district. Any changes to the information required by this
43 section must be disclosed within 15 days by filing a new
44 registration form. The registration form shall require each
45 lobbyist to disclose, under oath, the following:

46 (a) The lobbyist's name and business address.

47 (b) The name and business address of each principal
48 represented.

49 (c) The existence of any direct or indirect business
50 association, partnership, or financial relationship with an
51 official ~~any officer~~ or employee of a governmental entity
52 ~~district~~ with which he or she lobbies or intends to lobby.

53 (d) A governmental entity shall create a lobbyist
54 registration form modeled after the ~~In lieu of creating its own~~
55 ~~lobbyist registration forms, a district may accept a completed~~
56 legislative branch or executive branch lobbyist registration
57 form, which must be returned to the governmental entity.

58 (3) A governmental entity district shall make lobbyist
59 registrations available to the public. If a governmental entity
60 ~~district~~ maintains a website, a database of currently registered
61 lobbyists and principals must be available on the entity's
62 ~~district's~~ website.

63 (4) A lobbyist shall promptly send a written statement to
64 the governmental entity district canceling the registration for
65 a principal upon termination of the lobbyist's representation of
66 that principal. A governmental entity district may remove the
67 name of a lobbyist from the list of registered lobbyists if the
68 principal notifies the entity district that a person is no
69 longer authorized to represent that principal.



533978

70 (5) A governmental entity ~~district~~ may establish an annual
71 lobbyist registration fee, not to exceed \$40, for each principal
72 represented. The governmental entity ~~district~~ may use
73 registration fees only to administer this section.

74 (6) A governmental entity ~~district~~ shall be diligent to
75 ascertain whether persons required to register pursuant to this
76 section have complied. A governmental entity ~~district~~ may not
77 knowingly authorize a person who is not registered pursuant to
78 this section to lobby the entity ~~district~~.

79 (7) Upon receipt of a sworn complaint alleging that a
80 lobbyist or principal has failed to register with a governmental
81 entity ~~district~~ or has knowingly submitted false information in
82 a report or registration required under this section, the
83 commission shall investigate a lobbyist or principal pursuant to
84 the procedures established under s. 112.324. The commission
85 shall provide the Governor with a report of its findings and
86 recommendations in any investigation conducted pursuant to this
87 subsection. The Governor is authorized to enforce the
88 commission's findings and recommendations.

89 (8) A governmental entity ~~Water management districts~~ may
90 adopt rules to establish procedures to govern the registration
91 of lobbyists, including the adoption of forms and the
92 establishment of a lobbyist registration fee.

93 Section 7. Paragraph (c) of subsection (3) of section
94 129.03, Florida Statutes, is amended to read:

95 129.03 Preparation and adoption of budget.—

96 (3) The county budget officer, after tentatively
97 ascertaining the proposed fiscal policies of the board for the
98 next fiscal year, shall prepare and present to the board a



533978

99 tentative budget for the next fiscal year for each of the funds
100 provided in this chapter, including all estimated receipts,
101 taxes to be levied, and balances expected to be brought forward
102 and all estimated expenditures, reserves, and balances to be
103 carried over at the end of the year.

104 (c) The board shall hold public hearings to adopt tentative
105 and final budgets pursuant to s. 200.065. The hearings shall be
106 primarily for the purpose of hearing requests and complaints
107 from the public regarding the budgets and the proposed tax
108 levies and for explaining the budget and any proposed or adopted
109 amendments. The tentative budget must be posted on the county's
110 official website at least 2 days before the public hearing to
111 consider such budget and must remain on the website for at least
112 45 days. The final budget must be posted on the website within
113 30 days after adoption and must remain on the website for at
114 least 2 years. The tentative budgets, adopted tentative budgets,
115 and final budgets shall be filed in the office of the county
116 auditor as a public record. Sufficient reference in words and
117 figures to identify the particular transactions shall be made in
118 the minutes of the board to record its actions with reference to
119 the budgets.

120 Section 8. Paragraph (f) of subsection (2) of section
121 129.06, Florida Statutes, is amended to read:

122 129.06 Execution and amendment of budget.—

123 (2) The board at any time within a fiscal year may amend a
124 budget for that year, and may within the first 60 days of a
125 fiscal year amend the budget for the prior fiscal year, as
126 follows:

127 (f) Unless otherwise prohibited by law, if an amendment to



533978

128 a budget is required for a purpose not specifically authorized
129 in paragraphs (a)-(e), the amendment may be authorized by
130 resolution or ordinance of the board of county commissioners
131 adopted following a public hearing.

132 1. The public hearing must be advertised at least 2 days,
133 but not more than 5 days, before the date of the hearing. The
134 advertisement must appear in a newspaper of paid general
135 circulation and must identify the name of the taxing authority,
136 the date, place, and time of the hearing, and the purpose of the
137 hearing. The advertisement must also identify each budgetary
138 fund to be amended, the source of the funds, the use of the
139 funds, and the total amount of each fund's appropriations.

140 2. If the board amends the budget pursuant to this
141 paragraph, the adopted amendment must be posted on the county's
142 official website within 5 days after adoption and must remain on
143 the website for at least 2 years.

144 Section 9. Subsections (3) and (5) of section 166.241,
145 Florida Statutes, are amended to read:

146 166.241 Fiscal years, budgets, and budget amendments.—

147 (3) The tentative budget must be posted on the
148 municipality's official website at least 2 days before the
149 budget hearing, held pursuant to s. 200.065 or other law, to
150 consider such budget, and must remain on the website for at
151 least 45 days. The final adopted budget must be posted on the
152 municipality's official website within 30 days after adoption
153 and must remain on the website for at least 2 years. If the
154 municipality does not operate an official website, the
155 municipality must, within a reasonable period of time as
156 established by the county or counties in which the municipality



533978

157 is located, transmit the tentative budget and final budget to
158 the manager or administrator of such county or counties who
159 shall post the budgets on the county's website.

160 (5) If the governing body of a municipality amends the
161 budget pursuant to paragraph (4) (c), the adopted amendment must
162 be posted on the official website of the municipality within 5
163 days after adoption and must remain on the website for at least
164 2 years. If the municipality does not operate an official
165 website, the municipality must, within a reasonable period of
166 time as established by the county or counties in which the
167 municipality is located, transmit the adopted amendment to the
168 manager or administrator of such county or counties who shall
169 post the adopted amendment on the county's website.

170 Section 10. Subsections (4) and (7) of section 189.016,
171 Florida Statutes, are amended to read:

172 189.016 Reports; budgets; audits.—

173 (4) The tentative budget must be posted on the special
174 district's official website at least 2 days before the budget
175 hearing, held pursuant to s. 200.065 or other law, to consider
176 such budget, and must remain on the website for at least 45
177 days. The final adopted budget must be posted on the special
178 district's official website within 30 days after adoption and
179 must remain on the website for at least 2 years. If the special
180 district does not operate an official website, the special
181 district must, within a reasonable period of time as established
182 by the local general-purpose government or governments in which
183 the special district is located or the local governing authority
184 to which the district is dependent, transmit the tentative
185 budget or final budget to the manager or administrator of the



533978

186 local general-purpose government or the local governing
187 authority. The manager or administrator shall post the tentative
188 budget or final budget on the website of the local general-
189 purpose government or governing authority. This subsection and
190 subsection (3) do not apply to water management districts as
191 defined in s. 373.019.

192 (7) If the governing body of a special district amends the
193 budget pursuant to paragraph (6)(c), the adopted amendment must
194 be posted on the official website of the special district within
195 5 days after adoption and must remain on the website for at
196 least 2 years. If the special district does not operate an
197 official website, the special district must, within a reasonable
198 period of time as established by the local general-purpose
199 government or governments in which the special district is
200 located or the local governing authority to which the district
201 is dependent, transmit the adopted amendment to the manager or
202 administrator of the local general-purpose government or
203 governing authority. The manager or administrator shall post the
204 adopted amendment on the website of the local general-purpose
205 government or governing authority.

206 Section 11. Present subsection (1) of section 215.425,
207 Florida Statutes, is redesignated as subsection (2), present
208 subsection (2) and paragraph (a) of subsection (4) are amended,
209 and a new subsection (1) and subsections (6) through (12) are
210 added to that section, to read:

211 215.425 Extra compensation claims prohibited; bonuses;
212 severance pay.—

213 (1) As used in this section, the term "public funds" means
214 any taxes, tuition, state grants, fines, fees, or other charges



533978

215 or any other type of revenue collected by the state or any
216 county, municipality, special district, school district, Florida
217 College System institution, state university, or other separate
218 unit of government created pursuant to law, including any
219 office, department, agency, division, subdivision, political
220 subdivision, board, bureau, or commission of such entities.

221 However, the term does not include the following:

222 (a) For state universities, revenues received by, through,
223 or from faculty practice plans, health services support
224 organizations, hospitals with which state universities are
225 affiliated, direct-support organizations, or federal, auxiliary,
226 or private sources, except for tuition;

227 (b) For public hospitals, special districts, and Florida
228 College System institutions, revenues and fees received from
229 non-state appropriated sources or other general non-tax
230 revenues; or

231 (c) A clothing and maintenance allowance given to
232 plainclothes deputies pursuant to s. 30.49.

233 ~~(2) This section does not apply to:~~

234 ~~(a) A bonus or severance pay that is paid wholly from~~
235 ~~nontax revenues and nonstate-appropriated funds, the payment and~~
236 ~~receipt of which does not otherwise violate part III of chapter~~
237 ~~112, and which is paid to an officer, agent, employee, or~~
238 ~~contractor of a public hospital that is operated by a county or~~
239 ~~a special district; or~~

240 ~~(b) A clothing and maintenance allowance given to~~
241 ~~plainclothes deputies pursuant to s. 30.49.~~

242 (4) (a) On or after July 1, 2011, A unit of government, on
243 or after July 1, 2011, or a state university, on or after July



533978

244 1, 2012, that is a party to ~~enters into~~ a contract or employment
245 agreement, or renewal or renegotiation of an existing contract
246 or employment agreement, that contains a provision for severance
247 pay with an officer, agent, employee, or contractor must include
248 the following provisions in the contract:

249 1. A requirement that severance pay paid from public funds
250 ~~provided~~ may not exceed an amount greater than 20 weeks of
251 compensation.

252 2. A prohibition of provision of severance pay paid from
253 public funds when the officer, agent, employee, or contractor
254 has been fired for misconduct, as defined in s. 443.036(29), by
255 the unit of government.

256 (6) Upon discovery or notification that a unit of
257 government has provided prohibited compensation to any officer,
258 agent, employee, or contractor in violation of this section,
259 such unit of government shall investigate and take all necessary
260 action to recover the prohibited compensation.

261 (a) If the violation was unintentional, the unit of
262 government shall recover the prohibited compensation from the
263 individual receiving the prohibited compensation through normal
264 recovery methods for overpayments.

265 (b) If the violation was willful, the unit of government
266 shall recover the prohibited compensation from either the
267 individual receiving the prohibited compensation or the
268 individual or individuals responsible for approving the
269 prohibited compensation. Each individual determined to have
270 willfully violated this section is jointly and severally liable
271 for repayment of the prohibited compensation.

272 (7) A person who willfully violates this section commits a



533978

273 misdemeanor of the first degree, punishable as provided in s.
274 775.082 or s. 775.083.

275 (8) An officer who exercises the powers and duties of a
276 state or county officer and willfully violates this section is
277 subject to the Governor's power under s. 7(a), Art. IV of the
278 State Constitution. An officer who exercises powers and duties
279 other than those of a state or county officer and willfully
280 violates this section is subject to the suspension and removal
281 procedures under s. 112.51.

282 (9) (a) A person who reports a violation of this section is
283 eligible for a reward of at least \$500, or the lesser of 10
284 percent of the funds recovered or \$10,000 per incident of a
285 prohibited compensation payment recovered by the unit of
286 government, depending upon the extent to which the person
287 substantially contributed to the discovery, notification, and
288 recovery of such prohibited payment.

289 (b) In the event that the recovery of the prohibited
290 compensation is based primarily on disclosures of specific
291 information, other than information provided by such person,
292 relating to allegations or transactions in a criminal, civil, or
293 administrative hearing; in a legislative, administrative,
294 inspector general, or other government report; in an auditor
295 general report, hearing, audit, or investigation; or from the
296 news media, such person is not eligible for a reward or for an
297 award of a portion of the proceeds or payment of attorney fees
298 and costs pursuant to s. 68.085.

299 (c) If it is determined that the person who reported a
300 violation of this section was involved in the authorization,
301 approval, or receipt of the prohibited compensation or is



533978

302 convicted of criminal conduct arising from his or her role in
303 the authorization, approval, or receipt of the prohibited
304 compensation, such person is not eligible for a reward or for an
305 award of a portion of the proceeds or payment of attorney fees
306 and costs pursuant to s. 68.085.

307 (10) An employee who is discharged, demoted, suspended,
308 threatened, harassed, or in any manner discriminated against in
309 the terms and conditions of employment by his or her employer
310 because of lawful acts done by the employee on behalf of the
311 employee or others in furtherance of an action under this
312 section, including investigation for initiation of, testimony
313 for, or assistance in an action filed or to be filed under this
314 section, has a cause of action under s. 112.3187.

315 (11) If the unit of government fails to recover prohibited
316 compensation for a willful violation of this section upon
317 discovery and notification of such prohibited payment within 90
318 days, a cause of action may be brought to:

319 (a) Recover state funds in accordance with ss. 68.082 and
320 68.083.

321 (b) Recover other funds by the Department of Legal Affairs
322 using the procedures set forth in ss. 68.082 and 68.083, except
323 that venue shall lie in the circuit court of the county in which
324 the unit of government is located.

325 (c) Recover other funds by a person using the procedures
326 set forth in ss. 68.082 and 68.083, except that venue shall lie
327 in the circuit court of the county in which the unit of
328 government is located.

329 (12) Subsections (7)-(11) apply prospectively to contracts
330 or employment agreements, or the renewal or renegotiation of an



331 existing contract or employment agreement, effective on or after
332 July 1, 2015.

333

334 ===== T I T L E A M E N D M E N T =====

335 And the title is amended as follows:

336 Delete lines 30 - 58

337 and insert:

338 interests to include school districts; amending s.
339 112.3261, F.S.; revising terms to conform to changes
340 made by the act; expanding the types of governmental
341 entities that are subject to lobbyist registration
342 requirements; requiring a governmental entity to
343 create a lobbyist registration form; amending ss.
344 129.03, 129.06, 166.241, and 189.016, F.S.; requiring
345 counties, municipalities, and special districts to
346 maintain certain budget documents on the entities'
347 websites for a specified period; amending s. 215.425,
348 F.S.; defining the term "public funds"; requiring
349 certain contracts to which a unit of government or
350 state university is a party during a specified period
351 to contain certain prohibitions on severance pay;
352 requiring a unit of government to investigate and take
353 necessary action to recover prohibited compensation;
354 specifying methods of recovery and liability for
355 unintentional and willful violations; providing a
356 penalty; specifying applicability of procedures
357 regarding suspension and removal of an officer who
358 commits a willful violation; establishing eligibility
359 criteria and amounts for rewards; specifying



533978

360 | circumstances under which an employee has a cause of
361 | action under the Whistle-blower's Act; establishing
362 | causes of action if a unit of government fails to
363 | recover prohibited compensation within a certain
364 | timeframe; providing applicability;



278496

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/21/2015	.	
	.	
	.	
	.	

The Committee on Rules (Gaetz) recommended the following:

1 **Senate Amendment to Amendment (533978) (with title**
2 **amendment)**

3
4 Delete lines 206 - 332

5 and insert:

6 Section 11. Present subsections (1) through (5) of section
7 215.425, Florida Statutes, are redesignated as subsections (2)
8 through (6), respectively, present subsection (2) and paragraph
9 (a) of present subsection (4) of that section are amended, and a
10 new subsection (1) and subsections (7) through (12) are added to
11 that section, to read:



278496

12 215.425 Extra compensation claims prohibited; bonuses;
13 severance pay.—

14 (1) As used in this section, the term "public funds" means
15 any taxes, tuition, grants, fines, fees, or other charges or any
16 other type of revenue collected by the state or any county,
17 municipality, special district, school district, Florida College
18 System institution, state university, or other separate unit of
19 government created pursuant to law, including any office,
20 department, agency, division, subdivision, political
21 subdivision, board, bureau, or commission of such entities.

22 (3)~~(2)~~ Notwithstanding subsection (2), if the payment and
23 receipt does not otherwise violate part III of chapter 112, the
24 following funds may be used to provide extra compensation:

25 (a) Revenues received by state universities through or from
26 faculty practice plans; health services support organizations;
27 hospitals with which state universities are affiliated; direct-
28 support organizations; or federal, auxiliary, or private
29 sources, except for tuition;

30 (b) Revenues received by Florida College System
31 institutions through or from faculty practice plans; health
32 services support organizations; direct-support organizations; or
33 federal, auxiliary, or private sources, except for tuition;

34 (c) Revenues that are received by a hospital licensed under
35 chapter 395 which has entered into a Medicaid Provider Contract
36 and that:

37 1. Are not derived from the levy of an ad valorem tax;

38 2. Are not derived from patient services paid through the
39 Medicaid or Medicare program;

40 3. Are derived from patient services pursuant to contracts



278496

41 with private insurers or private managed care entities; or
42 4. Are not appropriated by the Legislature or by any
43 county, municipality, special district, school district, Florida
44 College System institution, state university, or other separate
45 unit of government created pursuant to law, including any
46 office, department, agency, division, subdivision, political
47 subdivision, board, bureau, commission, authority, or
48 institution of such entities, except for revenues otherwise
49 authorized to be used pursuant to subparagraphs 2. and 3.

50 ~~This section does not apply to:~~

51 ~~(a) a bonus or severance pay that is paid wholly from~~
52 ~~non-tax revenues and nonstate-appropriated funds, the payment and~~
53 ~~receipt of which does not otherwise violate part III of chapter~~
54 ~~112, and which is paid to an officer, agent, employee, or~~
55 ~~contractor of a public hospital that is operated by a county or~~
56 ~~a special district; or~~

57 ~~(d)(b)~~ A clothing and maintenance allowance given to
58 plainclothes deputies pursuant to s. 30.49.

59 (e) Revenues or fees received by a seaport or airport from
60 sources other than through the levy of a tax, or funds
61 appropriated by any county or municipality or the Legislature.

62 (5) (a) (4) (a) On or after July 1, 2011, A unit of
63 government, on or after July 1, 2011, or a state university, on
64 or after July 1, 2012, that is a party to enters into a contract
65 or employment agreement, or renewal or renegotiation of an
66 existing contract or employment agreement, that contains a
67 provision for severance pay with an officer, agent, employee, or
68 contractor must include the following provisions in the
69 contract:



278496

70 1. A requirement that severance pay paid from public funds
71 ~~provided~~ may not exceed an amount greater than 20 weeks of
72 compensation.

73 2. A prohibition of provision of severance pay paid from
74 public funds when the officer, agent, employee, or contractor
75 has been fired for misconduct, as defined in s. 443.036(29), by
76 the unit of government.

77 (7) Upon discovery or notification that a unit of
78 government has provided prohibited compensation to any officer,
79 agent, employee, or contractor in violation of this section,
80 such unit of government shall investigate and take all necessary
81 action to recover the prohibited compensation.

82 (a) If the violation was unintentional, the unit of
83 government shall recover the prohibited compensation from the
84 individual receiving the prohibited compensation through normal
85 recovery methods for overpayments.

86 (b) If the violation was willful, the unit of government
87 shall recover the prohibited compensation from either the
88 individual receiving the prohibited compensation or the
89 individual or individuals responsible for approving the
90 prohibited compensation. Each individual determined to have
91 willfully violated this section is jointly and severally liable
92 for repayment of the prohibited compensation.

93 (8) A person who willfully violates this section commits a
94 misdemeanor of the first degree, punishable as provided in s.
95 775.082 or s. 775.083.

96 (9) An officer who exercises the powers and duties of a
97 state or county officer and willfully violates this section is
98 subject to the Governor's power under s. 7(a), Art. IV of the



278496

99 State Constitution. An officer who exercises powers and duties
100 other than those of a state or county officer and willfully
101 violates this section is subject to the suspension and removal
102 procedures under s. 112.51.

103 (10) (a) A person who reports a violation of this section is
104 eligible for a reward of at least \$500, or the lesser of 10
105 percent of the funds recovered or \$10,000 per incident of a
106 prohibited compensation payment recovered by the unit of
107 government, depending upon the extent to which the person
108 substantially contributed to the discovery, notification, and
109 recovery of such prohibited payment.

110 (b) In the event that the recovery of the prohibited
111 compensation is based primarily on disclosures of specific
112 information, other than information provided by such person,
113 relating to allegations or transactions in a criminal, civil, or
114 administrative hearing; in a legislative, administrative,
115 inspector general, or other government report; in an auditor
116 general report, hearing, audit, or investigation; or from the
117 news media, such person is not eligible for a reward, or for an
118 award of a portion of the proceeds or payment of attorney fees
119 and costs pursuant to s. 68.085.

120 (c) If it is determined that the person who reported a
121 violation of this section was involved in the authorization,
122 approval, or receipt of the prohibited compensation or is
123 convicted of criminal conduct arising from his or her role in
124 the authorization, approval, or receipt of the prohibited
125 compensation, such person is not eligible for a reward, or for
126 an award of a portion of the proceeds or payment of attorney
127 fees and costs pursuant to s. 68.085.



278496

128 (11) An employee who is discharged, demoted, suspended,
129 threatened, harassed, or in any manner discriminated against in
130 the terms and conditions of employment by his or her employer
131 because of lawful acts done by the employee on behalf of the
132 employee or others in furtherance of an action under this
133 section, including investigation for initiation of, testimony
134 for, or assistance in an action filed or to be filed under this
135 section, has a cause of action under s. 112.3187.

136 (12) If the unit of government fails to recover prohibited
137 compensation for a willful violation of this section upon
138 discovery and notification of such prohibited payment within 90
139 days, a cause of action may be brought to:

140 (a) Recover state funds in accordance with ss. 68.082 and
141 68.083.

142 (b) Recover other funds by the Department of Legal Affairs
143 using the procedures set forth in ss. 68.082 and 68.083, except
144 that venue shall lie in the circuit court of the county in which
145 the unit of government is located.

146 (c) Recover other funds by a person using the procedures
147 set forth in ss. 68.082 and 68.083, except that venue shall lie
148 in the circuit court of the county in which the unit of
149 government is located.

150 (13) Subsections (7)-(12) apply prospectively to contracts
151 or employment agreements, or the renewal or renegotiation of an
152 existing contract or employment agreement, effective on or after
153 July 1, 2015.

154
155 ===== T I T L E A M E N D M E N T =====

156 And the title is amended as follows:



278496

157 Delete lines 348 - 364
158 and insert:
159 F.S.; defining the term "public funds"; revising
160 nonapplicability to the prohibition on extra
161 compensation claims; requiring certain contracts to
162 which a unit of government or state university is a
163 party during a specified period to contain certain
164 prohibitions on severance pay; requiring a unit of
165 government to investigate and take necessary action to
166 recover prohibited compensation; specifying methods of
167 recovery and liability for unintentional and willful
168 violations; providing a penalty; specifying
169 applicability of procedures regarding suspension and
170 removal of an officer who commits a willful violation;
171 establishing eligibility criteria and amounts for
172 rewards; specifying circumstances under which an
173 employee has a cause of action under the Whistle-
174 blower's Act; establishing causes of action if a unit
175 of government fails to recover prohibited compensation
176 within a certain timeframe; providing for
177 applicability;

By the Committees on Community Affairs; and Ethics and
Elections; and Senator Gaetz

578-03181-15

20151372c2

1 A bill to be entitled
2 An act relating to government accountability; amending
3 s. 11.40, F.S.; specifying that the Governor, the
4 Commissioner of Education, or the designee of the
5 Governor or of the Commissioner of Education may
6 notify the Legislative Auditing Committee of an
7 entity's failure to comply with certain auditing and
8 financial reporting requirements; amending s. 11.45,
9 F.S.; defining the terms "abuse," "fraud," and
10 "waste"; revising the definition of the term "local
11 governmental entity"; excluding water management
12 districts from certain audit requirements; removing a
13 cross-reference; authorizing the Auditor General to
14 conduct audits of tourist development councils and
15 county tourism promotion agencies; revising reporting
16 requirements applicable to the Auditor General;
17 amending s. 28.35, F.S.; revising reporting
18 requirements applicable to the Florida Clerks of Court
19 Operations Corporation; amending s. 43.16, F.S.;
20 revising the responsibilities of the Justice
21 Administrative Commission, each state attorney, each
22 public defender, a criminal conflict and civil
23 regional counsel, a capital collateral regional
24 counsel, and the Guardian Ad Litem Program, to include
25 the establishment and maintenance of certain internal
26 controls; amending s. 112.31455, F.S.; correcting a
27 cross-reference; revising provisions governing
28 collection methods for unpaid automatic fines for
29 failure to timely file disclosure of financial

Page 1 of 46

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

578-03181-15

20151372c2

30 interests to include school districts; creating s.
31 112.31456, F.S.; authorizing the Commission on Ethics
32 to seek wage garnishment of certain individuals to
33 satisfy unpaid fines; authorizing the commission to
34 refer unpaid fines to a collection agency;
35 establishing a statute of limitations with respect to
36 the collection of an unpaid fine; amending s.
37 112.3261, F.S.; revising terms to conform to changes
38 made by the act; expanding the types of governmental
39 entities that are subject to lobbyist registration
40 requirements; requiring a governmental entity to
41 create a lobbyist registration form; amending ss.
42 129.03, 129.06, 166.241, and 189.016, F.S.; requiring
43 counties, municipalities, and special districts to
44 maintain certain budget documents on the entities'
45 websites for a specified period; amending s. 215.425,
46 F.S.; defining the term "public funds"; requiring a
47 unit of government to investigate and take necessary
48 action to recover prohibited compensation; specifying
49 methods of recovery and liability for unintentional
50 and willful violations; providing a penalty;
51 specifying applicability of procedures regarding
52 suspension and removal of an officer who commits a
53 willful violation; establishing eligibility criteria
54 and amounts for rewards; specifying circumstances
55 under which an employee has a cause of action under
56 the Whistle-blower's Act; establishing causes of
57 action if a unit of government fails to recover
58 prohibited compensation within a certain timeframe;

Page 2 of 46

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

578-03181-15

20151372c2

59 amending s. 215.86, F.S.; revising management systems
60 and controls to be employed by each state agency and
61 the judicial branch; amending s. 215.97, F.S.;
62 revising the definition of the term "audit threshold";
63 amending s. 215.985, F.S.; revising the requirements
64 for a monthly financial statement provided by a water
65 management district; amending s. 218.32, F.S.;
66 revising the requirements of the annual financial
67 audit report of a local governmental entity;
68 authorizing the Department of Financial Services to
69 request additional information from a local
70 governmental entity; requiring a local governmental
71 entity to respond to such requests within a specified
72 timeframe; requiring the department to notify the
73 Legislative Auditing Committee of noncompliance;
74 amending s. 218.33, F.S.; requiring local governmental
75 entities to establish and maintain internal controls;
76 amending s. 218.39, F.S.; requiring an audited entity
77 to respond to audit recommendations under specified
78 circumstances; amending s. 218.391, F.S.; revising the
79 composition of an audit committee; prohibiting an
80 audit committee member from being an employee, chief
81 executive officer, or chief financial officer of the
82 respective governmental entity; requiring the chair of
83 an audit committee to sign and execute an affidavit
84 affirming compliance with auditor selection
85 procedures; prescribing procedures in the event of
86 noncompliance with auditor selection procedures;
87 amending s. 288.92, F.S.; prohibiting specified

Page 3 of 46

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

578-03181-15

20151372c2

88 officers and board members of Enterprise Florida,
89 Inc., from representing a person or entity for
90 compensation before Enterprise Florida, Inc., and
91 associated entities thereof, for a specified
92 timeframe; amending s. 288.9604, F.S.; prohibiting a
93 director of the board of directors of the Florida
94 Development Finance Corporation from representing a
95 person or entity for compensation before the
96 corporation for a specified timeframe; amending s.
97 373.536, F.S.; deleting obsolete language; requiring
98 water management districts to maintain certain budget
99 documents on the districts' websites for a specified
100 period; amending s. 1002.33, F.S.; revising the
101 responsibilities of the governing board of a charter
102 school to include the establishment and maintenance of
103 internal controls; amending s. 1002.37, F.S.;
104 requiring completion of an annual financial audit of
105 the Florida Virtual School; specifying audit
106 requirements; requiring an audit report to be
107 submitted to the board of trustees of the Florida
108 Virtual School and the Auditor General; removing
109 obsolete provisions; amending s. 1010.01, F.S.;
110 requiring each school district, Florida College System
111 institution, and state university to establish and
112 maintain certain internal controls; amending s.
113 1010.30, F.S.; requiring a district school board,
114 Florida College System institution board of trustees,
115 or university board of trustees to respond to audit
116 recommendations under certain circumstances; amending

Page 4 of 46

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

578-03181-15

20151372c2

117 ss. 68.082, 68.083, 218.503, and 1002.455, F.S.;

118 conforming provisions and cross-references to changes

119 made by the act; declaring that the act fulfills an

120 important state interest; providing an effective date.

121

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

123

124 Section 1. Subsection (2) of section 11.40, Florida

125 Statutes, is amended to read:

126 11.40 Legislative Auditing Committee.—

127 (2) Following notification by the Auditor General, the

128 Department of Financial Services, ~~or~~ the Division of Bond

129 Finance of the State Board of Administration, the Governor or

130 his or her designee, or the Commissioner of Education or his or

131 her designee of the failure of a local governmental entity,

132 district school board, charter school, or charter technical

133 career center to comply with the applicable provisions within s.

134 11.45(5)-(7), s. 218.32(1), s. 218.38, or s. 218.503(3), the

135 Legislative Auditing Committee may schedule a hearing to

136 determine if the entity should be subject to further state

137 action. If the committee determines that the entity should be

138 subject to further state action, the committee shall:

139 (a) In the case of a local governmental entity or district

140 school board, direct the Department of Revenue and the

141 Department of Financial Services to withhold any funds not

142 pledged for bond debt service satisfaction which are payable to

143 such entity until the entity complies with the law. The

144 committee shall specify the date such action shall begin, and

145 the directive must be received by the Department of Revenue and

Page 5 of 46

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

578-03181-15

20151372c2

146 the Department of Financial Services 30 days before the date of

147 the distribution mandated by law. The Department of Revenue and

148 the Department of Financial Services may implement the

149 provisions of this paragraph.

150 (b) In the case of a special district created by:

151 1. A special act, notify the President of the Senate, the

152 Speaker of the House of Representatives, the standing committees

153 of the Senate and the House of Representatives charged with

154 special district oversight as determined by the presiding

155 officers of each respective chamber, the legislators who

156 represent a portion of the geographical jurisdiction of the

157 special district pursuant to s. 189.034(2), and the Department

158 of Economic Opportunity that the special district has failed to

159 comply with the law. Upon receipt of notification, the

160 Department of Economic Opportunity shall proceed pursuant to s.

161 189.062 or s. 189.067. If the special district remains in

162 noncompliance after the process set forth in s. 189.034(3), or

163 if a public hearing is not held, the Legislative Auditing

164 Committee may request the department to proceed pursuant to s.

165 189.067(3).

166 2. A local ordinance, notify the chair or equivalent of the

167 local general-purpose government pursuant to s. 189.035(2) and

168 the Department of Economic Opportunity that the special district

169 has failed to comply with the law. Upon receipt of notification,

170 the department shall proceed pursuant to s. 189.062 or s.

171 189.067. If the special district remains in noncompliance after

172 the process set forth in s. 189.034(3), or if a public hearing

173 is not held, the Legislative Auditing Committee may request the

174 department to proceed pursuant to s. 189.067(3).

Page 6 of 46

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

578-03181-15

20151372c2

175 3. Any manner other than a special act or local ordinance,
 176 notify the Department of Economic Opportunity that the special
 177 district has failed to comply with the law. Upon receipt of
 178 notification, the department shall proceed pursuant to s.
 179 189.062 or s. 189.067(3).

180 (c) In the case of a charter school or charter technical
 181 career center, notify the appropriate sponsoring entity, which
 182 may terminate the charter pursuant to ss. 1002.33 and 1002.34.

183 Section 2. Subsection (1), paragraph (j) of subsection (2),
 184 paragraph (v) of subsection (3), and paragraph (i) of subsection
 185 (7) of section 11.45, Florida Statutes, are amended, and
 186 paragraph (y) is added to subsection (3) of that section, to
 187 read:

188 11.45 Definitions; duties; authorities; reports; rules.—

189 (1) DEFINITIONS.—As used in ss. 11.40-11.51, the term:

190 (a) "Abuse" means behavior that is deficient or improper
 191 when compared with behavior that a prudent person would consider
 192 reasonable and necessary operational practice given the facts
 193 and circumstances. The term includes the misuse of authority or
 194 position for personal gain.

195 ~~(b)(a)~~ "Audit" means a financial audit, operational audit,
 196 or performance audit.

197 ~~(c)(b)~~ "County agency" means a board of county
 198 commissioners or other legislative and governing body of a
 199 county, however styled, including that of a consolidated or
 200 metropolitan government, a clerk of the circuit court, a
 201 separate or ex officio clerk of the county court, a sheriff, a
 202 property appraiser, a tax collector, a supervisor of elections,
 203 or any other officer in whom any portion of the fiscal duties of

578-03181-15

20151372c2

204 the above are under law separately placed.

205 ~~(d)(e)~~ "Financial audit" means an examination of financial
 206 statements in order to express an opinion on the fairness with
 207 which they are presented in conformity with generally accepted
 208 accounting principles and an examination to determine whether
 209 operations are properly conducted in accordance with legal and
 210 regulatory requirements. Financial audits must be conducted in
 211 accordance with auditing standards generally accepted in the
 212 United States and government auditing standards as adopted by
 213 the Board of Accountancy. When applicable, the scope of
 214 financial audits shall encompass the additional activities
 215 necessary to establish compliance with the Single Audit Act
 216 Amendments of 1996, 31 U.S.C. ss. 7501-7507, and other
 217 applicable federal law.

218 (e) "Fraud" means obtaining something of value through
 219 willful misrepresentation, including, but not limited to, the
 220 intentional misstatements or omissions of amounts or disclosures
 221 in financial statements to deceive users of financial
 222 statements, theft of an entity's assets, bribery, or the use of
 223 one's position for personal enrichment through the deliberate
 224 misuse or misapplication of an organization's resources.

225 ~~(f)(d)~~ "Governmental entity" means a state agency, a county
 226 agency, or any other entity, however styled, that independently
 227 exercises any type of state or local governmental function.

228 ~~(g)(e)~~ "Local governmental entity" means a county agency,
 229 municipality, tourist development council, county tourism
 230 promotion agency, or special district as defined in s. 189.012.
 231 ~~The term, but~~ does not include any housing authority established
 232 under chapter 421.

578-03181-15

20151372c2

233 ~~(h)(f)~~ "Management letter" means a statement of the
234 auditor's comments and recommendations.

235 ~~(i)(g)~~ "Operational audit" means an audit whose purpose is
236 to evaluate management's performance in establishing and
237 maintaining internal controls, including controls designed to
238 prevent and detect fraud, waste, and abuse, and in administering
239 assigned responsibilities in accordance with applicable laws,
240 administrative rules, contracts, grant agreements, and other
241 guidelines. Operational audits must be conducted in accordance
242 with government auditing standards. Such audits examine internal
243 controls that are designed and placed in operation to promote
244 and encourage the achievement of management's control objectives
245 in the categories of compliance, economic and efficient
246 operations, reliability of financial records and reports, and
247 safeguarding of assets, and identify weaknesses in those
248 internal controls.

249 ~~(j)(h)~~ "Performance audit" means an examination of a
250 program, activity, or function of a governmental entity,
251 conducted in accordance with applicable government auditing
252 standards or auditing and evaluation standards of other
253 appropriate authoritative bodies. The term includes an
254 examination of issues related to:

- 255 1. Economy, efficiency, or effectiveness of the program.
- 256 2. Structure or design of the program to accomplish its
257 goals and objectives.
- 258 3. Adequacy of the program to meet the needs identified by
259 the Legislature or governing body.
- 260 4. Alternative methods of providing program services or
261 products.

578-03181-15

20151372c2

262 5. Goals, objectives, and performance measures used by the
263 agency to monitor and report program accomplishments.

264 6. The accuracy or adequacy of public documents, reports,
265 or requests prepared under the program by state agencies.

266 7. Compliance of the program with appropriate policies,
267 rules, or laws.

268 8. Any other issues related to governmental entities as
269 directed by the Legislative Auditing Committee.

270 ~~(k)(i)~~ "Political subdivision" means a separate agency or
271 unit of local government created or established by law and
272 includes, but is not limited to, the following and the officers
273 thereof: authority, board, branch, bureau, city, commission,
274 consolidated government, county, department, district,
275 institution, metropolitan government, municipality, office,
276 officer, public corporation, town, or village.

277 ~~(l)(j)~~ "State agency" means a separate agency or unit of
278 state government created or established by law and includes, but
279 is not limited to, the following and the officers thereof:
280 authority, board, branch, bureau, commission, department,
281 division, institution, office, officer, or public corporation,
282 as the case may be, except any such agency or unit within the
283 legislative branch of state government other than the Florida
284 Public Service Commission.

285 (m) "Waste" means the act of using or expending resources
286 unreasonably, carelessly, extravagantly, or for no useful
287 purpose.

288 (2) DUTIES.—The Auditor General shall:

289 (j) Conduct audits of local governmental entities when
290 determined to be necessary by the Auditor General, when directed

578-03181-15

20151372c2

291 by the Legislative Auditing Committee, or when otherwise
 292 required by law. No later than 18 months after the release of
 293 the audit report, the Auditor General shall perform such
 294 appropriate followup procedures as he or she deems necessary to
 295 determine the audited entity's progress in addressing the
 296 findings and recommendations contained within the Auditor
 297 General's previous report. The Auditor General shall notify each
 298 member of the audited entity's governing body and the
 299 Legislative Auditing Committee of the results of his or her
 300 determination. For purposes of this paragraph, local
 301 governmental entities do not include water management districts.

302 The Auditor General shall perform his or her duties
 303 independently but under the general policies established by the
 304 Legislative Auditing Committee. This subsection does not limit
 305 the Auditor General's discretionary authority to conduct other
 306 audits or engagements of governmental entities as authorized in
 307 subsection (3).
 308

309 (3) AUTHORITY FOR AUDITS AND OTHER ENGAGEMENTS.—The Auditor
 310 General may, pursuant to his or her own authority, or at the
 311 direction of the Legislative Auditing Committee, conduct audits
 312 or other engagements as determined appropriate by the Auditor
 313 General of:

314 (v) The Florida Virtual School ~~pursuant to s. 1002.37.~~

315 (y) Tourist development councils and county tourism
 316 promotion agencies.

317 (7) AUDITOR GENERAL REPORTING REQUIREMENTS.—

318 (i) The Auditor General shall annually transmit by July 15,
 319 to the President of the Senate, the Speaker of the House of

578-03181-15

20151372c2

320 Representatives, and the Department of Financial Services, a
 321 list of all school districts, charter schools, charter technical
 322 career centers, Florida College System institutions, state
 323 universities, and local governmental entities ~~water management~~
 324 ~~districts~~ that have failed to comply with the transparency
 325 requirements as identified in the audit reports reviewed
 326 pursuant to paragraph (b) and those conducted pursuant to
 327 subsection (2).

328 Section 3. Paragraph (d) of subsection (2) of section
 329 28.35, Florida Statutes, is amended to read:

330 28.35 Florida Clerks of Court Operations Corporation.—

331 (2) The duties of the corporation shall include the
 332 following:

333 (d) Developing and certifying a uniform system of workload
 334 measures and applicable workload standards for court-related
 335 functions as developed by the corporation and clerk workload
 336 performance in meeting the workload performance standards. These
 337 workload measures and workload performance standards shall be
 338 designed to facilitate an objective determination of the
 339 performance of each clerk in accordance with minimum standards
 340 for fiscal management, operational efficiency, and effective
 341 collection of fines, fees, service charges, and court costs. The
 342 corporation shall develop the workload measures and workload
 343 performance standards in consultation with the Legislature. When
 344 the corporation finds a clerk has not met the workload
 345 performance standards, the corporation shall identify the nature
 346 of each deficiency and any corrective action recommended and
 347 taken by the affected clerk of the court. For quarterly periods
 348 ending on the last day of March, June, September, and December

578-03181-15 20151372c2

349 of each year, the corporation shall notify the Legislature of
 350 any clerk not meeting workload performance standards and provide
 351 a copy of any corrective action plans. Such notifications shall
 352 be submitted no later than 45 days after the end of the
 353 preceding quarterly period. As used in this subsection, the
 354 term:

355 1. "Workload measures" means the measurement of the
 356 activities and frequency of the work required for the clerk to
 357 adequately perform the court-related duties of the office as
 358 defined by the membership of the Florida Clerks of Court
 359 Operations Corporation.

360 2. "Workload performance standards" means the standards
 361 developed to measure the timeliness and effectiveness of the
 362 activities that are accomplished by the clerk in the performance
 363 of the court-related duties of the office as defined by the
 364 membership of the Florida Clerks of Court Operations
 365 Corporation.

366 Section 4. Present subsections (6) and (7) of section
 367 43.16, Florida Statutes, are redesignated as subsections (7) and
 368 (8), respectively, and a new subsection (6) is added to that
 369 section, to read:

370 43.16 Justice Administrative Commission; membership, powers
 371 and duties.—

372 (6) The commission, each state attorney, each public
 373 defender, the criminal conflict and civil regional counsel, the
 374 capital collateral regional counsel, and the Guardian Ad Litem
 375 Program shall establish and maintain internal controls designed
 376 to:

377 (a) Prevent and detect fraud, waste, and abuse.

578-03181-15 20151372c2

378 (b) Promote and encourage compliance with applicable laws,
 379 rules, contracts, grant agreements, and best practices.

380 (c) Support economical and efficient operations.

381 (d) Ensure reliability of financial records and reports.

382 (e) Safeguard assets.

383 Section 5. Subsection (1) of section 112.31455, Florida
 384 Statutes, is amended to read:

385 112.31455 Collection methods for unpaid automatic fines for
 386 failure to timely file disclosure of financial interests.—

387 (1) Before referring any unpaid fine accrued pursuant to s.
 388 112.3144(5) or s. 112.3145(7) ~~s. 112.3145(6)~~ to the Department
 389 of Financial Services, the commission shall attempt to determine
 390 whether the individual owing such a fine is a current public
 391 officer or current public employee. If so, the commission may
 392 notify the Chief Financial Officer or the governing body of the
 393 appropriate county, municipality, school district, or special
 394 district of the total amount of any fine owed to the commission
 395 by such individual.

396 (a) After receipt and verification of the notice from the
 397 commission, the Chief Financial Officer or the governing body of
 398 the county, municipality, school district, or special district
 399 shall begin withholding the lesser of 10 percent or the maximum
 400 amount allowed under federal law from any salary-related
 401 payment. The withheld payments shall be remitted to the
 402 commission until the fine is satisfied.

403 (b) The Chief Financial Officer or the governing body of
 404 the county, municipality, school district, or special district
 405 may retain an amount of each withheld payment, as provided in s.
 406 77.0305, to cover the administrative costs incurred under this

578-03181-15

20151372c2

407 section.

408 Section 6. Section 112.31456, Florida Statutes, is created
409 to read:

410 112.31456 Garnishment of wages for unpaid automatic fines
411 for failure to timely file disclosure of financial interests.—

412 (1) Before referring any unpaid fine accrued pursuant to s.
413 112.3144(5) or s. 112.3145(7) to the Department of Financial
414 Services, the commission shall attempt to determine whether the
415 individual owing such a fine is a current public officer or
416 current public employee. If the commission determines that an
417 individual who is the subject of an unpaid fine accrued pursuant
418 to s. 112.3144(5) or s. 112.3145(7) is no longer a public
419 officer or public employee or if the commission cannot determine
420 whether the individual is a current public officer or current
421 public employee, the commission may, 6 months after the order
422 becomes final, seek garnishment of any wages to satisfy the
423 amount of the fine, or any unpaid portion thereof, pursuant to
424 chapter 77. Upon recording the order imposing the fine with the
425 clerk of the circuit court, the order shall be deemed a judgment
426 for purposes of garnishment pursuant to chapter 77.

427 (2) The commission may refer unpaid fines to the
428 appropriate collection agency, as directed by the Chief
429 Financial Officer, to use any collection methods provided by
430 law. Except as expressly limited by this section, any other
431 collection method authorized by law is allowed.

432 (3) Action may be taken to collect any unpaid fine imposed
433 by ss. 112.3144 and 112.3145 within 20 years after the date the
434 final order is rendered.

435 Section 7. Section 112.3261, Florida Statutes, is amended

Page 15 of 46

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

578-03181-15

20151372c2

436 to read:

437 112.3261 Lobbying before governmental entities ~~water~~
438 ~~management districts~~; registration and reporting.—

439 (1) As used in this section, the term:

440 (a) "Governmental entity" or "entity" ~~"District"~~ means a
441 water management district created in s. 373.069 and operating
442 under the authority of chapter 373, a hospital district, a
443 children's services district, an expressway authority as the
444 term "authority" as defined in s. 348.0002, the term "port
445 authority" as defined in s. 315.02, or an independent special
446 district with annual revenues of more than \$5 million which
447 exercises ad valorem taxing authority.

448 (b) "Lobbies" means seeking, on behalf of another person,
449 to influence a governmental entity ~~district~~ with respect to a
450 decision of the entity ~~district~~ in an area of policy or
451 procurement or an attempt to obtain the goodwill of an a
452 district official or employee of a governmental entity. The term
453 ~~"lobbies"~~ shall be interpreted and applied consistently with the
454 rules of the commission implementing s. 112.3215.

455 (c) "Lobbyist" has the same meaning as provided in s.
456 112.3215.

457 (d) "Principal" has the same meaning as provided in s.
458 112.3215.

459 (2) A person may not lobby a governmental entity ~~district~~
460 until such person has registered as a lobbyist with that entity
461 ~~district~~. Such registration shall be due upon initially being
462 retained to lobby and is renewable on a calendar-year basis
463 thereafter. Upon registration, the person shall provide a
464 statement signed by the principal or principal's representative

Page 16 of 46

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

578-03181-15 20151372c2

465 stating that the registrant is authorized to represent the
 466 principal. The principal shall also identify and designate its
 467 main business on the statement authorizing that lobbyist
 468 pursuant to a classification system approved by the governmental
 469 entity district. Any changes to the information required by this
 470 section must be disclosed within 15 days by filing a new
 471 registration form. The registration form shall require each
 472 lobbyist to disclose, under oath, the following:

473 (a) The lobbyist's name and business address.

474 (b) The name and business address of each principal
 475 represented.

476 (c) The existence of any direct or indirect business
 477 association, partnership, or financial relationship with an
 478 official ~~any officer~~ or employee of a governmental entity
 479 district with which he or she lobbies or intends to lobby.

480 (d) A governmental entity shall create a lobbyist
 481 registration form modeled after the ~~In lieu of creating its own~~
 482 lobbyist registration forms, a district may accept a completed
 483 legislative branch or executive branch lobbyist registration
 484 form, which must be returned to the governmental entity.

485 (3) A governmental entity district shall make lobbyist
 486 registrations available to the public. If a governmental entity
 487 district maintains a website, a database of currently registered
 488 lobbyists and principals must be available on the entity's
 489 district's website.

490 (4) A lobbyist shall promptly send a written statement to
 491 the governmental entity district canceling the registration for
 492 a principal upon termination of the lobbyist's representation of
 493 that principal. A governmental entity district may remove the

578-03181-15 20151372c2

494 name of a lobbyist from the list of registered lobbyists if the
 495 principal notifies the entity district that a person is no
 496 longer authorized to represent that principal.

497 (5) A governmental entity district may establish an annual
 498 lobbyist registration fee, not to exceed \$40, for each principal
 499 represented. The governmental entity district may use
 500 registration fees only to administer this section.

501 (6) A governmental entity district shall be diligent to
 502 ascertain whether persons required to register pursuant to this
 503 section have complied. A governmental entity district may not
 504 knowingly authorize a person who is not registered pursuant to
 505 this section to lobby the entity district.

506 (7) Upon receipt of a sworn complaint alleging that a
 507 lobbyist or principal has failed to register with a governmental
 508 entity district or has knowingly submitted false information in
 509 a report or registration required under this section, the
 510 commission shall investigate a lobbyist or principal pursuant to
 511 the procedures established under s. 112.324. The commission
 512 shall provide the Governor with a report of its findings and
 513 recommendations in any investigation conducted pursuant to this
 514 subsection. The Governor is authorized to enforce the
 515 commission's findings and recommendations.

516 (8) A governmental entity ~~water management districts~~ may
 517 adopt rules to establish procedures to govern the registration
 518 of lobbyists, including the adoption of forms and the
 519 establishment of a lobbyist registration fee.

520 Section 8. Paragraph (c) of subsection (3) of section
 521 129.03, Florida Statutes, is amended to read:

522 129.03 Preparation and adoption of budget.—

578-03181-15 20151372c2

523 (3) The county budget officer, after tentatively
 524 ascertaining the proposed fiscal policies of the board for the
 525 next fiscal year, shall prepare and present to the board a
 526 tentative budget for the next fiscal year for each of the funds
 527 provided in this chapter, including all estimated receipts,
 528 taxes to be levied, and balances expected to be brought forward
 529 and all estimated expenditures, reserves, and balances to be
 530 carried over at the end of the year.

531 (c) The board shall hold public hearings to adopt tentative
 532 and final budgets pursuant to s. 200.065. The hearings shall be
 533 primarily for the purpose of hearing requests and complaints
 534 from the public regarding the budgets and the proposed tax
 535 levies and for explaining the budget and any proposed or adopted
 536 amendments. The tentative budget must be posted on the county's
 537 official website at least 2 days before the public hearing to
 538 consider such budget and must remain on the website for at least
 539 45 days. The final budget must be posted on the website within
 540 30 days after adoption and must remain on the website for at
 541 least 2 years. The tentative budgets, adopted tentative budgets,
 542 and final budgets shall be filed in the office of the county
 543 auditor as a public record. Sufficient reference in words and
 544 figures to identify the particular transactions shall be made in
 545 the minutes of the board to record its actions with reference to
 546 the budgets.

547 Section 9. Paragraph (f) of subsection (2) of section
 548 129.06, Florida Statutes, is amended to read:

549 129.06 Execution and amendment of budget.—

550 (2) The board at any time within a fiscal year may amend a
 551 budget for that year, and may within the first 60 days of a

578-03181-15 20151372c2

552 fiscal year amend the budget for the prior fiscal year, as
 553 follows:

554 (f) Unless otherwise prohibited by law, if an amendment to
 555 a budget is required for a purpose not specifically authorized
 556 in paragraphs (a)-(e), the amendment may be authorized by
 557 resolution or ordinance of the board of county commissioners
 558 adopted following a public hearing.

559 1. The public hearing must be advertised at least 2 days,
 560 but not more than 5 days, before the date of the hearing. The
 561 advertisement must appear in a newspaper of paid general
 562 circulation and must identify the name of the taxing authority,
 563 the date, place, and time of the hearing, and the purpose of the
 564 hearing. The advertisement must also identify each budgetary
 565 fund to be amended, the source of the funds, the use of the
 566 funds, and the total amount of each fund's appropriations.

567 2. If the board amends the budget pursuant to this
 568 paragraph, the adopted amendment must be posted on the county's
 569 official website within 5 days after adoption and must remain on
 570 the website for at least 2 years.

571 Section 10. Subsections (3) and (5) of section 166.241,
 572 Florida Statutes, are amended to read:

573 166.241 Fiscal years, budgets, and budget amendments.—

574 (3) The tentative budget must be posted on the
 575 municipality's official website at least 2 days before the
 576 budget hearing, held pursuant to s. 200.065 or other law, to
 577 consider such budget, and must remain on the website for at
 578 least 45 days. The final adopted budget must be posted on the
 579 municipality's official website within 30 days after adoption
 580 and must remain on the website for at least 2 years. If the

578-03181-15 20151372c2

581 municipality does not operate an official website, the
 582 municipality must, within a reasonable period of time as
 583 established by the county or counties in which the municipality
 584 is located, transmit the tentative budget and final budget to
 585 the manager or administrator of such county or counties who
 586 shall post the budgets on the county's website.

587 (5) If the governing body of a municipality amends the
 588 budget pursuant to paragraph (4)(c), the adopted amendment must
 589 be posted on the official website of the municipality within 5
 590 days after adoption and must remain on the website for at least
 591 2 years. If the municipality does not operate an official
 592 website, the municipality must, within a reasonable period of
 593 time as established by the county or counties in which the
 594 municipality is located, transmit the adopted amendment to the
 595 manager or administrator of such county or counties who shall
 596 post the adopted amendment on the county's website.

597 Section 11. Subsections (4) and (7) of section 189.016,
 598 Florida Statutes, are amended to read:

599 189.016 Reports; budgets; audits.—

600 (4) The tentative budget must be posted on the special
 601 district's official website at least 2 days before the budget
 602 hearing, held pursuant to s. 200.065 or other law, to consider
 603 such budget, and must remain on the website for at least 45
 604 days. The final adopted budget must be posted on the special
 605 district's official website within 30 days after adoption and
 606 must remain on the website for at least 2 years. If the special
 607 district does not operate an official website, the special
 608 district must, within a reasonable period of time as established
 609 by the local general-purpose government or governments in which

578-03181-15 20151372c2

610 the special district is located or the local governing authority
 611 to which the district is dependent, transmit the tentative
 612 budget or final budget to the manager or administrator of the
 613 local general-purpose government or the local governing
 614 authority. The manager or administrator shall post the tentative
 615 budget or final budget on the website of the local general-
 616 purpose government or governing authority. This subsection and
 617 subsection (3) do not apply to water management districts as
 618 defined in s. 373.019.

619 (7) If the governing body of a special district amends the
 620 budget pursuant to paragraph (6)(c), the adopted amendment must
 621 be posted on the official website of the special district within
 622 5 days after adoption and must remain on the website for at
 623 least 2 years. If the special district does not operate an
 624 official website, the special district must, within a reasonable
 625 period of time as established by the local general-purpose
 626 government or governments in which the special district is
 627 located or the local governing authority to which the district
 628 is dependent, transmit the adopted amendment to the manager or
 629 administrator of the local general-purpose government or
 630 governing authority. The manager or administrator shall post the
 631 adopted amendment on the website of the local general-purpose
 632 government or governing authority.

633 Section 12. Present subsections (1) through (5) of section
 634 215.425, Florida Statutes, are redesignated as subsections (2)
 635 through (6), respectively, present subsection (2) and paragraph
 636 (a) of present subsection (4) of that section are amended, and a
 637 new subsection (1) and subsections (7) through (12) are added to
 638 that section, to read:

578-03181-15 20151372c2

639 215.425 Extra compensation claims prohibited; bonuses;
 640 severance pay.-

641 (1) As used in this section, the term "public funds" means
 642 any taxes, tuition, grants, fines, fees, or other charges or any
 643 other type of revenue collected by the state or any county,
 644 municipality, special district, school district, Florida College
 645 System institution, state university, or other separate unit of
 646 government created pursuant to law, including any office,
 647 department, agency, division, subdivision, political
 648 subdivision, board, bureau, commission, authority, or
 649 institution of such entities.

650 (3)(2) This section does not apply to:

651 (a) a bonus or severance pay that is paid from sources
 652 other than public funds wholly from nontax revenues and
 653 nonstate-appropriated funds, the payment and receipt of which
 654 does not otherwise violate part III of chapter 112, and which is
 655 paid to an officer, agent, employee, or contractor of a public
 656 hospital that is operated by a county or a special district; or
 657 (b) a clothing and maintenance allowance given to
 658 plainclothes deputies pursuant to s. 30.49.

659 (5) (a) (4) (a) On or after July 1, 2011, A unit of government
 660 that enters into a contract or employment agreement, or renewal
 661 or renegotiation of an existing contract or employment
 662 agreement, that contains a provision for severance pay with an
 663 officer, agent, employee, or contractor must include the
 664 following provisions in the contract:

665 1. A requirement that severance pay paid from public funds
 666 provided may not exceed an amount greater than 20 weeks of
 667 compensation.

Page 23 of 46

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

578-03181-15 20151372c2

668 2. A prohibition of provision of severance pay paid from
 669 public funds when the officer, agent, employee, or contractor
 670 has been fired for misconduct, as defined in s. 443.036(29), by
 671 the unit of government.

672 (7) Upon discovery or notification that a unit of
 673 government has provided prohibited compensation to any officer,
 674 agent, employee, or contractor in violation of this section,
 675 such unit of government shall investigate and take all necessary
 676 action to recover the prohibited compensation.

677 (a) If the violation was unintentional, the unit of
 678 government shall recover the prohibited compensation from the
 679 individual receiving the prohibited compensation through normal
 680 recovery methods for overpayments.

681 (b) If the violation was willful, the unit of government
 682 shall recover the prohibited compensation from either the
 683 individual receiving the prohibited compensation or the
 684 individual or individuals responsible for approving the
 685 prohibited compensation. Each individual determined to have
 686 willfully violated this section is jointly and severally liable
 687 for repayment of the prohibited compensation.

688 (8) A person who willfully violates this section commits a
 689 misdemeanor of the first degree, punishable as provided in s.
 690 775.082 or s. 775.083.

691 (9) An officer who exercises the powers and duties of a
 692 state or county officer and willfully violates this section is
 693 subject to the Governor's power under s. 7(a), Art. IV of the
 694 State Constitution. An officer who exercises powers and duties
 695 other than those of a state or county officer and willfully
 696 violates this section is subject to the suspension and removal

Page 24 of 46

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

578-03181-15

20151372c2

697 procedures under s. 112.51.

698 (10) (a) A person who reports a violation of this section is
 699 eligible for a reward of at least \$500, or the lesser of 10
 700 percent of the funds recovered or \$10,000 per incident of a
 701 prohibited compensation payment recovered by the unit of
 702 government, depending upon the extent to which the person
 703 substantially contributed to the discovery, notification, and
 704 recovery of such prohibited payment.

705 (b) In the event that the recovery of the prohibited
 706 compensation is based primarily on disclosures of specific
 707 information, other than information provided by such person,
 708 relating to allegations or transactions in a criminal, civil, or
 709 administrative hearing; in a legislative, administrative,
 710 inspector general, or other government report; in an auditor
 711 general report, hearing, audit, or investigation; or from the
 712 news media, such person is not eligible for a reward, or for an
 713 award of a portion of the proceeds or payment of attorney fees
 714 and costs pursuant to s. 68.085.

715 (c) If it is determined that the person who reported a
 716 violation of this section was involved in the authorization,
 717 approval, or receipt of the prohibited compensation or is
 718 convicted of criminal conduct arising from his or her role in
 719 the authorization, approval, or receipt of the prohibited
 720 compensation, such person is not eligible for a reward, or for
 721 an award of a portion of the proceeds or payment of attorney
 722 fees and costs pursuant to s. 68.085.

723 (11) An employee who is discharged, demoted, suspended,
 724 threatened, harassed, or in any manner discriminated against in
 725 the terms and conditions of employment by his or her employer

Page 25 of 46

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

578-03181-15

20151372c2

726 because of lawful acts done by the employee on behalf of the
 727 employee or others in furtherance of an action under this
 728 section, including investigation for initiation of, testimony
 729 for, or assistance in an action filed or to be filed under this
 730 section, has a cause of action under s. 112.3187.

731 (12) If the unit of government fails to recover prohibited
 732 compensation for a willful violation of this section upon
 733 discovery and notification of such prohibited payment within 90
 734 days, a cause of action may be brought to:

735 (a) Recover state funds in accordance with ss. 68.082 and
 736 68.083.

737 (b) Recover other funds by the Department of Legal Affairs
 738 using the procedures set forth in ss. 68.082 and 68.083, except
 739 that venue shall lie in the circuit court of the county in which
 740 the unit of government is located.

741 (c) Recover other funds by a person using the procedures
 742 set forth in ss. 68.082 and 68.083, except that venue shall lie
 743 in the circuit court of the county in which the unit of
 744 government is located.

745 Section 13. Section 215.86, Florida Statutes, is amended to
 746 read:

747 215.86 Management systems and controls.—Each state agency
 748 and the judicial branch as defined in s. 216.011 shall establish
 749 and maintain management systems and internal controls designed
 750 to:

751 (1) Prevent and detect fraud, waste, and abuse. ~~that~~

752 (2) Promote and encourage compliance with applicable laws,
 753 rules, contracts, grant agreements, and best practices.†

754 (3) Support economical and ~~economic,~~ efficient, and

Page 26 of 46

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

578-03181-15

20151372c2

755 ~~effective operations.~~756 (4) Ensure reliability of financial records and reports.757 ~~(5) Safeguard and safeguarding of assets. Accounting~~
758 ~~systems and procedures shall be designed to fulfill the~~
759 ~~requirements of generally accepted accounting principles.~~760 Section 14. Paragraph (a) of subsection (2) of section
761 215.97, Florida Statutes, is amended to read:

762 215.97 Florida Single Audit Act.—

763 (2) Definitions; as used in this section, the term:

764 (a) "Audit threshold" means the threshold amount used to
765 determine when a state single audit or project-specific audit of
766 a nonstate entity shall be conducted in accordance with this
767 section. Each nonstate entity that expends a total amount of
768 state financial assistance equal to or in excess of \$750,000
769 ~~500,000~~ in any fiscal year of such nonstate entity shall be
770 required to have a state single audit, or a project-specific
771 audit, for such fiscal year in accordance with the requirements
772 of this section. Periodically, Every 2 years the Auditor
773 General, after consulting with the Executive Office of the
774 Governor, the Department of Financial Services, and all state
775 awarding agencies, shall review the threshold amount for
776 requiring audits under this section and, if appropriate, may
777 recommend to the Legislature a statutory change to revise the
778 threshold amount in the annual report submitted pursuant to s.
779 11.45(7)(h) may adjust such threshold amount consistent with the
780 ~~purposes of this section.~~781 Section 15. Subsection (11) of section 215.985, Florida
782 Statutes, is amended to read:

783 215.985 Transparency in government spending.—

Page 27 of 46

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

578-03181-15

20151372c2

784 (11) Each water management district shall provide a monthly
785 financial statement in the form and manner prescribed by the
786 Department of Financial Services to the district's ~~its~~ governing
787 board and make such monthly financial statement available for
788 public access on its website.789 Section 16. Paragraph (d) of subsection (1) and subsection
790 (2) of section 218.32, Florida Statutes, are amended to read:791 218.32 Annual financial reports; local governmental
792 entities.—

793 (1)

794 (d) Each local governmental entity that is required to
795 provide for an audit under s. 218.39(1) must submit a copy of
796 the audit report and annual financial report to the department
797 within 45 days after the completion of the audit report but no
798 later than 9 months after the end of the fiscal year. An
799 independent certified public accountant completing an audit of a
800 local governmental entity pursuant to s. 218.39 shall report, as
801 part of the audit, as to whether the entity's annual financial
802 report is in agreement with the audited financial statements.
803 The accountant's audit report must be supported by the same
804 level of detail as required for the annual financial report. If
805 the accountant's audit report is not in agreement with the
806 annual financial report, the accountant shall specify and
807 explain the significant differences that exist between the
808 annual financial report and the audit report.809 (2) The department shall annually by December 1 file a
810 verified report with the Governor, the Legislature, the Auditor
811 General, and the Special District Accountability Program of the
812 Department of Economic Opportunity showing the revenues, both

Page 28 of 46

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

578-03181-15 20151372c2

813 locally derived and derived from intergovernmental transfers,
 814 and the expenditures of each local governmental entity, regional
 815 planning council, local government finance commission, and
 816 municipal power corporation that is required to submit an annual
 817 financial report. In preparing the verified report, the
 818 department may request additional information from the local
 819 governmental entity. The information requested must be provided
 820 to the department within 45 days of the request. If the local
 821 governmental entity does not comply with the request, the
 822 department shall notify the Legislative Auditing Committee,
 823 which may take action pursuant to s. 11.40(2). The report must
 824 include, but is not limited to:

- 825 (a) The total revenues and expenditures of each local
 826 governmental entity that is a component unit included in the
 827 annual financial report of the reporting entity.
- 828 (b) The amount of outstanding long-term debt by each local
 829 governmental entity. For purposes of this paragraph, the term
 830 "long-term debt" means any agreement or series of agreements to
 831 pay money, which, at inception, contemplate terms of payment
 832 exceeding 1 year in duration.

833 Section 17. Present subsection (3) of section 218.33,
 834 Florida Statutes, is redesignated as subsection (4), and a new
 835 subsection (3) is added to that section, to read:

836 218.33 Local governmental entities; establishment of
 837 uniform fiscal years and accounting practices and procedures.—

- 838 (3) Each local governmental entity shall establish and
 839 maintain internal controls designed to:
- 840 (a) Prevent and detect fraud, waste, and abuse.
 841 (b) Promote and encourage compliance with applicable laws,

578-03181-15 20151372c2

842 rules, contracts, grant agreements, and best practices.

- 843 (c) Support economical and efficient operations.
 844 (d) Ensure reliability of financial records and reports.
 845 (e) Safeguard assets.

846 Section 18. Present subsections (8) through (12) of section
 847 218.39, Florida Statutes, are redesignated as subsections (9)
 848 through (13), respectively, and a new subsection (8) is added to
 849 that section, to read:

850 218.39 Annual financial audit reports.—

- 851 (8) If the audit report includes a recommendation that was
 852 previously included in the preceding financial audit report, the
 853 governing body of the audited entity, within 60 days after the
 854 delivery of the audit report to the governing body and during a
 855 regularly scheduled public meeting, shall indicate its intent
 856 regarding corrective action, the corrective action to be taken,
 857 and when the corrective action will occur. If the governing body
 858 does not intend to take corrective action, it shall explain why
 859 such action will not be taken at the regularly scheduled public
 860 meeting.

861 Section 19. Subsection (2) of section 218.391, Florida
 862 Statutes, is amended, and subsection (9) is added to that
 863 section, to read:

864 218.391 Auditor selection procedures.—

- 865 (2) The governing body of a ~~charter~~ county, municipality,
 866 special district, district school board, charter school, or
 867 charter technical career center shall establish an audit
 868 committee.

- 869 (a) For a county, the ~~Each noncharter county shall~~
 870 establish an audit committee that, at a minimum, shall consist

578-03181-15 20151372c2

871 of each of the county officers elected pursuant to the county
 872 charter or s. 1(d), Art. VIII of the State Constitution, or a
 873 designee, and one member of the board of county commissioners or
 874 its designee.

875 (b) For a municipality, special district, district school
 876 board, charter school, or charter technical career center, the
 877 audit committee shall consist of at least three members. One
 878 member of the audit committee must be a member of the governing
 879 body of an entity specified in this paragraph who shall also
 880 serve as the chair of the committee.

881 (c) A member of the audit committee may not be an employee,
 882 chief executive officer, or chief financial officer of the
 883 county, municipality, special district, district school board,
 884 charter school, or charter technical career center.

885 (d) The primary purpose of the audit committee is to assist
 886 the governing body in selecting an auditor to conduct the annual
 887 financial audit required in s. 218.39; however, the audit
 888 committee may serve other audit oversight purposes as determined
 889 by the entity's governing body. The public ~~may shall~~ not be
 890 excluded from the proceedings under this section.

891 (9) An audit report submitted pursuant to s. 218.39 must
 892 include an affidavit executed by the chair of the audit
 893 committee affirming that the committee complied with the
 894 requirements of subsections (3)-(6) in selecting an auditor. If
 895 the Auditor General determines that an entity failed to comply
 896 with the requirements of subsections (3)-(6) in selecting an
 897 auditor, the entity shall select a replacement auditor in
 898 accordance with this section to conduct audits for subsequent
 899 fiscal years if the original audit was performed under a

578-03181-15 20151372c2

900 multiyear contract. If the replacement of an auditor would
 901 preclude the entity from timely completing the annual financial
 902 audit required by s. 218.39, the entity shall replace an auditor
 903 in accordance with this section for the subsequent annual
 904 financial audit. A multiyear contract between an entity or an
 905 auditor may not prohibit or restrict an entity from complying
 906 with this subsection.

907 Section 20. Paragraph (b) of subsection (2) of section
 908 288.92, Florida Statutes, is amended to read:

909 288.92 Divisions of Enterprise Florida, Inc.-
 910 (2)

911 (b)1. The following officers and board members are subject
 912 to ss. 112.313(1)-(8), (10), (12), and (15); 112.3135; and
 913 112.3143(2):

914 a. Officers and members of the board of directors of the
 915 divisions of Enterprise Florida, Inc.

916 b. Officers and members of the board of directors of
 917 subsidiaries of Enterprise Florida, Inc.

918 c. Officers and members of the board of directors of
 919 corporations created to carry out the missions of Enterprise
 920 Florida, Inc.

921 d. Officers and members of the board of directors of
 922 corporations with which a division is required by law to
 923 contract to carry out its missions.

924 2. The officers and board members specified in subparagraph
 925 1. may not represent another person or entity for compensation
 926 before Enterprise Florida, Inc., or a division, subsidiary, or
 927 the board of directors of corporations created to carry out the
 928 missions of Enterprise Florida, Inc., or with which a division

578-03181-15 20151372c2

929 is required by law to contract to carry out its missions, for a
 930 period of 2 years after retirement from or termination of
 931 service to a division.

932 ~~3.2.~~ For purposes of applying ss. 112.313(1)-(8), (10),
 933 (12), and (15); 112.3135; and 112.3143(2) to activities of the
 934 officers and members of the board of directors specified in
 935 subparagraph 1., those persons shall be considered public
 936 officers or employees and the corporation shall be considered
 937 their agency.

938 ~~4.3.~~ It is not a violation of s. 112.3143(2) or (4) for the
 939 officers or members of the board of directors of the Florida
 940 Tourism Industry Marketing Corporation to:

941 a. Vote on the 4-year marketing plan required under s.
 942 288.923 or vote on any individual component of or amendment to
 943 the plan.

944 b. Participate in the establishment or calculation of
 945 payments related to the private match requirements of s.
 946 288.904(3). The officer or member must file an annual disclosure
 947 describing the nature of his or her interests or the interests
 948 of his or her principals, including corporate parents and
 949 subsidiaries of his or her principal, in the private match
 950 requirements. This annual disclosure requirement satisfies the
 951 disclosure requirement of s. 112.3143(4). This disclosure must
 952 be placed either on the Florida Tourism Industry Marketing
 953 Corporation's website or included in the minutes of each meeting
 954 of the Florida Tourism Industry Marketing Corporation's board of
 955 directors at which the private match requirements are discussed
 956 or voted upon.

957 Section 21. Paragraph (a) of subsection (3) of section

578-03181-15 20151372c2

958 288.9604, Florida Statutes, is amended to read:

959 288.9604 Creation of the authority.—

960 (3)(a)1. A director may not receive compensation for his or
 961 her services, but is entitled to necessary expenses, including
 962 travel expenses, incurred in the discharge of his or her duties.
 963 Each director shall hold office until his or her successor has
 964 been appointed.

965 2. Directors are subject to ss. 112.313(1)-(8), (10), (12),
 966 and (15); 112.3135; and 112.3143(2). For purposes of applying
 967 ss. 112.313(1)-(8), (10), (12), and (15); 112.3135; and
 968 112.3143(2) to activities of directors, directors shall be
 969 considered public officers and the corporation shall be
 970 considered their agency.

971 3. A director of the board of directors of the corporation
 972 may not represent another person or entity for compensation
 973 before the corporation for a period of 2 years following his or
 974 her service on the board of directors.

975 Section 22. Paragraph (e) of subsection (4), paragraph (d)
 976 of subsection (5), and paragraph (d) of subsection (6) of
 977 section 373.536, Florida Statutes, are amended to read:

978 373.536 District budget and hearing thereon.—

979 (4) BUDGET CONTROLS; FINANCIAL INFORMATION.—

980 (e) ~~By September 1, 2012,~~ Each district shall provide a
 981 monthly financial statement in the form and manner prescribed by
 982 the Department of Financial Services to the district's governing
 983 board and make such monthly financial statement available for
 984 public access on its website.

985 (5) TENTATIVE BUDGET CONTENTS AND SUBMISSION; REVIEW AND
 986 APPROVAL.—

578-03181-15 20151372c2

987 (d) Each district shall, by August 1 of each year, submit
 988 for review a tentative budget and a description of any
 989 significant changes from the preliminary budget submitted to the
 990 Legislature pursuant to s. 373.535 to the Governor, the
 991 President of the Senate, the Speaker of the House of
 992 Representatives, the chairs of all legislative committees and
 993 subcommittees having substantive or fiscal jurisdiction over
 994 water management districts, as determined by the President of
 995 the Senate or the Speaker of the House of Representatives, as
 996 applicable, the secretary of the department, and the governing
 997 body of each county in which the district has jurisdiction or
 998 derives any funds for the operations of the district. The
 999 tentative budget must be posted on the district's official
 1000 website at least 2 days before budget hearings held pursuant to
 1001 s. 200.065 or other law and must remain on the website for at
 1002 least 45 days.

1003 (6) FINAL BUDGET; ANNUAL AUDIT; CAPITAL IMPROVEMENTS PLAN;
 1004 WATER RESOURCE DEVELOPMENT WORK PROGRAM.—

1005 (d) The final adopted budget must be posted on the water
 1006 management district's official website within 30 days after
 1007 adoption and must remain on the website for at least 2 years.

1008 Section 23. Paragraph (j) of subsection (9) of section
 1009 1002.33, Florida Statutes, is amended to read:

1010 1002.33 Charter schools.—

1011 (9) CHARTER SCHOOL REQUIREMENTS.—

1012 (j) The governing body of the charter school shall be
 1013 responsible for:

1014 1. Establishing and maintaining internal controls designed
 1015 to:

578-03181-15 20151372c2

1016 a. Prevent and detect fraud, waste, and abuse.
 1017 b. Promote and encourage compliance with applicable laws,
 1018 rules, contracts, grant agreements, and best practices.
 1019 c. Support economical and efficient operations.
 1020 d. Ensure reliability of financial records and reports.
 1021 e. Safeguard assets.
 1022 ~~2.1-~~ Ensuring that the charter school has retained the
 1023 services of a certified public accountant or auditor for the
 1024 annual financial audit, pursuant to s. 1002.345(2), who shall
 1025 submit the report to the governing body.
 1026 ~~3.2-~~ Reviewing and approving the audit report, including
 1027 audit findings and recommendations for the financial recovery
 1028 plan.
 1029 ~~4.a.3-a-~~ Performing the duties in s. 1002.345, including
 1030 monitoring a corrective action plan.
 1031 b. Monitoring a financial recovery plan in order to ensure
 1032 compliance.
 1033 ~~5.4-~~ Participating in governance training approved by the
 1034 department which must include government in the sunshine,
 1035 conflicts of interest, ethics, and financial responsibility.
 1036 Section 24. Present subsections (6) through (10) of section
 1037 1002.37, Florida Statutes, are redesignated as subsections (7)
 1038 through (11), respectively, a new subsection (6) is added to
 1039 that section, and present subsections (6) and (11) of that
 1040 section are amended, to read:
 1041 1002.37 The Florida Virtual School.—
 1042 (6) The Florida Virtual School shall have an annual
 1043 financial audit of its accounts and records completed by an
 1044 independent auditor who is a certified public accountant

578-03181-15 20151372c2

1045 licensed under chapter 473. The independent auditor shall
 1046 conduct the audit in accordance with rules adopted by the
 1047 Auditor General pursuant to s. 11.45 and, upon completion of the
 1048 audit, shall prepare an audit report in accordance with such
 1049 rules. The audit report must include a written statement of the
 1050 board of trustees describing corrective action to be taken in
 1051 response to each of the independent auditor's recommendations
 1052 included in the audit report. The independent auditor shall
 1053 submit the audit report to the board of trustees and the Auditor
 1054 General no later than 9 months after the end of the preceding
 1055 fiscal year.

1056 (7)~~(6)~~ The board of trustees shall annually submit to the
 1057 Governor, the Legislature, the Commissioner of Education, and
 1058 the State Board of Education, the audit report prepared pursuant
 1059 to subsection (6) and a complete and detailed report setting
 1060 forth:

1061 (a) The operations and accomplishments of the Florida
 1062 Virtual School within the state and those occurring outside the
 1063 state as Florida Virtual School Global.

1064 (b) The marketing and operational plan for the Florida
 1065 Virtual School and Florida Virtual School Global, including
 1066 recommendations regarding methods for improving the delivery of
 1067 education through the Internet and other distance learning
 1068 technology.

1069 (c) The assets and liabilities of the Florida Virtual
 1070 School and Florida Virtual School Global at the end of the
 1071 fiscal year.

1072 ~~(d) A copy of an annual financial audit of the accounts and~~
 1073 ~~records of the Florida Virtual School and Florida Virtual School~~

578-03181-15 20151372c2

1074 ~~Global, conducted by an independent certified public accountant~~
 1075 ~~and performed in accordance with rules adopted by the Auditor~~
 1076 ~~General.~~

1077 ~~(e)~~ Recommendations regarding the unit cost of providing
 1078 services to students through the Florida Virtual School and
 1079 Florida Virtual School Global. In order to most effectively
 1080 develop public policy regarding any future funding of the
 1081 Florida Virtual School, it is imperative that the cost of the
 1082 program is accurately identified. The identified cost of the
 1083 program must be based on reliable data.

1084 ~~(e)~~~~(f)~~ Recommendations regarding an accountability
 1085 mechanism to assess the effectiveness of the services provided
 1086 by the Florida Virtual School and Florida Virtual School Global.

1087 ~~(11) The Auditor General shall conduct an operational audit~~
 1088 ~~of the Florida Virtual School, including Florida Virtual School~~
 1089 ~~Global. The scope of the audit shall include, but not be limited~~
 1090 ~~to, the administration of responsibilities relating to~~
 1091 ~~personnel, procurement and contracting; revenue production;~~
 1092 ~~school funds, including internal funds; student enrollment~~
 1093 ~~records; franchise agreements; information technology~~
 1094 ~~utilization, assets, and security; performance measures and~~
 1095 ~~standards; and accountability. The final report on the audit~~
 1096 ~~shall be submitted to the President of the Senate and the~~
 1097 ~~Speaker of the House of Representatives no later than January~~
 1098 ~~31, 2014.~~

1099 Section 25. Subsection (5) is added to section 1010.01,
 1100 Florida Statutes, to read:

1101 1010.01 Uniform records and accounts.—

1102 (5) Each school district, Florida College System

578-03181-15 20151372c2

1103 institution, and state university shall establish and maintain
 1104 internal controls designed to:
 1105 (a) Prevent and detect fraud, waste, and abuse.
 1106 (b) Promote and encourage compliance with applicable laws,
 1107 rules, contracts, grant agreements, and best practices.
 1108 (c) Support economical and efficient operations.
 1109 (d) Ensure reliability of financial records and reports.
 1110 (e) Safeguard assets.
 1111 Section 26. Subsection (2) of section 1010.30, Florida
 1112 Statutes, is amended to read:
 1113 1010.30 Audits required.—
 1114 (2) If a school district, Florida College System
 1115 institution, or university audit report includes a
 1116 recommendation that was previously included in the preceding
 1117 financial audit report, an audit contains a significant finding,
 1118 the district school board, the Florida College System
 1119 institution board of trustees, or the university board of
 1120 trustees, within 60 days after the delivery of the audit report
 1121 to the school district, Florida College System institution, or
 1122 university and shall conduct an audit overview during a
 1123 regularly scheduled public meeting, shall indicate its intent
 1124 regarding corrective action, the corrective action to be taken,
 1125 and when the corrective action will occur. If the district
 1126 school board, Florida College System institution board of
 1127 trustees, or university board of trustees does not intend to
 1128 take corrective action, it shall explain why such action will
 1129 not be taken at the regularly scheduled public meeting.
 1130 Section 27. Subsection (2) of section 68.082, Florida
 1131 Statutes, is amended to read:

Page 39 of 46

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

578-03181-15 20151372c2

1132 68.082 False claims against the state; definitions;
 1133 liability.—
 1134 (2) Any person who:
 1135 (a) Knowingly presents or causes to be presented a false or
 1136 fraudulent claim for payment or approval;
 1137 (b) Knowingly authorizes, approves, or receives payment of
 1138 prohibited compensation in violation of s. 215.425;
 1139 ~~(c)~~ (b) Knowingly makes, uses, or causes to be made or used
 1140 a false record or statement material to a false or fraudulent
 1141 claim;
 1142 ~~(d)~~ (e) Conspires to commit a violation of this subsection;
 1143 ~~(e)~~ (d) Has possession, custody, or control of property or
 1144 money used or to be used by the state and knowingly delivers or
 1145 causes to be delivered less than all of that money or property;
 1146 ~~(f)~~ (e) Is authorized to make or deliver a document
 1147 certifying receipt of property used or to be used by the state
 1148 and, intending to defraud the state, makes or delivers the
 1149 receipt without knowing that the information on the receipt is
 1150 true;
 1151 ~~(g)~~ (f) Knowingly buys or receives, as a pledge of an
 1152 obligation or a debt, public property from an officer or
 1153 employee of the state who may not sell or pledge the property;
 1154 or
 1155 ~~(h)~~ (g) Knowingly makes, uses, or causes to be made or used
 1156 a false record or statement material to an obligation to pay or
 1157 transmit money or property to the state, or knowingly conceals
 1158 or knowingly and improperly avoids or decreases an obligation to
 1159 pay or transmit money or property to the state
 1160

Page 40 of 46

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

578-03181-15

20151372c2

1161 is liable to the state for a civil penalty of not less than
 1162 \$5,500 and not more than \$11,000 and for treble the amount of
 1163 damages the state sustains because of the act of that person.

1164 Section 28. Subsection (1) of section 68.083, Florida
 1165 Statutes, is amended to read:

1166 68.083 Civil actions for false claims.—

1167 (1) The department may diligently investigate a violation
 1168 under s. 68.082. If the department finds that a person has
 1169 violated or is violating s. 68.082, the department may bring a
 1170 civil action under the Florida False Claims Act against the
 1171 person. The Department of Financial Services may bring a civil
 1172 action under this section if the action arises from an
 1173 investigation by that department and the Department of Legal
 1174 Affairs has not filed an action under this act. For a violation
 1175 of s. 68.082 regarding prohibited compensation paid from state
 1176 funds, the Department of Financial Services may bring a civil
 1177 action under this section if the action arises from an
 1178 investigation by that department concerning a violation of s.
 1179 215.425 by the state and the Department of Legal Affairs has not
 1180 filed an action under this act.

1181 Section 29. Subsection (3) of section 218.503, Florida
 1182 Statutes, is amended to read:

1183 218.503 Determination of financial emergency.—

1184 (3) Upon notification that one or more of the conditions in
 1185 subsection (1) have occurred or will occur if action is not
 1186 taken to assist the local governmental entity or district school
 1187 board, the Governor or his or her designee shall contact the
 1188 local governmental entity or the Commissioner of Education or
 1189 his or her designee shall contact the district school board to

Page 41 of 46

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

578-03181-15

20151372c2

1190 determine what actions have been taken by the local governmental
 1191 entity or the district school board to resolve or prevent the
 1192 condition. The information requested must be provided within 45
 1193 days after the date of the request. If the local governmental
 1194 entity or the district school board does not comply with the
 1195 request, the Governor or his or her designee or the Commissioner
 1196 of Education or his or her designee shall notify ~~the members of~~
 1197 the Legislative Auditing Committee, which ~~he~~ may take action
 1198 pursuant to s. 11.40(2) ~~s. 11.40~~. The Governor or the
 1199 Commissioner of Education, as appropriate, shall determine
 1200 whether the local governmental entity or the district school
 1201 board needs state assistance to resolve or prevent the
 1202 condition. If state assistance is needed, the local governmental
 1203 entity or district school board is considered to be in a state
 1204 of financial emergency. The Governor or the Commissioner of
 1205 Education, as appropriate, has the authority to implement
 1206 measures as set forth in ss. 218.50-218.504 to assist the local
 1207 governmental entity or district school board in resolving the
 1208 financial emergency. Such measures may include, but are not
 1209 limited to:

1210 (a) Requiring approval of the local governmental entity's
 1211 budget by the Governor or approval of the district school
 1212 board's budget by the Commissioner of Education.

1213 (b) Authorizing a state loan to a local governmental entity
 1214 and providing for repayment of same.

1215 (c) Prohibiting a local governmental entity or district
 1216 school board from issuing bonds, notes, certificates of
 1217 indebtedness, or any other form of debt until such time as it is
 1218 no longer subject to this section.

Page 42 of 46

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

578-03181-15

20151372c2

1219 (d) Making such inspections and reviews of records,
 1220 information, reports, and assets of the local governmental
 1221 entity or district school board as are needed. The appropriate
 1222 local officials shall cooperate in such inspections and reviews.

1223 (e) Consulting with officials and auditors of the local
 1224 governmental entity or the district school board and the
 1225 appropriate state officials regarding any steps necessary to
 1226 bring the books of account, accounting systems, financial
 1227 procedures, and reports into compliance with state requirements.

1228 (f) Providing technical assistance to the local
 1229 governmental entity or the district school board.

1230 (g)1. Establishing a financial emergency board to oversee
 1231 the activities of the local governmental entity or the district
 1232 school board. If a financial emergency board is established for
 1233 a local governmental entity, the Governor shall appoint board
 1234 members and select a chair. If a financial emergency board is
 1235 established for a district school board, the State Board of
 1236 Education shall appoint board members and select a chair. The
 1237 financial emergency board shall adopt such rules as are
 1238 necessary for conducting board business. The board may:

1239 a. Make such reviews of records, reports, and assets of the
 1240 local governmental entity or the district school board as are
 1241 needed.

1242 b. Consult with officials and auditors of the local
 1243 governmental entity or the district school board and the
 1244 appropriate state officials regarding any steps necessary to
 1245 bring the books of account, accounting systems, financial
 1246 procedures, and reports of the local governmental entity or the
 1247 district school board into compliance with state requirements.

Page 43 of 46

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

578-03181-15

20151372c2

1248 c. Review the operations, management, efficiency,
 1249 productivity, and financing of functions and operations of the
 1250 local governmental entity or the district school board.

1251 d. Consult with other governmental entities for the
 1252 consolidation of all administrative direction and support
 1253 services, including, but not limited to, services for asset
 1254 sales, economic and community development, building inspections,
 1255 parks and recreation, facilities management, engineering and
 1256 construction, insurance coverage, risk management, planning and
 1257 zoning, information systems, fleet management, and purchasing.

1258 2. The recommendations and reports made by the financial
 1259 emergency board must be submitted to the Governor for local
 1260 governmental entities or to the Commissioner of Education and
 1261 the State Board of Education for district school boards for
 1262 appropriate action.

1263 (h) Requiring and approving a plan, to be prepared by
 1264 officials of the local governmental entity or the district
 1265 school board in consultation with the appropriate state
 1266 officials, prescribing actions that will cause the local
 1267 governmental entity or district school board to no longer be
 1268 subject to this section. The plan must include, but need not be
 1269 limited to:

1270 1. Provision for payment in full of obligations outlined in
 1271 subsection (1), designated as priority items, which are
 1272 currently due or will come due.

1273 2. Establishment of priority budgeting or zero-based
 1274 budgeting in order to eliminate items that are not affordable.

1275 3. The prohibition of a level of operations which can be
 1276 sustained only with nonrecurring revenues.

Page 44 of 46

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

578-03181-15 20151372c2

1277 4. Provisions implementing the consolidation, sourcing, or
 1278 discontinuance of all administrative direction and support
 1279 services, including, but not limited to, services for asset
 1280 sales, economic and community development, building inspections,
 1281 parks and recreation, facilities management, engineering and
 1282 construction, insurance coverage, risk management, planning and
 1283 zoning, information systems, fleet management, and purchasing.

1284 Section 30. Subsection (2) of section 1002.455, Florida
 1285 Statutes, is amended to read:

1286 1002.455 Student eligibility for K-12 virtual instruction.—

1287 (2) A student is eligible to participate in virtual
 1288 instruction if:

1289 (a) The student spent the prior school year in attendance
 1290 at a public school in the state and was enrolled and reported by
 1291 the school district for funding during October and February for
 1292 purposes of the Florida Education Finance Program surveys;

1293 (b) The student is a dependent child of a member of the
 1294 United States Armed Forces who was transferred within the last
 1295 12 months to this state from another state or from a foreign
 1296 country pursuant to a permanent change of station order;

1297 (c) The student was enrolled during the prior school year
 1298 in a virtual instruction program under s. 1002.45 or a full-time
 1299 Florida Virtual School program under s. 1002.37(9)(a) ~~s.~~
 1300 ~~1002.37(8)(a)~~;

1301 (d) The student has a sibling who is currently enrolled in
 1302 a virtual instruction program and the sibling was enrolled in
 1303 that program at the end of the prior school year;

1304 (e) The student is eligible to enter kindergarten or first
 1305 grade; or

578-03181-15 20151372c2

1306 (f) The student is eligible to enter grades 2 through 5 and
 1307 is enrolled full-time in a school district virtual instruction
 1308 program, virtual charter school, or the Florida Virtual School.

1309 Section 31. The Legislature finds that a proper and
 1310 legitimate state purpose is served when internal controls are
 1311 established to prevent and detect fraud, waste, and abuse and to
 1312 safeguard and account for government funds and property.
 1313 Therefore, the Legislature determines and declares that this act
 1314 fulfills an important state interest.

1315 Section 32. This act shall take effect October 1, 2015.

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/20/15

Meeting Date

1372

Bill Number (if applicable)

278496

Amendment Barcode (if applicable)

Topic Governmental Accountability

Name Nick Tarossi

Job Title _____

Address 101 E College Ave suite 502

Phone 222-9075

Street

Tallahassee

FL

32311

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing Safety Net Hospital Alliance

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)

4/20/15
Meeting Date

1372
Bill Number (if applicable)
958928
Amendment Barcode (if applicable)

Topic Gov't Accountability

Name VIRUNDIA DOSS

Job Title Executive Director

Address 325 John Knox Rd
Street

Phone 850) 488-7864

TALLAH FL 32317
City State Zip

Email DOSS.VIRUNDIA@~~LEG~~LEG.FL.GOV

Speaking: For Against Information

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

Representing FLA COMM'N ON ETHICS

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)

4/20/2015
Meeting Date

SB 1372
Bill Number (if applicable)

Topic Municipal Lobbyist Registration - Small
municipal Exemption

Amendment Barcode (if applicable)

Name Kraig Conn

Job Title _____

Address 301 S. Bronough

Phone 222 9684

Street
Tall FL 32301
City State Zip

Email Kconn@flcities.com

Speaking: For Against Information

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

Representing Florida League of Cities

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
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: SB 796

INTRODUCER: Senator Evers

SUBJECT: Financial Reporting

DATE: April 17, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	Favorable
2.	<u>Caldwell</u>	<u>Cibula</u>	<u>JU</u>	Favorable
3.	<u>Oxamendi</u>	<u>Phelps</u>	<u>RC</u>	Favorable

I. Summary:

SB 796 deletes the provision that permits condominium, cooperative, and homeowners' associations operating fewer than 50 units or parcels, regardless of the association's annual revenues, to prepare a report of cash receipts and expenditures in lieu of financial statements based on the amount of annual revenue.

II. Present Situation:

Condominium

A condominium is a "form of ownership of real property created pursuant to [ch. 718, F.S.,] which is comprised entirely of units that may be owned by one or more persons, and in which there is, appurtenant to each unit, an undivided share in common elements."¹ A condominium is created by recording a declaration of condominium in the public records of the county where the condominium is located.² A declaration is like a constitution in that it:

Strictly governs the relationships among condominium unit owners and the condominium association. Under the declaration, the Board of the condominium association has broad authority to enact rules for the benefit of the community.³

A declaration "may include covenants and restrictions concerning the use, occupancy, and transfer of the units permitted by law with reference to real property."⁴ A declaration of condominium may be amended as provided in the declaration.⁵ If the declaration does not

¹ Section 718.103(11), F.S.

² Section 718.104(2), F.S.

³ *Neuman v. Grandview at Emerald Hills*, 861 So. 2d 494, 496-97 (Fla. 4th DCA 2003) (internal citations omitted).

⁴ Section 718.104(5), F.S.

⁵ See s. 718.110(1)(a), F.S.

provide a method for amendment, it may generally be amended as to any matter by a vote of not less than the owners of two-thirds of the units.⁶ Condominiums are administered by a board of directors referred to as a “board of administration.”⁷

Cooperative Associations

Section 719.103(12), F.S., defines a “cooperative” to mean:

that form of ownership of real property wherein legal title is vested in a corporation or other entity and the beneficial use is evidenced by an ownership interest in the association and a lease or other muniment of title or possession granted by the association as the owner of all the cooperative property.

A cooperative differs from a condominium because, in a cooperative, no unit is individually owned. Instead, a cooperative unit’s occupants receive an exclusive right to occupy the unit. The cooperative holds the legal title to the unit and all common elements. The cooperative association may assess costs for the maintenance of common expenses.⁸

Homeowners’ Associations

Florida law provides statutory recognition to corporations that operate residential communities in this state and procedures for operating homeowners’ associations. These laws protect the rights of association members without unduly impairing the ability of such associations to perform their functions.⁹

A “homeowners’ association” is defined as a “Florida corporation responsible for the operation of a community or a mobile home subdivision in which the voting membership is made up of parcel owners or their agents, or a combination thereof, and in which membership is a mandatory condition of parcel ownership, and which is authorized to impose assessments that, if unpaid, may become a lien on the parcel.”¹⁰ Unless specifically stated to the contrary, homeowners’ associations are also governed by ch. 607, F.S., relating to for-profit corporations or by ch. 617, F.S., relating to not-for-profit corporations.¹¹

Homeowners’ associations are administered by a board of directors whose members are elected.¹² The powers and duties of homeowners’ associations include the powers and duties provided in ch. 720, F.S., and in the governing documents of the association, which include recorded declaration of covenants, bylaws, articles of incorporation, and duly adopted amendments to these documents.¹³

⁶ Section 718.110(1)(a), F.S. *But see*, s. 718.110(4) and (8), F.S., which provides exceptions to the subject matter and procedure for amendments to a declaration of condominium.

⁷ Section 718.103(4), F.S.

⁸ *See* ss. 719.106(1)(g) and 719.107, F.S.

⁹ *See* s. 720.302(1), F.S.

¹⁰ Section 720.301(9), F.S.

¹¹ Section 720.302(5), F.S.

¹² *See* ss. 720.303 and 720.307, F.S.

¹³ *See* ss. 720.301 and 720.303, F.S.

Financial Reporting for Community Associations

Sections 718.111(13), 719.104(4), and 720.303(7), F.S., set forth the financial reporting responsibilities of condominium, cooperative, and homeowners' associations. Associations have 90 days after the end of the fiscal year to prepare and complete a financial report for the preceding fiscal year. The type of financial statements or information that must be provided is based on the association's total annual revenues.

If the association has a total annual revenue of \$150,000 or more, but less than \$300,000, the association must prepare compiled financial statements.¹⁴ If the association has a total annual revenue of at least \$300,000 and not less than \$500,000, the association must prepare reviewed financial statements.¹⁵ If the total annual revenue is \$500,000 or more, the association must prepare audited financial statements.¹⁶ If the total annual revenue is less than \$150,000, then a report of cash receipts must be prepared.¹⁷

An association having fewer than 50 units ("parcels" for homeowners' associations), regardless of annual revenue, may prepare a report of cash receipt and expenditures instead of financial statements, unless the governing documents provide otherwise.¹⁸

In a condominium association, the board may use a higher level of reporting without a meeting or approval of the membership. It may not use a lower level of reporting without a majority of the voting interests present at a properly called meeting of the association.¹⁹

In cooperative and homeowners' association, upon a petition by 20 percent of the voting interests in the association, the level of reporting may be increased or decreased after a majority vote of the voting interests.²⁰

Division of Florida Condominiums, Timeshares, and Mobile Homes

Condominiums and cooperatives are regulated by the Division of Florida Condominiums, Timeshares, and Mobile Homes (division) in accordance with ch. 718, F.S., and ch. 719, F.S. The division is afforded complete jurisdiction to investigate complaints and enforce compliance with ch. 718, F.S., and ch. 719, F.S., with respect to associations that are still under developer

¹⁴ A compiled financial statement is an accounting service based on information provided by the entity that is the subject of the financial statement. A compiled financial statement is made without a Certified Public Accountant's (CPA) assurance as to conformity with Generally Accepted Accounting Principles (GAAP). Compiled financial statements must conform to the American Institute of Certified Public Accountants (AICPA) Statements on Standards for Accounting and Review Services. J.G. Siegel and J.K. Shim, *Barron's Business Guides, Dictionary of Accounting Terms*, 3rd ed. (Barron's 2000).

¹⁵ A reviewed financial statement is an accounting service that provides a board of directors and interested parties some assurance as to the reliability of financial data without the CPA conducting an examination in accordance with GAAP. Reviewed financial statements must comply with AICPA auditing and review standards for public companies or the AICPA review standards for non-public businesses. *Id.*

¹⁶ An audited financial statement by a CPA verifies the accuracy and completeness of the audited entities records in accordance with GAAP. *Id.*

¹⁷ Sections 718.111(13)(a), 719. 104(4)(b), and 720.303(7)(a), F.S.

¹⁸ Sections 718.111(13)(b)2., 719. 104(4)(c)2., and 720.303(7)(b)2., F.S.

¹⁹ Sections 718.111(13)(c) and (d), F.S.

²⁰ Sections 719.104(4)(d) and (e), and 720.303(7)(c) and (d), F.S.

control.²¹ The division also has the authority to investigate complaints against developers involving improper turnover or failure to turnover control to the association, pursuant to s. 718.301, F.S., and s. 719.301, F.S., respectively.²² After control of the condominium or cooperative is transferred from the developer to the unit owners, the division's jurisdiction is limited to investigating complaints related to financial issues, elections, and unit owner access to association records.²³

As part of the division's authority to investigate complaints, s. 718.501(1), F.S., and s. 719.501(1), F.S., authorize the division to subpoena witnesses, take sworn statements from witnesses, issue cease and desist orders, and impose civil penalties (fines) against developers and associations.

The division's jurisdiction regarding homeowners' associations is limited to conducting binding arbitration upon a petition resolve election recall disputes.²⁴

III. Effect of Proposed Changes:

The bill repeals the provisions in ss. 718.111(13)(b)2., 719.104(4)(c)2., and 720.303(7)(b)2., F.S., which provide that an association operating fewer than 50 units ("parcels" for homeowners' associations), regardless of the association's annual revenues, must prepare a report of cash receipts and expenditures in lieu of the financial statements based on the amount of annual revenue.

The bill takes effect July 1, 2015.

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.

²¹ Section 718.501(1), F.S., s. 719.501(1), F.S.

²² *Id.*

²³ *Id.*

²⁴ *See* ss. 720.303(10)(d) and 720.311(1), F.S.

B. Private Sector Impact:

Condominium, cooperative, and homeowners' associations of 50 units or parcels may incur additional expense if required to prepare financial statements based on the amount of annual revenue instead of a report of cash receipts.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 718.111, 719.104, and 720.303.

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 Evers

2-00735-15

2015796__

1 A bill to be entitled
 2 An act relating to financial reporting; amending ss.
 3 718.111, 719.104, and 720.303, F.S.; deleting
 4 provisions with respect to the preparation by certain
 5 condominium associations, cooperative associations,
 6 and homeowners' associations of annual reports of cash
 7 receipts and expenditures in lieu of certain financial
 8 statements; providing an effective date.
 9
 10 Be It Enacted by the Legislature of the State of Florida:
 11
 12 Section 1. Paragraph (b) of subsection (13) of section
 13 718.111, Florida Statutes, is amended to read:
 14 718.111 The association.—
 15 (13) FINANCIAL REPORTING.—Within 90 days after the end of
 16 the fiscal year, or annually on a date provided in the bylaws,
 17 the association shall prepare and complete, or contract for the
 18 preparation and completion of, a financial report for the
 19 preceding fiscal year. Within 21 days after the final financial
 20 report is completed by the association or received from the
 21 third party, but not later than 120 days after the end of the
 22 fiscal year or other date as provided in the bylaws, the
 23 association shall mail to each unit owner at the address last
 24 furnished to the association by the unit owner, or hand deliver
 25 to each unit owner, a copy of the financial report or a notice
 26 that a copy of the financial report will be mailed or hand
 27 delivered to the unit owner, without charge, upon receipt of a
 28 written request from the unit owner. The division shall adopt
 29 rules setting forth uniform accounting principles and standards

Page 1 of 5

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

2-00735-15

2015796__

30 to be used by all associations and addressing the financial
 31 reporting requirements for multicondominium associations. The
 32 rules must include, but not be limited to, standards for
 33 presenting a summary of association reserves, including a good
 34 faith estimate disclosing the annual amount of reserve funds
 35 that would be necessary for the association to fully fund
 36 reserves for each reserve item based on the straight-line
 37 accounting method. This disclosure is not applicable to reserves
 38 funded via the pooling method. In adopting such rules, the
 39 division shall consider the number of members and annual
 40 revenues of an association. Financial reports shall be prepared
 41 as follows:
 42 (b)1. An association with total annual revenues of less
 43 than \$150,000 shall prepare a report of cash receipts and
 44 expenditures.
 45 ~~2. An association that operates fewer than 50 units,~~
 46 ~~regardless of the association's annual revenues, shall prepare a~~
 47 ~~report of cash receipts and expenditures in lieu of financial~~
 48 ~~statements required by paragraph (a).~~
 49 2.3. A report of cash receipts and disbursements must
 50 disclose the amount of receipts by accounts and receipt
 51 classifications and the amount of expenses by accounts and
 52 expense classifications, including, but not limited to, the
 53 following, as applicable: costs for security, professional and
 54 management fees and expenses, taxes, costs for recreation
 55 facilities, expenses for refuse collection and utility services,
 56 expenses for lawn care, costs for building maintenance and
 57 repair, insurance costs, administration and salary expenses, and
 58 reserves accumulated and expended for capital expenditures,

Page 2 of 5

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

2-00735-15

2015796__

59 deferred maintenance, and any other category for which the
60 association maintains reserves.

61 Section 2. Paragraph (c) of subsection (4) of section
62 719.104, Florida Statutes, is amended to read:

63 719.104 Cooperatives; access to units; records; financial
64 reports; assessments; purchase of leases.—

65 (4) FINANCIAL REPORT.—

66 (c)1. An association with total annual revenues of less
67 than \$150,000 shall prepare a report of cash receipts and
68 expenditures.

69 ~~2. An association in a community of fewer than 50 units,
70 regardless of the association's annual revenues, shall prepare a
71 report of cash receipts and expenditures in lieu of the
72 financial statements required by paragraph (b), unless the
73 declaration or other recorded governing documents provide
74 otherwise.~~

75 2.3. A report of cash receipts and expenditures must
76 disclose the amount of receipts by accounts and receipt
77 classifications and the amount of expenses by accounts and
78 expense classifications, including the following, as applicable:
79 costs for security, professional, and management fees and
80 expenses; taxes; costs for recreation facilities; expenses for
81 refuse collection and utility services; expenses for lawn care;
82 costs for building maintenance and repair; insurance costs;
83 administration and salary expenses; and reserves, if maintained
84 by the association.

85 Section 3. Paragraph (b) of subsection (7) of section
86 720.303, Florida Statutes, is amended to read:

87 720.303 Association powers and duties; meetings of board;

Page 3 of 5

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

2-00735-15

2015796__

88 official records; budgets; financial reporting; association
89 funds; recalls.—

90 (7) FINANCIAL REPORTING.—Within 90 days after the end of
91 the fiscal year, or annually on the date provided in the bylaws,
92 the association shall prepare and complete, or contract with a
93 third party for the preparation and completion of, a financial
94 report for the preceding fiscal year. Within 21 days after the
95 final financial report is completed by the association or
96 received from the third party, but not later than 120 days after
97 the end of the fiscal year or other date as provided in the
98 bylaws, the association shall, within the time limits set forth
99 in subsection (5), provide each member with a copy of the annual
100 financial report or a written notice that a copy of the
101 financial report is available upon request at no charge to the
102 member. Financial reports shall be prepared as follows:

103 (b)1. An association with total annual revenues of less
104 than \$150,000 shall prepare a report of cash receipts and
105 expenditures.

106 ~~2. An association in a community of fewer than 50 parcels,
107 regardless of the association's annual revenues, may prepare a
108 report of cash receipts and expenditures in lieu of financial
109 statements required by paragraph (a) unless the governing
110 documents provide otherwise.~~

111 2.3. A report of cash receipts and disbursement must
112 disclose the amount of receipts by accounts and receipt
113 classifications and the amount of expenses by accounts and
114 expense classifications, including, but not limited to, the
115 following, as applicable: costs for security, professional, and
116 management fees and expenses; taxes; costs for recreation

Page 4 of 5

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

2-00735-15

2015796__

117 facilities; expenses for refuse collection and utility services;
118 expenses for lawn care; costs for building maintenance and
119 repair; insurance costs; administration and salary expenses; and
120 reserves if maintained by the association.

121 Section 4. This act shall take effect July 1, 2015.

DUBOSE.CISSY

From: MURZIN.DAVE
Sent: Monday, April 20, 2015 11:47 AM
To: SIMMONS.DAVID
Cc: PHELPS.JOHN; DUBOSE.CISSY
Subject: Presenting SB 796

4/20/15
ack
MMS

Chair Simmons,
Senator Evers may not make it here to Tallahassee in time to present SB 796 on financial reporting.
The recent bad weather has hampered his departure and travel plans.
I will be prepared to present the bill on his behalf.
Thank you Sir,



Dave Murzin
Senator Greg Evers, District 2

209 E Zaragoza St.
Pensacola, FL 32502-6048
(850) 595-0213

or

308 Senate Office Bldg.
404 S. Monroe Street
Tallahassee, FL 32399-1100
(850) 487-5002

murzin.dave@flsenate.gov

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-20-15

Meeting Date

SB 796

Bill Number (if applicable)

Topic Financial Reporting

Amendment Barcode (if applicable)

Name Justin Thomas

Job Title Group Affairs Manager

Address 325 W. College Ave.

Phone

Street

Tallahassee FL 32301

Email

City

State

Zip

Speaking: [X] For [] Against [] Information

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

Representing Florida Institute of CPA's

Appearing at request of Chair: [] Yes [] No

Lobbyist registered with Legislature: [X] 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

Tallahassee, Florida 32399-1100

COMMITTEES:

Criminal Justice, *Chair*
Appropriations Subcommittee on Criminal and
Civil Justice
Communications, Energy, and Public Utilities
Environmental Preservation and Conservation
Military and Veterans Affairs, Space, and
Domestic Security
Transportation

SENATOR GREG EVERS

2nd District

April 7, 2015

Senator Simmons
Chair, Rules Committee

SB796, relating to Financial Reporting, has now favorably passed Regulated Industries and Judiciary Committees. Please place it on the calendar for floor action.

Thank you.

Respectfully,

A handwritten signature in cursive script that reads "Greg Evers".

Greg Evers

REPLY TO:

- 209 East Zaragoza Street, Pensacola, Florida 32502-6048 (850) 595-0213 FAX: (888) 263-0013
- 308 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5002
- 5234 Willing Street, Milton, FL 32570 (850) 564-1026 FAX: (850) 564-1170

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/HB 7111, 1st Eng.

INTRODUCER: Judiciary Committee; Health and Human Services Committee; and Representative Brodeur and others

SUBJECT: Conscience Protection for Actions of Private Child-Placing Agencies

DATE: April 17, 2015

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Davis</u>	<u>Phelps</u>	<u>RC</u>	<u>Pre-meeting</u>

I. Summary:

House Bill 7111 establishes a conscience protection provision for private child-placing agencies. The bill amends s. 409.175, F.S., to allow private child-placing agencies and family foster homes affiliated with the agencies, to object to performing, assisting in, recommending, consenting to, or participating in the placement of a child if the placement violates the agency's written religious or moral convictions or policies.

The bill also protects the licensure, grants, contracts, and ability to participate in government programs for those agencies that object to performing adoption services required for the placement of a child or to facilitate the licensure of a family foster home if that placement or licensure violates the agency's written religious or moral convictions or policies.

The bill preempts to the state the subject matter of the conscience protection provisions and declares void any enactments that contravene this subject matter.

II. Present Situation:

Conscience Protection Laws

A conscience protection law guarantees that a person will not be forced to participate in a practice or procedure that is personally objectionable to his or her conscience. Conscience protection laws have previously been enacted by states in the areas of healthcare and education and are now being implemented in adoption services.

Healthcare Laws

Conscience protection laws grant health care providers the ability to refuse to perform services related to abortion, sterilization, and more recently contraception, if those services are contrary to

the provider's religious beliefs.¹ In 1973, the Church² Amendment became the first conscience clause enacted into law.³ It was passed in response to the United States Supreme Court's decision in *Roe v. Wade*⁴ and stated that public officials may not require individuals or entities who receive public funds to perform medical procedures, or make facilities available for procedures, that are "contrary to [the individual or entity's] religious beliefs or moral convictions."⁵

Many states then followed the federal lead and enacted conscience protection legislation regarding abortion. Section 390.0111(8), F.S., grants conscience protection for hospitals, physicians, or any person who refuses to participate in the termination of a pregnancy in Florida.⁶ In addition to other states' statutes, federal statutes provide abortion conscience protections for health care providers.⁷

Similarly, 17 states have conscience protection statutes for individual providers related to sterilization, and 10 states have conscience protection statutes for individual providers related to contraception.⁸ Florida does not have specific conscience protection for sterilization but has conscience protection for physicians or other persons for refusing to furnish contraception.⁹

Education

Conscience protection laws have also emerged in education. In 2011, Missouri amended its Constitution to include, "no student shall be compelled to perform or participate in academic assignments or educational presentations that violate his or her religious beliefs."¹⁰ Although most states do not amend their constitutions, "the vast majority of states have adopted legislation allowing parents to opt their children out of educational curriculum that they contend conflicts with their religious beliefs."¹¹ In 2013, New Hampshire enacted a broad statutory provision allowing any parent to opt out of specific curricula based on any "objectionable" reason.¹²

¹ See generally, Erin Whitcomb, *A Most Fundamental Freedom of Choice: An International Review of Conscientious Objection to Elective Abortion*, 24 ST. JOHN'S J. LEGAL COMMENT. 771, 783-90 (2010); Catherine Grealis, *Religion in the Pharmacy: A Balanced Approach to Pharmacists' Right to Refuse to Provide Plan B*, 97 GEO. L.J. 1715, 1718-20 (2009); and Kimberly A. Parr, *Beyond Politics: A Social and Cultural History of Federal Healthcare Conscience Protections*, 35 AM. J.L. & MED. 620, 620-23 (2009).

² Sen. Frank Church (R-ID).

³ 42 U.S.C. § 300a-7.

⁴ 410 U.S. 113 (1973).

⁵ 42 U.S.C. § 300a-7(b).

⁶ Section 390.0111(8), F.S.

⁷ 42 U.S.C. § 2996f(b)(8) (prohibiting federal funds from being used in litigation to procure nontherapeutic abortion or to compel any individual to perform an abortion contrary to the religious beliefs or moral convictions of such individual or institution); 20 U.S.C. § 1688 (providing neutrality with respect to abortion in Title IX); 42 U.S.C. § 238n (prohibiting discrimination by the Federal Government against any health care entity that does not provide, train in, or refer for abortions); 42 U.S.C. § 1395w-22(j)(3)(B) (providing conscience protection for providers who accept Medicare); 42 U.S.C. § 1396u-2(b)(3) (providing conscience protection for providers who accept Medicaid); and *Patient Protection and Affordable Care Act*, Pub. L. No. 111-148, 124 Stat 119 (2010) (allowing qualified health plans under the Patient Protection and Affordable Care Act to choose whether to cover abortions).

⁸ GUTTMACHER INSTITUTE, *Refusing to Provide Health Services*.

⁹ Section 381.0051(5), F.S.

¹⁰ MO. CONST. Article 1 s. 5.

¹¹ Claire Marshall, *The Spread of Conscience Clause Legislation*, 39 HUMAN RIGHTS MAGAZINE No. 2 (2013), available at http://www.americanbar.org/publications/human_rights_magazine_home/2013_vol_39/january_2013_no_2_religious_freedom/the_spread_of_conscience_clause_legislation.html.

¹² N.H. Rev. Stat. Ann. § 186:11.

Adoption Services

At least four states, North Dakota, Virginia, Arkansas, and New Mexico,¹³ have enacted varying degrees of conscience protection laws for adoption services: The North Dakota¹⁴ and Virginia¹⁵ adoption services conscience protection laws protect private child-placing agencies from:

- Being required to perform any duties related to the placement of a child for adoption if the proposed placement would violate the agency's written religious or moral convictions or policies.
- Being denied initial licensure, revocation of licensure, or failure to renew licensure based on the agency's objection to performing the duties required to place a child for adoption in violation of the agency's written religious or moral convictions or policies.
- Denial of grants, contracts, or participation in government programs based on the agency's objection to performing the duties required to place a child for adoption in violation of the agency's written religious or moral convictions or policies.

North Dakota's statute states that the agency's refusal to perform the duties required to place a child for adoption does not constitute a determination that the proposed adoption is not in the best interest of the child.¹⁶ The Virginia statute is silent as to a best interest determination and states that the refusal to perform the duties required to place a child for adoption is limited to the extent allowed by federal law and does not form a basis of any claim for damages.¹⁷ As far as can be determined at this time, neither law has been challenged on constitutional grounds.

The Arkansas statute¹⁸ provides that if the health, safety, and welfare of children in an agency's care are not endangered, the board may not promulgate or enforce any rule that has the effect of

- Interfering with the religious teaching or instruction offered by a child welfare agency;
- Infringing upon the religious beliefs of the holder or holders of a child welfare agency license; or
- Infringing upon the right of an agency operated by a religious organization to consider creed in any decision or action relating to admitting or declining to admit a child or family for services.

The New Mexico statute¹⁹ is much more concisely written and provides:

The regulations shall not proscribe or interfere with the religious beliefs or religious training of child placement agencies and foster homes, except when the beliefs or training endanger the child's health or safety.

¹³ The North Dakota statute was enacted in 2003, Virginia in 2012, Arkansas in 1997, and New Mexico in 1991.

¹⁴ N.D. Cent. Code ss. 50-12-03 and 50-12-07.1.

¹⁵ Va. Code Ann. s 63.2-1709.3.

¹⁶ N.D. Cent. Code s. 50-12-07.1.

¹⁷ Va. Code Ann. s. 63.2-1709.3(D).

¹⁸ Ark. Code Ann. s. 9-28-405.

¹⁹ N.M. Stat. Ann. s. 40-7A-4.

Religious Organizations

In 2006, Catholic Charities of Boston stopped providing adoption services based on a conflict between church teaching and state law.²⁰ As in Florida, to participate in adoption placements in Massachusetts, whether or not the agency receives state funding, the child-placing agencies must be licensed.²¹ However, Massachusetts law prohibits discrimination based on sexual orientation.²² Catholic Charities explained in a press release that “[i]n spite of much effort and analysis, Catholic Charities of Boston finds that it cannot reconcile the teaching of the Church, which guides our work, and the statutes and regulation of the Commonwealth.”²³ The previous year, Catholic Charities had been responsible for over a third of all Boston area private adoptions.²⁴ Catholic Charities of San Francisco stopped providing adoption services for the same reasons that same year²⁵ and similar events occurred in Illinois in 2011.²⁶

Private adoption service agencies in Florida currently place children in homes that conform to their written religious beliefs and moral convictions. For example, Florida Baptist Children’s Homes states that they are “committed to providing forever, Christian families for children placed in our care, and . . . helping families answer God’s call to adopt.”²⁷ Additionally, the Jewish Adoption and Family Care Options states that they were created “to ensure that Jewish children who were being removed from their home due to abuse or neglect . . . would at least be able to take with them the one piece of their identity that comes from their connection with their Jewish heritage.”²⁸

Adoptions

Adoption is a process established by statute in which the legal rights and duties between a child and the birth or legal parents are terminated and replaced by similar rights and duties between the child and the adoptive parents. Adoption services are performed by all community-based lead agencies throughout the state²⁹ as well as private child-placing agencies. All child-placing agencies must be licensed by the Department of Children and Families (DCF), and include any person, corporation, or agency, public or private, other than a parent or legal guardian, that places or arranges for placement of a child in an adoptive home.^{30,31} As of December 2014, Florida has 82 licensed private child-placing agencies that perform both public and private

²⁰ *Catholic Charities pulls out of adoptions*, THE WASHINGTON TIMES (March 17, 2006), <http://www.washingtontimes.com/news/2006/mar/14/20060314-010603-3657r/>.

²¹ Mass. Gen. Laws Ann. ch. 15D, § 8.

²² Mass. Gen. Laws Ann. ch. 151B, § 4.

²³ J. Bryan Hehir & Jeffrey Kaneb, *Statement of Catholic Charities, Archdiocese of Boston, On Adoption Programs*, ARCHDIOCESE OF BOSTON NEWS/EVENTS (March 10, 2006), http://www.bostoncatholic.org/uploadedFiles/News_releases_2006_statement060310-2.pdf.

²⁴ Colleen Theresa Rutledge, *Caught in the Crossfire: How Catholic Charities of Boston Was Victim to the Clash Between Gay Rights and Religious Freedom*, 15 DUKE J. GENDER L. & POL’Y 297, 298 (2008).

²⁵ Cicero A. Estrella, *Catholic Charities scaling back its role in adoption services*, SFGATE (August 3, 2006), <http://www.sfgate.com/bayarea/article/SAN-FRANCISCO-Catholic-Charities-scaling-back-2515267.php>.

²⁶ Laurie Goodstein, *Illinois Catholic Charities close over adoption rule*, THE BOSTON GLOBE (December 29, 2011), <http://www.bostonglobe.com/news/nation/2011/12/29/illinois-catholic-charities-close-rather-than-allow-same-sex-couples-adopt-children/Km9RBLkpKzABNLJbUGhvJM/story.html>.

²⁷ FLORIDA BAPTIST CHILDREN’S HOMES, <https://www.fbchomes.org/our-care/adoption/> (last viewed March 27, 2015).

²⁸ JAFCO, *Preserving our Jewish Heritage*, <https://www.jafco.org/who-we-are/preserving-our-jewish-heritage/> (last visited March 27, 2015).

²⁹ Section 409.986(1), F.S.

³⁰ Section 409.175, F.S.

³¹ Rule 65C-15, F.A.C.

adoptions.³² Licensure of these agencies requires compliance with personnel requirements, written policies, financial reports, purpose statements, intake procedures, and record keeping.³³

Child Welfare System Adoptions

In Florida, DCF provides child welfare services.³⁴ Statute requires child welfare services, including adoption services, to be delivered through community-based care (CBC) lead agencies contracted by DCF.³⁵ For example, CBCs provide pre- and post-adoption services such as information and referral services, support groups, adoption-related libraries, case management and training.³⁶

During Fiscal Year 2013, 3,415 adoptions of children within the child welfare system were finalized in Florida. Over the last 6 federal fiscal years, the number of finalized adoptions has ranged from 2,945 to 3,870 annually.³⁷

The vast majority of children adopted in FY 2013 were adopted by either relatives (49.83%) or foster parents (24.8%). Non-relative parents comprised 24 percent of adoptions.³⁸

As of April 1, 2015, 849 children are awaiting adoption in Florida with no identified home.³⁹

Private Adoptions

Private adoptions are adoptions that occur outside of the child welfare system. Licensed child-placing agencies act as intermediaries between natural and potential adoptive parents providing adoption services. These services include home studies, counseling, education, legal services, and post-placement services.⁴⁰ These adoptions are arranged by licensed child-placing agencies and require judicial action but are not otherwise tracked by the state.⁴¹

Foster Care

Before children are adopted, many of them enter the foster care system. Foster care is “made up of individuals or families who have requested to be able to take dependent children in to their home.”⁴² There are more than 4,200 licensed foster homes in Florida caring for nearly 8,000

³² Email from Gina Sisk, Legislative Affairs, Department of Children and Families, April 16, 2015 (on file with the Senate Committee on Judiciary).

³³ Rule 65C-15, F.A.C.

³⁴ Section 20.19(4)(a)3., F.S.

³⁵ Section 409.986(1), F.S.

³⁶ Explore Adoption, *Frequently Asked Questions*, <http://www.adoptflorida.org/docs/faqs.pdf> (last visited March 30, 2015).

³⁷ U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, ADMINISTRATION ON CHILDREN, YOUTH, AND FAMILIES, *Adoption of Children with Public Child Welfare Agency Involvement by State: FY 2004 - FY 2013*, <http://www.acf.hhs.gov/programs/cb/resource/adoptions-with-agency-involvement-by-state-fy2004-fy2013> (last visited March 27, 2015).

³⁸ U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, ADMINISTRATION ON CHILDREN, YOUTH, AND FAMILIES, *Prior Relationship of Adoptive Parent(s) to Child: 10/1/2012 - 9/30/2013*, <http://www.acf.hhs.gov/programs/cb/resource/prior-relation-2013> (last visited March 30, 2015).

³⁹ E-mail from Gina Sisk, Legislative Affairs, Department of Children and Families, April 16, 2015 (on file with the Senate Committee on Judiciary.)

⁴⁰ The Florida Bar, *Adoptions in Florida Pamphlet*,

<http://www.floridabar.org/tfb/TFBConsum.nsf/48e76203493b82ad852567090070c9b9/40018bdf1f308fe985256b2f006c5c11?OpenDocument#WHAT%20IS%20ADOPTION%3F> (last visited Mar. 30, 2015). [hereinafter *Adoptions in Florida Pamphlet*]

⁴¹ *Id.*

⁴² Fostering Florida’s Future, *Fostering Definitions*, <http://www.fosteringflorida.com/fosteringdefinitions.shtml> (last visited April 2, 2015).

children.⁴³ A number of the licensed foster homes are private, religious affiliated organizations. For example, Florida Baptist Children's Home served over six hundred children in foster care, often keeping siblings together instead of being divided into different foster homes.⁴⁴ Likewise, the Jewish Adoption and Family Care Options is a nonprofit that receives foster care children through the state foster care system, court system, or by the birth parents and provides the children with licensed foster parents who meet their requirements.⁴⁵ These organizations provide case management services for the children and a stable and safe environment.

III. Effect of Proposed Changes:

This bill creates a conscience protection provision in s. 409.175, F.S., for private child-placing agencies. The conscience protection provision addresses licensure, contracts, and liability of private child-placing agencies and family foster homes⁴⁶ or residential child-caring agencies⁴⁷ affiliated with private child-placing agencies.

Specifically, the bill relieves any private child-placing agency from the requirement that it must participate in the placement of a child or facilitate any licensing of a family foster home which would violate the agency's written religious or moral convictions or policies.

The bill creates licensure protection by barring the Department of Children and Families from denying or revoking a license because a private child-placing agency refuses to participate in a placement or facilitate in a licensure of a family foster home against the agency's written religious or moral convictions or policies. This licensure protection extends to any family foster homes or residential child-caring agencies affiliated with the private child-placing agency.

The bill provides private contract protection by barring the state, local government, or community-based care lead agency from denying any grant, contract, or participation in a government program because of a private child-placing agency's refusal to participate in a placement or facilitate in the licensure of a family foster home against the agency's written religious or moral convictions or policies. This contract protection extends to any family foster homes or residential child-caring agencies affiliated with the private child-placing agency.

⁴³ Fostering Florida's Future, *2012 Achievements*, <http://www.fosteringflorida.com/docs/FosteringFloridasFuture-2012report.pdf> (last visited April 2, 2015).

⁴⁴ Florida Baptist Children's Homes & Orphan's Heart, *2013 Annual Report*, <https://www.fbchomes.org/about-us/annual-reports/> (last visited April 2, 2015).

⁴⁵ JAFCO, *Foster Care*, <https://www.jafco.org/what-we-do/foster-care/> (last visited April 2, 2015). These requirements include, but are not limited to, completion of an 8 week training program, two family consultations, adequate space for children, and criminal background clearance.

⁴⁶ Section 409.175(2)(e), F.S., defines "family foster home" as a private residence in which children who are unattended by a parent or legal guardian are provided 24-hour care. Such homes include emergency shelter family homes and specialized foster homes for children with special needs. A person who cares for a child of a friend for a period not to exceed 90 days, a relative who cares for a child and does not receive reimbursement for such care from the state or federal government, or an adoptive home which has been approved by the department or by a licensed child-placing agency for children placed for adoption is not considered a family foster home.

⁴⁷ Section 409.175(2)(j), F.S., defines "residential child-caring agency" as any person, corporation, or agency, public or private, other than the child's parent or legal guardian, that provides staffed 24-hour care for children in facilities maintained for that purpose, regardless of whether operated for profit or whether a fee is charged. Such residential child-caring agencies include, but are not limited to, maternity homes, runaway shelters, group homes that are administered by an agency, emergency shelters that are not in private residences, and wilderness camps. Residential child-caring agencies do not include hospitals, boarding schools, summer or recreation camps, nursing homes, or facilities operated by a governmental agency for the training, treatment, or secure care of delinquent youth, or facilities licensed under s. 393.067 or s. 394.875 or ch. 397.

Under this bill, a private child-placing agency that acts in accordance with its written religious convictions or policies is immune from lawsuits seeking injunctive relief or damages based on those actions.

The bill preempts to the state the conscience protection subject matter of the bill. As such, any provision of law or certain other enumerated enactments, such as local ordinances or rules, which contravene this subject matter or restrict a private child-placing agency's exercise of authority under this bill is void.

The law takes effect July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill does not appear to have an impact on cities or counties and as such, does not appear to be a mandate for constitutional purposes.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Equal Protection

The equal protection clause of the United States Constitution requires that no state shall deny any person within its jurisdiction "equal protection of the laws."⁴⁸ Furthermore, Florida's equal protection clause states that "no person shall be deprived of any right because of race, religion, national origin, or physical disability."⁴⁹ The bill may raise an equal protection issue where a couple or individual, who is otherwise qualified to adopt, is denied by a private adoption agency for reasons that are protected under the bill.

A court's response to an equal protection claim depends on the classification of people involved. A court will analyze government action that discriminates against people according to race, ethnicity, religion, and national origin with the strictest scrutiny.⁵⁰ In addition to those protected classes, federal and state courts also recognize quasi-suspect

⁴⁸ U.S. CONST. amend XIV, s. 1.

⁴⁹ FLA. CONST. Article I, s. 2.

⁵⁰ Under strict scrutiny, the government must show that a law with discriminatory effect advances a compelling state interest, is narrowly tailored, and is the least restrictive means for advancing that interest. *Loving v. Virginia*, 388 U.S. 1, 11 (1967).

classes.⁵¹ If a claim does not involve a fundamental right, a suspect class, or quasi-suspect class, then a court will analyze with rational basis scrutiny, whereby the court will uphold a law if it bears a reasonable relationship to the attainment of a legitimate government objective.⁵²

The Supreme Court of the United States has a history of disallowing private discrimination and finding that a state sanctioned private parties' discrimination against a protected class.⁵³ For example, in *Shelley v. Kraemer*, the Supreme Court found that judicial enforcement of racially restrictive covenants in private neighborhoods was sufficient to give rise to state action that promoted discrimination and was in violation of the Fourteenth Amendment.⁵⁴

Additionally, the Florida Civil Rights Act of 1992, codified in ch. 760, F.S., broadly prohibits discrimination against individuals based on their race, color, religion, sex, national origin, age, handicap, or marital status. Due this act, those protected by the law have protected class status. However, at this time, the neither the Legislature nor the courts have extended the act to create a protected class based on a person's sexual orientation.

In recent years, some courts have begun recognizing homosexuals as a quasi-suspect class and applying intermediate scrutiny to find laws with discriminatory effects against homosexuals unconstitutional.⁵⁵ Further, some courts, including a Florida state court, have found that laws prohibiting qualified homosexuals from participating in state-sanctioned activity, like adoption, that qualified heterosexuals can participate in freely are not justifiable even under the deferential rational basis review and are unconstitutional.⁵⁶ However, in 2004, the Eleventh Circuit Court of Appeals held that Florida's law prohibiting homosexuals from adopting did not burden a fundamental right and withstood rational basis scrutiny.⁵⁷ This case remains good law⁵⁸ and established federal precedent that, under Florida law, homosexuals are not a suspect or quasi-suspect class.

⁵¹ BLACK'S LAW DICTIONARY (10th ed. 2014) defines quasi-suspect classification as "[a] statutory classification based on gender or legitimacy, and therefore subject to intermediate scrutiny under equal-protection analysis." BLACK'S defines intermediate scrutiny as "[a] standard lying between the extremes of rational-basis review and strict scrutiny. Under the standard, if a statute contains a quasi-suspect classification (such as gender or legitimacy), the classification must be substantially related to the achievement of an important governmental objective."

⁵² *Vance v. Bradley*, 440 U.S. 93, 97 (1979).

⁵³ *Reitman v. Mulkey*, 387 U.S. 369, 375 (1967) (reasoning that "(t)he instant case presents an undeniably analogous situation' wherein the State had taken affirmative action designed to make private discriminations legally possible."); and *Burton v. Wilmington Parking Authority*, 365 U.S. 715, 717 (1961) (finding that discrimination by a lessee of an agency created by the State was sufficient to find that the there was "discriminatory state action in violation of the Equal Protection Clause of the Fourteenth Amendment.").

⁵⁴ *Shelley v. Kraemer*, 334 U.S. 1, 21 (1948).

⁵⁵ See *Windsor v. U.S.*, 699 F.3d 169 (2d Cir. 2012), *affirmed on other grounds* 133 S.Ct. 2675 (2013); *Golinski v. Office of Personnel Mgmt.*, 824 F.Supp.2d 968 (N.D. Cal. 2012).

⁵⁶ *Florida Dept. of Children and Families v. Adoption of X.X.G.*, 45 So.3d 79 (Fla. 3d DCA 2010); *Bassett v. Snyder*, 2014 WL 5847607 (E.D. Mich. 2014). BLACK'S LAW DICTIONARY (10th ed. 2014) defines the "rational-basis test" as "[t]he criterion for judicial analysis of a statute that does not implicate a fundamental right or a suspect or quasi-suspect classification under the Due Process or Equal Protection Clause, whereby the court will uphold a law if it bears a reasonable relationship to the attainment of a legitimate governmental objective. Rational basis is the most deferential of the standards of review that courts use in due-process and equal-protection analysis."

⁵⁷ *Lofton v. Secretary of Dept. of Children and Family Services*, 358 F.3d 804, 818 (11th Cir. 2004).

⁵⁸ The Supreme Court denied certiorari on January 10, 2005. See *Lofton v. Secretary, Florida Dept. of Children and Families*, 543 U.S. 1081 (2005).

Religious Freedom

Article 1, section 3 of the Florida Constitution states,

There shall be no law respecting the establishment of religion or prohibiting or penalizing the free exercise thereof. . . No revenue of the state or any political subdivision or agency thereof shall ever be taken from the public treasury directly or indirectly in aid of any church, sect, or religious denomination or in aid of any sectarian institution.⁵⁹

Florida’s Religious Freedom Restoration Act of 1998 (FRFRA), ch. 761, F.S., guarantees that

(1) The government *shall not substantially burden*⁶⁰ *a person’s exercise of religion*, even if the burden results from a rule of general applicability . . .⁶¹

It may be argued that the language of this bill does not create a new right for private adoption agencies⁶² but rather codifies an existing right guaranteed by both the Florida Constitution and the FRFRA—the right to be free from the government compelling them, as religious adherents, to engage in conduct their religion forbids. As the Supreme Court of the United States determined in *Burwell v. Hobby Lobby Stores, Inc.*, the phrase “a person’s” in the federal version of the Religious Freedom Restoration Act “include[s] corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals.”⁶³ The provisions of the bill are more specific than FRFRA. Additionally the FRFRA regulates the relationship between government and the people. The bill goes farther by regulating relationships between private parties.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The specificity in this bill may provide more certainty to religiously affiliated child-placing agencies that they are authorized to continue operating in accordance with their religious convictions. The wording of Florida’s Religious Freedom Restoration Act is much more general. Similarly, the specificity in the bill may discourage lawsuits against private child-placing agencies that act in accordance with their religious beliefs.

⁵⁹ FLA. CONST. Article I, s. 3.

⁶⁰ In 2004, the Florida Supreme Court held that “*a substantial burden on the free exercise of religion is one that either compels the religious adherent to engage in conduct that his religion forbids or forbids him to engage in conduct that his religion requires.*” *Warner v. City of Boca Raton*, 887 So. 2d 1023, 1033 (Fla. 2004) (emphasis added).

⁶¹ Section 761.03(1), F.S.

⁶² In *Burwell v. Hobby Lobby Stores, Inc.*, 134 S.Ct. 2751, 2768-70 (2014), the Supreme Court of the United States determined that the phrase “a person’s” in the federal version of the Religious Freedom Restoration Act “include[s] corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals.” *Id.* at 2768.

⁶³ 134 S.Ct. 2751, 2768-70 (2014).

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 409.175 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.)

CS by House Judiciary Committee on April 2, 2015:

The Judiciary committee adopted one amendment that extends the conscience protection to private child-placing agencies that refuse to facilitate in the licensure of family foster homes when the licensure would violate the agency's written religious or moral convictions.

B. Amendments:

None.



216086

LEGISLATIVE ACTION

Senate

.
. .
. .
. .
. .

House

The Committee on Rules (Soto) recommended the following:

Senate Amendment (with title amendment)

Delete lines 53 - 58

and insert:

care lead agency must withhold a grant, contract, or
participation in a government program from a licensed private
child-placing agency, or from a family foster home or
residential child-caring agency affiliated with such a private
child-placing agency, if the private child-placing agency
refuses to perform, assist in, recommend, consent



216086

12 ===== T I T L E A M E N D M E N T =====

13 And the title is amended as follows:

14 Delete line 15

15 and insert:

16 requiring certain entities to withhold grants,



713894

LEGISLATIVE ACTION

Senate

.
. .
. .
. .
. .

House

The Committee on Rules (Soto) recommended the following:

Senate Amendment (with title amendment)

Between lines 78 and 79

insert:

(g) This subsection does not apply to a for-profit child-placing agency.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete line 27

and insert:



713894

12 | preemption of specified laws, providing applicability;
13 | providing an effective



197050

LEGISLATIVE ACTION

Senate

.
. .
. .
. .
. .

House

The Committee on Rules (Gibson) recommended the following:

Senate Amendment (with title amendment)

Delete line 72

and insert:

(f) This subsection does not allow a private child-placing agency, or a family foster home or residential child-caring agency affiliated with such a private child-placing agency, to discriminate against an individual or couple because of, or based on the perception of, the individual's or couple's race, color, or national origin.

(g) This subsection expressly preempts to the state the



197050

12
13
14
15
16
17
18
19
20

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

 Delete line 26

and insert:

 constitute discrimination; providing that a private
 child-placing agency or an affiliated home or agency
 is not allowed to discriminate based on race, color,
 or national origin; providing for the



658136

LEGISLATIVE ACTION

Senate

.
. .
. .
. .
. .

House

The Committee on Rules (Gibson) recommended the following:

Senate Amendment (with title amendment)

Delete line 72

and insert:

(f) This subsection does not allow a private child-placing agency, or a family foster home or residential child-caring agency affiliated with such a private child-placing agency, to discriminate against an individual or couple because of, or based on the perception of, the individual's or couple's marital status.

(g) This subsection expressly preempts to the state the



658136

12
13
14
15
16
17
18
19
20

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

 Delete line 26

and insert:

 constitute discrimination; providing that a private
 child-placing agency or an affiliated home or agency
 is not allowed to discriminate based on marital
 status; providing for the



864054

LEGISLATIVE ACTION

Senate

.
. .
. .
. .
. .

House

The Committee on Rules (Gibson) recommended the following:

Senate Amendment (with title amendment)

Delete line 72

and insert:

(f) This subsection does not allow a private child-placing agency, or a family foster home or residential child-caring agency affiliated with such a private child-placing agency, to discriminate against an individual or couple because of, or based on the perception of, the individual's or couple's religion or religious affiliation or lack thereof.

(g) This subsection expressly preempts to the state



864054

12
13
14
15
16
17
18
19
20

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete line 26

and insert:

constitute discrimination; providing that a private
child-placing agency or an affiliated home or agency
is not allowed to discriminate based on religion or
lack thereof; providing for the



CS/HB 7111, Engrossed 1

2015

1 A bill to be entitled
 2 An act relating to conscience protection for actions
 3 of private child-placing agencies; amending s.
 4 409.175, F.S.; providing that a private child-placing
 5 agency is not required to place a child or be involved
 6 in the placement of a child or facilitate the
 7 licensure of a foster home which would violate the
 8 agency's written religious or moral convictions or
 9 policies; prohibiting the Department of Children and
 10 Families from taking actions related to licensure
 11 based on the agency's refusal to place a child or be
 12 involved in the placement of a child or facilitate the
 13 licensure of a foster home which violates the agency's
 14 written religious or moral convictions or policies;
 15 prohibiting certain entities from withholding grants,
 16 contracts, or participation in government programs
 17 from a private child-placing agency or affiliated
 18 agencies or homes based on the agency's refusal to
 19 place a child or be involved in the placement of a
 20 child or the licensure of a foster home which violates
 21 the agency's written religious or moral convictions or
 22 policies; providing that such refusal does not provide
 23 the basis for a claim for injunctive relief or
 24 compensatory or punitive damages; specifying that
 25 certain acts by a private child-placing agency do not
 26 constitute discrimination; providing for the

Page 1 of 4

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

hb7111-02-e1



CS/HB 7111, Engrossed 1

2015

27 preemption of specified laws; providing an effective
 28 date.

29
 30 Be It Enacted by the Legislature of the State of Florida:

31
 32 Section 1. Subsection (18) is added to section 409.175,
 33 Florida Statutes, to read:

34 409.175 Licensure of family foster homes, residential
 35 child-caring agencies, and child-placing agencies; public
 36 records exemption.—

37 (18) (a) A private child-placing agency is not required to
 38 perform, assist in, recommend, consent to, or participate in the
 39 placement of a child or to facilitate the licensure of a family
 40 foster home when the proposed placement or licensure would
 41 violate the agency's written religious or moral convictions or
 42 policies.

43 (b) The department may not deny an application for, deny
 44 the renewal of, or revoke the license of a private child-placing
 45 agency, or the license of a family foster home or residential
 46 child-caring agency affiliated with a private child-placing
 47 agency, because of the refusal of the private child-placing
 48 agency to perform, assist in, recommend, consent to, or
 49 participate in the placement of a child or to facilitate the
 50 licensure of a family foster home which violates the agency's
 51 written religious or moral convictions or policies.

Page 2 of 4

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

hb7111-02-e1



CS/HB 7111, Engrossed 1

2015

52 | (c) The state or a local government or community-based
 53 | care lead agency may not withhold a grant, contract, or
 54 | participation in a government program from a licensed private
 55 | child-placing agency, or from a family foster home or
 56 | residential child-caring agency affiliated with such a private
 57 | child-placing agency, because of the refusal of the private
 58 | child-placing agency to perform, assist in, recommend, consent
 59 | to, or participate in the placement of a child or to facilitate
 60 | the licensure of a family foster home which violates the
 61 | agency's written religious or moral convictions or policies.

62 | (d) Refusal of a private child-placing agency to perform,
 63 | assist in, recommend, consent to, or participate in the
 64 | placement of a child or to facilitate the licensure of a family
 65 | foster home which violates the agency's written religious or
 66 | moral convictions or policies does not provide the basis for a
 67 | claim for injunctive relief or compensatory or punitive damages
 68 | against such private child-placing agency or any operator,
 69 | owner, or personnel thereof.

70 | (e) An act by a private child-placing agency under this
 71 | subsection does not constitute discrimination.

72 | (f) This subsection expressly preempts to the state the
 73 | subject matter hereof. Any provision of law, ordinance,
 74 | regulation, rule, or policy of any county, municipality,
 75 | district, school district, political subdivision, or agency of
 76 | the state that contravenes this subsection or restricts a
 77 | private child-placing agency's exercise of authority under this

Page 3 of 4

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

hb7111-02-e1



CS/HB 7111, Engrossed 1

2015

78 | subsection is void.

79 | Section 2. This act shall take effect July 1, 2015.

Page 4 of 4

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

hb7111-02-e1

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/20

Meeting Date

HB 7111

Bill Number (if applicable)

216086

Amendment Barcode (if applicable)

Topic Conscience Protection

Name John Stemberger

Job Title President and General Counsel

Address _____

Street

Orlando

City

FL

State

Zip

Phone _____

Email _____

Speaking: For Against Information

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

Representing Florida Family Action, Legislative Arm of the Florida Family Policy Council

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)

4/20/15

Meeting Date

7111

Bill Number (if applicable)

216086

Amendment Barcode (if applicable)

Topic _____

Name Michael Sheedy

Job Title Exec. Dir.

Address 201 W. Park Ave.

Phone _____

Street

Tall.

FL

32301

Email _____

City

State

Zip

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.

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

4-20-15

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

HB 7111

Meeting Date

Bill Number (if applicable)

216086 (SOTO)

Amendment Barcode (if applicable)

Topic ADOPTION DISCRIMINATION

Name Carlos Guillermo Smith

Job Title Governmental Affairs

Address 2237 Stonington Avenue

Phone 404-934-4944

Street
Orlando

Email carloss@eqfl.org

City

State

Zip

Speaking: For Against Information

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

Representing Equality Florida

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-20-15
Meeting Date

HB 7111
Bill Number (if applicable)

216086
Amendment Barcode (if applicable)

Topic CONSCIENCE PROTECTION

Name JERRY HAAG

Job Title PRESIDENT

Address 1015 SIKES BLVD
Street

Phone 863/687-8811

LAKELAND FL 33815
City State Zip

Email Jerry.Haag@FBCOHOMES.ORG

Speaking: For Against Information

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

Representing FLORIDA BAPTIST CHILDREN'S HOMES

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)

4/20/20
Meeting Date

7111
Bill Number (if applicable)
216086
Amendment Barcode (if applicable)

Topic Conscience Protection

Name Randy Osborne

Job Title Director of Education

Address ~~2775~~ 2775 NW 49th Ave
Street

Phone 352-592-7598

Ocala FL 34482
City State Zip

Email _____

Speaking: For Against Information

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

Representing Florida Eagle Forum

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)

4-20-14
Meeting Date

711
Bill Number (if applicable)
216086
Amendment Barcode (if applicable)

Topic Religious Conscience

Name Catherine Baer

Job Title Chair - The Tea Party Network

Address 1421 Woodgate Way

Phone

Street
14H
City

FL
State

32308
Zip

Email

Speaking: For Against Information

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

Representing The Tea Party Network

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)

4/20/15

Meeting Date

7111

Bill Number (if applicable)

713894

Amendment Barcode (if applicable)

Topic

Name Michael Sheedy

Job Title Exec. Dir.

Address 201 W. Park Ave.

Street

Phone

Tell.

FL

32301

Email

City

State

Zip

Speaking: For Against Information

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

Representing FL Conf. 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.

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)

4/20/15

Meeting Date

HB 7111

Bill Number (if applicable)

713894

Amendment Barcode (if applicable)

Topic Conscience Protection

Name John Stemberger

Job Title President and General Counsel

Address _____
Street

Phone _____

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing Florida Family Action, Legislative Arm of the Florida Family Policy Council

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)

4-20-15

Meeting Date

7111

Bill Number (if applicable)

713894

Amendment Barcode (if applicable)

Topic Religious Conscience

Name Catherine Bree

Job Title Chair - The Tea Party Network

Address 1421 Woodgate Way

Phone _____

Street

TLH

City

FL

State

32308

Zip

Email _____

Speaking: For Against Information

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

Representing The Tea Party Network

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)

4/20/2015
Meeting Date

7111
Bill Number (if applicable)
713814
Amendment Barcode (if applicable)

Topic Conscience Protection

Name Randy Osborne

Job Title Director of Education

Address 2775 NW 49th Ave

Phone 352-572-7598

Street

Ocala

City

FL

State

34482

Zip

Email _____

Speaking: For Against Information

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

Representing Florida Eagle Forum

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)

4/20

Meeting Date

HB 7111

Bill Number (if applicable)

197050

Amendment Barcode (if applicable)

Topic Conscience Protections

Name John Stemberger

Job Title President and General Counsel

Address _____

Street

Phone _____

Orlando

FL

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing Florida Family Action, Legislative Arm of the Florida Family Policy Council

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)

4/20/15
Meeting Date

711
Bill Number (if applicable)
197050
Amendment Barcode (if applicable)

Topic _____

Name Michael Sneed

Job Title _____

Address 201 W. Park Ave.

Phone _____

Tallahassee FL 32301
City State Zip

Email _____

Speaking: For Against Information

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

Representing FL Conf. 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.

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)

4/20/2015
Meeting Date

7114
Bill Number (if applicable)

197050
Amendment Barcode (if applicable)

Topic Conscience Protection

Name Randy Osborne

Job Title Director of Education

Address 2775 NW 4th Ave

Phone 352-572-7598

Street

Ocala

FL

State

34482

Zip

Email _____

Speaking: For Against Information

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

Representing Florida Eagle Forum

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)

4-20-14

Meeting Date

711

Bill Number (if applicable)

197050

Amendment Barcode (if applicable)

Topic Religious Conscience

Name Catherine Baer

Job Title Chair - The Tea Party Network

Address 1421 Woodgate Way

Phone

Street

T4H

City

FL

State

32304

Zip

Email

Speaking: For Against Information

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

Representing The Tea Party Network

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)

4/20

Meeting Date

HB 7111

Bill Number (if applicable)

658136

Amendment Barcode (if applicable)

Topic Conscience Protection

Name John Stemberger

Job Title President and General Counsel

Address _____

Street

Orlando

City

FL

State

Zip

Phone _____

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against

(The Chair will read this information into the record.)

Representing Florida Family Action, legislative arm of the Florida Family Policy Council

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)

4-20-15
Meeting Date

HB 7111
Bill Number (if applicable)
658136
Amendment Barcode (if applicable)

Topic CONSCIENCE BILL

Name JERRY HAAG

Job Title PRESIDENT

Address 1015 SIKES BLVD
Street

Phone 863/687-8811

LAKELAND FL 33815
City State Zip

Email Jerry.haag@FBLHOMES.ORG

Speaking: For Against Information

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

Representing FLORIDA BAPTIST CHILDREN'S HOMES

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)

4/20/15

Meeting Date

7111

Bill Number (if applicable)

658136

Amendment Barcode (if applicable)

Topic _____

Name Michael Sheedy

Job Title _____

Address 201 W. Park Ave.

Street

Phone _____

Tallahassee

City

FL

State

32301

Zip

Email _____

Speaking: For Against Information

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

Representing FL Conf. 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.

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)

4/20/2015
Meeting Date

6 7111

Bill Number (if applicable)

658136

Amendment Barcode (if applicable)

Topic Conscience Protection

Name Randy Osborne

Job Title Director of Education

Address 2775 NW 49th Ave
Street

Phone 352-572-7398

Orlando
City

FL
State

32472
Zip

Email _____

Speaking: For Against Information

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

Representing Florida Eagle Forum

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)

4-20-15

Meeting Date

7111

Bill Number (if applicable)

68658136

Amendment Barcode (if applicable)

Topic Religious Conscience

Name Catherine Baer

Job Title Chair - The Tea Party Network

Address 1421 Woodgate Way

Phone _____

Street

TLH

FL

32308

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing The Tea Party Network

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)

4-20-15
Meeting Date

HB 7111
Bill Number (if applicable)

864054
Amendment Barcode (if applicable)

Topic CONSCIENCE PROTECTION

Name JERRY HAAG

Job Title PRESIDENT

Address 1015 SYKES BLVD
Street

Phone 863/687-8811

LAKELAND FL 33815
City State Zip

Email Jerry.haag@FBCOMES.ORG

Speaking: For Against Information

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

Representing FLORIDA BAPTIST CHILDRENS HOMES

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

4-20-15

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

HB 7111

Meeting Date

Bill Number (if applicable)

864054 (GIBSON)
Amendment Barcode (if applicable)

Topic ADOPTION DISCRIMINATION

Name Carlos Guillermo Smith

Job Title Governmental Affairs

Address 2237 Stonington Avenue

Phone 404-934-4944

Street
Orlando

Email carloss@eqfl.org

City

State

Zip

Speaking: For Against Information

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

Representing Equality Florida

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/20/15
Meeting Date

7111
Bill Number (if applicable)
864054
Amendment Barcode (if applicable)

Topic _____

Name Michael Sheedy

Job Title _____

Address 201 W. Park Ave.
Street
Tall. FL 32301
City State Zip

Phone _____

Email _____

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.

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)

4/20/15

Meeting Date

HB 711

Bill Number (if applicable)

864054

Amendment Barcode (if applicable)

Topic Conscience Protection

Name John Stemberger

Job Title President and General Counsel

Address _____
Street

Phone _____

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing Florida Family Action, legislative arm of the Florida

Family Policy Council

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)

4/20/2015
Meeting Date

7111
Bill Number (if applicable)
864054
Amendment Barcode (if applicable)

Topic Conscience Protection

Name Randy Osborne

Job Title Director of Education

Address ~~4203 NW~~ 2775 NW 49th Ave Phone 352-572-7598
Street

Ocala FL 34482
City State Zip

Email _____

Speaking: For Against Information

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

Representing FLORIDA Eagle Forum

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)

4-20-15
Meeting Date

711
Bill Number (if applicable)
864054
Amendment Barcode (if applicable)

Topic Religious Conscience

Name Catherine Baer

Job Title Chair - The Tea Party Network

Address 142 Woodgate Way Phone _____

TLH FL 32308 Email _____
City State Zip

Speaking: For Against Information

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

Representing The Tea Party Network

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)

4/20

Meeting Date

HB 7111
Bill Number (if applicable)

Topic Conscience Protection

Amendment Barcode (if applicable)

Name Courtney Gager

Job Title _____

Address _____

Phone _____

Street

Havana

City

FL

State

Zip

Email _____

Speaking: For Against Information

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

Representing myself

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)

4-20-15

Meeting Date

HB 7111

Bill Number (if applicable)

Topic Conscience Protection

Amendment Barcode (if applicable)

Name Pam Olsen

Job Title Legislative Workgroup Chair - FL Faith-based Community-based Advisory Council

Address PO Box 14017

Phone 850-906-9170

Street

Tallahassee

City

FL

State

32317

Zip

Email pam.olsen33@gmail.com

Speaking: For Against Information

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

Representing FL Faith-based Community-based Advisory Council - Office of Adoption EOG

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)

4/20

Meeting Date

HB 7111

Bill Number (if applicable)

Topic Conscience Protection

Amendment Barcode (if applicable)

Name John Stemberger

Job Title President and General Counsel

Address _____

Phone _____

Street

Orlando

City

FL

State

Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against

(The Chair will read this information into the record.)

Representing Florida Family Action, legislative arm of the Florida Family Policy Council

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)

4-20-15

Meeting Date

7111

Bill Number (if applicable)

Topic Adoption Agency Discrimination

Amendment Barcode (if applicable)

Name MS Barbara Devane

Job Title Ms.

Address 625 E. Broadway St

Phone 850-232-3969

Street

Tallahassee FL 32308

City

State

Zip

Email barbadevane1@fator

Speaking: For Against Information

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

Representing FL NOW

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)

4/20/15

Meeting Date

7111

Bill Number (if applicable)

Topic Full Bill After Amendments

Amendment Barcode (if applicable)

Name Michael Sheedy

Job Title Exec. Dir.

Address 201 W. Park Ave.

Phone

Street

Tall FL 32301

Email

City

State

Zip

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.

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)

4-20-15

Meeting Date

H.B.
7711

Bill Number (if applicable)

Topic Adoption Discrimination

Amendment Barcode (if applicable)

Name Amy Datz

Job Title Legislative Liaison

Address _____

Phone 850 322-7529

Street

Tallahassee Fl. 32303

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing National Council of Jewish Women

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)

4-20-15

Meeting Date

HB7111
Bill Number (if applicable)

Topic CONSCIENCE PROTECTION

Amendment Barcode (if applicable)

Name JERRY HAAG

Job Title PRESIDENT - FLORIDA BAPTIST CHILDREN'S HOMES

Address 1015 SIKES BLVD
Street

Phone 863/687-8811

LAKELAND FL
City State

33815
Zip

Email Jerry.haag@FBCHomes.org

Speaking: For Against Information

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

Representing FLORIDA BAPTIST CHILDREN'S HOMES

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)

4/20/15
Meeting Date

HB 7111
Bill Number (if applicable)

Topic Conscience Clause

Amendment Barcode (if applicable)

Name Abdi Randolph

Job Title _____

Address _____

Phone _____

Street

Orlando

City

FL

State

32835

Zip

Email _____

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.

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/20/2015 Meeting Date

HB 7111 Bill Number (if applicable)

Topic HB 7111 Conscience Protection

Amendment Barcode (if applicable)

Name Pastor Eddie Eaton

Job Title Senior Pastor

Address 1599 Bradley Rd Street

Phone 850-956-4100

Westville FL 32164 City State Zip

Email pastor@westpittman.org

Speaking: For Against Information

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

Representing West Pittman Baptist Church

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)

4/20/15
Meeting Date

HB 7111
Bill Number (if applicable)

Topic Adoption "conscience clause"

Amendment Barcode (if applicable)

Name Mary Kator

Job Title Attorney

Address 11209 Kelleher Ct.
Street

Phone (248) 935-9637

New Port Richey FL 34654
City State Zip

Email mkkator@me.com

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

04/20/2015

Meeting Date

HB7111

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Amanda Williams

Job Title Foster Parent

Address 7215 NW 127 Place

Phone 352-214-6300

Street

Alachua

FL

32615

Email amawill@gmail.com

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.

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)

4/20/15

Meeting Date

CS/HB 7111

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Maria T. Bates, Esq.

Job Title Adoption Attorney

Address 970 Lake Carillon Dr. Suite 300

Phone 727-265-5438

Street

St. Petersburg

FL

33716

Email maria@familyplanninglaw.com

City

State

Zip

Speaking: For Against Information

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

Representing Adoption & Family Planning Law Center, LLC

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)

04/20/2015

Meeting Date

HB7111

Bill Number (if applicable)

Topic Adoption "Conscience clause"

Amendment Barcode (if applicable)

Name Denise Brogan-Kator

Job Title Senior Legislative Counsel

Address 11209 Kelleher Ct.

Phone (727) 868-8140

Street

New Port Richey

FL

34654

Email DeniseBK@FamilyEquality.org

City

State

Zip

Speaking: For Against Information

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

Representing Family Equality Council

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)

4-20-15

Meeting Date

7111

Bill Number (if applicable)

Topic Conscience Protection

Amendment Barcode (if applicable)

Name Amber Kelly

Job Title Dir. of Foundation for Defense of Families

Address PO Box 89757

Phone 844-433-3872

Street

Tampa FL 33689

City

State

Zip

Email amber@fdfamilyca.org

Speaking: For Against Information

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

Representing Foundation for Defense of Families *Against Amendments

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)

4/20/15
Meeting Date

HB 7111
Bill Number (if applicable)

Topic CONSCIENCE PROTECTION

Amendment Barcode (if applicable)

Name TOM LUKASIK

Job Title VICE PRESIDENT - 4KIDS OF SOUTH FLORIDA

Address 827 S. STATE RD 7

Phone 954-590-1531

N. LAUDERDALE FL 33068
City State Zip

Email TOM@4KIDSAMERICA.ORG

Speaking: For Against Information

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

Representing 4KIDS OF SOUTH FLORIDA, INC

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

4-20-15

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

7111
Bill Number (if applicable)

Meeting Date

Topic Conscience Protection

Amendment Barcode (if applicable)

Name Mark Phillips

Job Title Leg Affairs

Address 1101 Victoria Dr

Phone 813-532-5023

Street

Dunedin FL 34698

City

State

Zip

Email mphilipswka@phoot.com

Speaking: For Against Information

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

Representing FL FAMILY ACTION

of the Bill
*Against Amendments

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)

4/20/2015

Meeting Date

7114

Bill Number (if applicable)

Topic Child Placement

Amendment Barcode (if applicable)

Name Sean Kolaskar

Job Title Legislative Coordinator

Address 115 S. Andrews Ave ; Room 426

Phone 954-357-7575

Ft. Lauderdale FL 33301

City State Zip

Email skolaskar@broward.org

Speaking: For Against Information

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

Representing Broward County

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)

4/20/15

Meeting Date

711

Bill Number (if applicable)

Topic Religious Conscience Bill

Amendment Barcode (if applicable)

Name Catherine Baer

Job Title The Tea Party Network Chair

Address 1421 Woodgate Way

Phone

Street

Tallahassee

FL

State

32308

Zip

Email

Speaking: For Against Information

Waive Speaking: In Support Against

(The Chair will read this information into the record.)

Representing The Tea Party Network

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)

4/20/2015

Meeting Date

711

Bill Number (if applicable)

Topic Religious Consensus Bill

Amendment Barcode (if applicable)

Name Randy Osborne

Job Title Director of Education

Address 2775 NW 49th Ave

Phone 352-572-7598

Street

Ocala

City

FL

State

34482

Zip

Email randy@Victory360

Speaking: [X] For [] Against [] Information

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

Representing Florida Eagle Forum

Appearing at request of Chair: [] Yes [] No

Lobbyist registered with Legislature: [X] 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)

4.20.15

Meeting Date

7111

Bill Number (if applicable)

Topic CONSCIOUS PROTECTION ACTIONS PRIVATE CHILD PLACEMENT Amendment Barcode (if applicable)

Name BILL BUNKLEY

Job Title PRESIDENT

Address PO BOX 341644

Phone 813.264.2977

Street

TAMPA

City

FL

State

33694

Zip

Email

Speaking: For Against Information

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

Representing FLORIDA ETHICS AND RELIGIOUS LIBERTY COMMISSION

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)

4/20/15

Meeting Date

HB 7111

Bill Number (if applicable)

Topic HB 7111 - Adoption / Child Placement

Amendment Barcode (if applicable)

Name Norberto Kate

Job Title Hearing Officer

Address 931 Thistle Lane N.

Phone 407 628-1604

Street

Maitland FL 32751

City

State

Zip

Email garcho410@gmail.com

Speaking: For Against Information

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

Representing Family Law Section of the Florida Bar

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)

4/20/15

Meeting Date

HB-7111

Bill Number (if applicable)

Topic HB 7111 Conscience Protection

Amendment Barcode (if applicable)

Name Heather Rosenberg

Job Title President

Address 22 Shoemaker Ct.

Street

Phone (850) 322-5425

Crawfordville FL 32327

City

State

Zip

Email nolegir174@gmail.com

Speaking: For Against Information

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

Representing Tallahassee Area Foster + Adoptive Parent Association

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)

April 20, 2015

Meeting Date

CS/HB 7111

Bill Number (if applicable)

Topic Excluding LGBT people from adopting on basis of religious beliefs of organization

Amendment Barcode (if applicable)

Name Diane Fisher

Job Title Reverend Elder

Address 149 B Villas Court SE

Phone (850)629-4472

Street

Tallahassee

Florida

32303

Email revdianefisher@gmail.com

City

State

Zip

Speaking: For Against Information

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

Representing Gentle Shepherd Metropolitan Community Church

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)

Meeting Date _____ Bill Number (if applicable) _____
Topic Adoption HB 7111 Amendment Barcode (if applicable) _____
Name Brant Copeland
Job Title Pastor First Presbyterian Church
Address 110 N. Adams Phone 850-222-4504
Street _____ City _____ State _____ Zip _____ Email _____

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

Representing self

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)

Meeting Date _____

Bill Number (if applicable) _____

Topic HB 711 Adaption

Amendment Barcode (if applicable) _____

Name Rabbi Jack Ramberg

Job Title Rabbi Temple Israel

Address 2215 Mahan Dr.

Phone 850-272-7676

Street
Jallahassogee FL 32308
City State Zip

Email rabbi@templeisraelth.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.

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-20-2015
Meeting Date

CS/HB 7111
Bill Number (if applicable)

Topic Private Child Placing Agencies

Amendment Barcode (if applicable)

Name Daria Monroe

Job Title Deputy Director

Address 620 N Wymore Rd Ste 220
Street

Phone 407 929 6932

Maitland FL 23751
City State Zip

Email dmonroe@embraced

Speaking: For Against Information

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

by grace.org

Representing Embraced by Grace

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)

4.20.15

Meeting Date

CS/HB 711

Bill Number (if applicable)

Topic Private Child Placing Agency

Amendment Barcode (if applicable)

Name Nancy Rivera

Job Title

Address 30 Moree Loop #29

Phone 718-541-2374

Street

Winter Springs FL 32708

Email ndriversa@aol.com

City

State

Zip

Speaking: [X] For [] Against [] Information

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

Representing Self

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [] Yes [X] 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

4/20/15
Meeting Date

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

CS/HB 7111
Bill Number (if applicable)

Topic Foster / Adoptive Child

Amendment Barcode (if applicable)

Name Nathaniel Gill

Job Title 10 year old student

Address 2809 Trebark Drive
Street

Phone 850-692-9944

Tallahassee FL 32312
City State Zip

Email fnugill@gmail.com

Speaking: For Against Information

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

Representing all foster children

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)

4/20/15
Meeting Date

CS/HB 711
Bill Number (if applicable)

Topic Equal Protection

Amendment Barcode (if applicable)

Name Martin Gill

Job Title Parent Educator

Address 2809 Trebark Dr.
Street

Phone 850 692 9944

Tallahassee FL 32312
City State Zip

Email fmgillogmail.com

Speaking: For Against Information

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

Representing N/A

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)

4-20-15
Meeting Date

HB 7111
Bill Number (if applicable)

Topic Adoption

Amendment Barcode (if applicable)

Name Johanna Byrd

Job Title Director of Government Affairs

Address 1931 Dellwood Drive
Street

Phone 850-224-2400

Tallahassee, FL 32303
City State Zip

Email johanna@naswfl.org

Speaking: For Against Information

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

Representing National Association of Social Workers, Florida Chapter

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.

APPEARANCE RECORD

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

4/20/15

Meeting Date

HB 7117

Bill Number (if applicable)

Topic Conscience Protection

Amendment Barcode (if applicable)

Name William Peterseim, CFP

Job Title Broadcaster, Professional Writer, Certified Financial Planner

Address 26239 Sword Dancer Dr
Street

Phone _____

Wesley Chapel FL 33541
City State Zip

Email billhtandi@gmail.com

Speaking: For Against Information

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

Representing SH

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)

4/20/15

Meeting Date

CS/HB 7111
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Karen Woodall

Job Title _____

Address 579 E. Call St.

Phone 850-321-9386

Tallahassee, FL 32301
City State Zip

Email kwally@aol.com

Speaking: For Against Information

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

Representing Self

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)

4/20/15

Meeting Date

HB 7111

Bill Number (if applicable)

Topic HB 7111

Amendment Barcode (if applicable)

Name Michelle Richardson

Job Title Director of Public Policy

Address 4550 Biscayne Blvd

Phone 786-343-2700

Street

Miami FL

City

State

Zip

Email mrichardson@aclufl.org

Speaking: For Against Information

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

Representing ACLU of Florida

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

Tallahassee, Florida 32399-1100

COMMITTEES:
Ethics and Elections, *Chair*
Banking and Insurance, *Vice Chair*
Appropriations
Appropriations Subcommittee on Health
and Human Services
Commerce and Tourism
Regulated Industries
Rules

SENATOR GARRETT RICHTER

President Pro Tempore
23rd District

April 20, 2015

Senator David Simmons, Chair
Senate Committee on Rules
402 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

4/20/15
a.k.
GRT/S

Dear Chair Simmons:

Due to weather conditions, I will be late arriving in Tallahassee and consequently will not be there for the commencement of the Rules Committee meeting. I will come directly to the meeting upon my arrival in Tallahassee.

Thank you for your consideration,

Garrett Richter

Cc: John Phelps, Staff Director

REPLY TO:

- 3299 E. Tamiami Trail, Suite 203, Naples, Florida 34112-4961 (239) 417-6205
- 404 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023
- 25 Homestead Road North, Suite 42 B, Lehigh Acres, Florida 33936 (239) 338-2777

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

CourtSmart Tag Report

Room: EL 110
Caption: Senate Rules Committee

Case:
Judge:

Type:

Started: 4/20/2015 1:02:53 PM

Ends: 4/20/2015 5:01:14 PM

Length: 03:58:22

1:02:54 PM Senator Simmons calls the meeting to order
1:03:03 PM Roll call
1:03:06 PM Quorum present
1:05:05 PM CS/SB 476
1:05:22 PM Senator Grimsley explains the bill
1:05:54 PM Senator Joyner with a question
1:06:32 PM Senator Grimsley responds
1:06:55 PM Senator Soto with a question
1:07:03 PM Senator Grimsley responds
1:07:38 PM Senator Grimsley waives close
1:07:48 PM Roll call
1:08:12 PM CS/SB 476 is reported favorably
1:08:22 PM CS/CS/SB 614
1:09:00 PM Amendment 395678
1:09:18 PM Senator Latvala with several questions and comments
1:10:07 PM Senator Simmons responds
1:11:28 PM Senator Grimsley explains circumstances on the late filed amendment
1:12:36 PM Senator Latvala with a question
1:12:49 PM Senator Grimsley responds
1:13:00 PM Senator Simmons comments
1:13:43 PM Senator Latvala speaks regarding the late filed amendment
1:14:20 PM Senator Grimsley responds
1:14:52 PM Senator Latvala with a question
1:15:00 PM John Phelps, Staff Director for Rules Committee, speaks on the amendments
1:15:26 PM Senator Latvala speaks on the amendments
1:15:54 PM Senator Grimsley responds
1:16:09 PM Senator Latvala with a follow up
1:16:15 PM Senator Grimsley responds
1:16:27 PM Senator Latvala with a follow up
1:16:37 PM John Phelps speaks on the amendments
1:17:04 PM Senator Montford with a question regarding the amendments
1:18:02 PM Senator Grimsley responds
1:18:07 PM Senator Simmons responds
1:19:39 PM Senator Latvala comments on the amendments
1:20:24 PM Senator Grimsley responds
1:20:59 PM Senator Gaetz comments on the amendments
1:21:19 PM Senator Latvala comments
1:22:26 PM CS/CS/SB 614 is temporarily postponed
1:23:11 PM CS/SB 738
1:23:23 PM Senator Grimsley explains the bill
1:23:56 PM Larry Gonzalez, General Counsel, Fla. Society of Health-System Pharmacists, waives in support
1:24:07 PM Doug Russell, Quest Diagnostics, waives in support
1:24:26 PM Stephen R. Winn, Executive Director, Florida Osteopathic Medical Association, waives in support
1:24:36 PM Mike Huey, Attorney, Laboratory Corporation of America, waives in support
1:25:01 PM Senator Grimsley waives close
1:25:10 PM Roll call
1:25:28 PM CS/SB 738 is reported favorably
1:25:45 PM CS/SB 946
1:26:13 PM Tyrell Hall explains the bill
1:26:34 PM Senator Soto with a question
1:26:43 PM Tyrell Hall responds
1:27:06 PM Tyrell Hall waives close

1:27:13 PM Roll call
1:27:36 PM CS/SB 946 is reported favorably
1:27:47 PM CS/SB 1224
1:27:58 PM Senator Joyner explains the bill
1:28:42 PM Senator Gibson with a question
1:29:07 PM Senator Joyner responds
1:29:43 PM Martha Edenfield, representing The Real Property, Probate & Trust Section of the Florida Bar responds
1:30:27 PM Senator Gibson with a follow up
1:30:40 PM Martha Edenfield responds
1:31:00 PM Senator Montford with a question
1:32:22 PM Martha Edenfield responds
1:32:45 PM Senator Montford with a follow up
1:33:38 PM Martha Edenfield responds
1:34:20 PM Senator Montford with a follow up
1:34:29 PM Martha Edenfield responds
1:34:49 PM Amendment 402896
1:35:00 PM Senator Joyner explains the amendment
1:35:38 PM Senator Joyner waives close
1:36:02 PM Amendment 402896 is adopted without objection
1:36:06 PM Amendment 688460
1:36:12 PM Senator Joyner explains the amendment
1:36:59 PM Amendment 688460 is adopted without objection
1:37:08 PM Back on the bill as amended
1:37:15 PM Senator Gibson with a question
1:38:49 PM Martha Edenfield responds
1:39:44 PM Senator Joyner waives close
1:39:57 PM Roll call
1:40:16 PM CS/CS/SB 1224 is reported favorably
1:40:36 PM CS/CS/SB 564
1:40:45 PM Senator Richter explains the bill
1:41:00 PM Senator Soto with a question
1:41:11 PM Senator Richter responds
1:41:40 PM Cynthia Henderson, LGBS, waives in support
1:42:05 PM Senator Richter waives close
1:42:13 PM Roll call
1:42:34 PM CS/CS/SB 564 is reported favorably
1:42:48 PM CS/CS/SB 566
1:42:57 PM Senator Richter explains the bill
1:43:26 PM Senator Soto with a question
1:43:33 PM Senator Richter responds
1:43:44 PM Amendment 180286
1:43:52 PM Senator Richter explains the amendment.
1:44:20 PM Cynthia Henderson, LGBS, waives in support
1:44:35 PM Senator Richter waives close on the amendment
1:44:48 PM Amendment is adopted without objection
1:44:57 PM Back on bill as amended
1:45:10 PM Senator Richter waives close
1:46:04 PM Roll call
1:46:31 PM CS/CS/CS/SB 566 is reported favorably
1:46:59 PM CS/SB 678
1:47:06 PM Senator Diaz de la Portilla explains the bill
1:47:33 PM Sean Stafford, Star & Shield Insurance Group, waives in support
1:47:54 PM Senator Diaz de la Portilla waives close
1:48:06 PM Roll call
1:48:27 PM CS/SB 678 is reported favorably
1:48:54 PM CS/CS/SB 360
1:49:19 PM Rachel Barnes explains the bill
1:50:08 PM Brittany Finkbeiner, Real Property, Probate & Trust Law Section, waives in support
1:50:37 PM Rachel Barnes waives close
1:50:50 PM Roll call
1:51:10 PM CS/CS/SB 360 is reported favorably
1:51:38 PM SB 796

1:51:49 PM Dave Murzin explains the bill
1:52:14 PM Justin Thames, Gov.Affairs Manager, Florida Institute of CPA's, waives in support
1:52:45 PM Dave Murzin waives close
1:52:57 PM Roll call
1:53:21 PM SB 796 is reported favorably
1:53:52 PM CS/CS/SB 1372
1:54:14 PM Senator Gaetz explains the bill
1:55:21 PM Senator Latvala with a question
1:55:53 PM Senator Simmons responds
1:56:20 PM Senator Gaetz speaks on the bill and amendments
1:57:16 PM Senator Simmons speaks on the bill and amendments
1:57:37 PM Senator Latvala comments
1:58:09 PM CS/CS/SB 1372 is temporarily postponed
1:58:41 PM CS/CS/SB 614
1:59:35 PM 395678 late filed amendment is taken up without objection
1:59:55 PM Senator Grimsley explains the amendment
2:03:46 PM Senator Soto with a question
2:03:55 PM Senator Grimsley responds
2:04:06 PM Senator Gibson with a question
2:04:31 PM Senator Grimsley responds
2:05:28 PM Senator Grimsley explains differences to the bill
2:05:48 PM Senator Montford with a question
2:06:30 PM Senator Grimsley responds
2:07:19 PM Senator Montford with a follow up
2:07:27 PM Senator Grimsley responds
2:07:53 PM Senator Soto with a question
2:08:01 PM Senator Grimsley responds
2:08:18 PM 421698, 495086, 850170 amendments are withdrawn
2:08:46 PM Late filed amendments
2:08:58 PM Amendment to the amendment 183442
2:09:27 PM Senator Grimsley explains the amendment to the amendment
2:11:52 PM Amendment to the amendment 183442 is adopted without objection
2:12:04 PM Amendment to the amendment 841294 is withdrawn
2:13:11 PM Amendment to the amendment 149458
2:13:32 PM Senator Gaetz explains the amendment to the amendment
2:15:40 PM Without objection, the amendment to the amendment is taken up
2:16:18 PM Joy Ryan, AHIP, speaks against the amendment to the amendment
2:17:07 PM Senator Lee with a question
2:17:16 PM Joy Ryan responds
2:18:16 PM Senator Lee with a follow up
2:18:31 PM Joy Ryan responds
2:19:07 PM Senator Montford with a question
2:19:18 PM Joy Ryan responds
2:19:34 PM Senator Montford with a follow up
2:19:44 PM Joy Ryan responds
2:21:20 PM Senator Negron with a question
2:21:51 PM Joy Ryan responds
2:22:20 PM Senator Joyner with a question
2:24:26 PM Joy Ryan responds
2:25:02 PM Senator Joyner with a follow up
2:25:14 PM Joy Ryan responds
2:25:35 PM Senator Gibson with a question
2:26:21 PM Joy Ryan responds
2:26:41 PM Senator Gibson with a follow up
2:27:10 PM Joy Ryan responds
2:27:52 PM Jeff Scott, Florida Medical Association, speaks in support of the amendment to the amendment
2:29:06 PM Senator Gibson with a question
2:29:37 PM Jeff Scott responds
2:30:04 PM Senator Gibson with a follow up
2:30:20 PM Jeff Scott responds
2:30:45 PM Senator Montford with a question
2:31:10 PM Jeff Scott responds

2:31:34 PM Senator Montford with a follow up
2:31:56 PM Jeff Scott responds
2:32:22 PM Stephen R. Wynn, Executive Director, Florida Osteopathic Medical Association, waives in support
2:32:41 PM William Peterseim, CFP, speaks for the amendment to the amendment
2:36:03 PM Toni Large, Fla Society of Rheumatology, speaks in support of the amendment to the amendment
2:38:14 PM Senator Gibson speaks in debate
2:39:40 PM Senator Montford speaks in debate
2:40:11 PM Senator Joyner speaks in debate
2:40:45 PM Senator Gaetz closes on the amendment to the amendment 149458
2:42:27 PM Voice vote - amendment to the amendment is adopted
2:42:40 PM Back on Amendment 395678 as amended
2:43:28 PM Amendment 395678 is adopted without objection
2:43:46 PM Back on bill as amended
2:43:50 PM Corinne Mixon, Florida Academy of Physician Assistants, waives in support
2:43:54 PM Nelson Anthony Guzman, PA-C, Critical Care Physician Assistant, waives in support
2:44:08 PM Chris Floyd, Consultant, FL Assoc. of Nurse Practitioners, waives in support
2:44:18 PM Martha Decastro, VP for Nursing, Florida Hospital Association, waives in support
2:44:26 PM Janet DuBois, President, Florida Nurse Practitioner Network, waives in support
2:44:37 PM Barbara Lumpkin, Baptist Health South Florida, waives in support
2:44:46 PM Alisa LaPolt, Florida Nurses Association, waives in support
2:44:55 PM Courtney Cox, coordinator, Patient Access for Florida, waives in support
2:45:01 PM Taylor Smith, Representative, Florida State Hispanic Chamber of Commerce, waives in support
2:45:11 PM Christopher Wells, Program Manager, Sickle Cell Foundation, waives in support
2:45:15 PM Carol Berkowitz, Fla. Health Care Association, waives in support
2:45:28 PM Julia Pallantino, Florida Nurse Practitioner Network, waives in support
2:45:41 PM Stephen R. Winn, Executive Director, Florida Osteopathic Medical Association, waives in support
2:45:55 PM Paul Shidel speaks against the bill
2:51:28 PM Senator Grimsley closes on the bill
2:52:15 PM Roll call
2:52:45 PM CS/CS/CS/SB 614 is reported favorably
2:53:08 PM CS/CS/SB 1372
2:53:31 PM Senator Gaetz explains the bill and amendments
2:54:11 PM Senator Joyner moves for reconsideration of the substitute amendment 533978
2:55:15 PM Voice vote - motion for reconsideration is passed
2:55:47 PM President Gaetz explains amendment 278496 to the substitute amendment 533978
2:56:48 PM Senator Latvala with a question
2:57:19 PM Senator Gaetz responds
2:57:48 PM Senator Latvala with a follow up
2:58:12 PM Senator Gaetz responds
2:59:40 PM Nick Iarossi, Safety Net Hospital Alliance, speaks in support of the amendment
3:00:36 PM Senator Gaetz closes on Amendment 278496
3:01:09 PM Voice vote - Amendment to the substitute amendment is adopted
3:01:51 PM Without objection, amendment 533978 as amended is adopted
3:02:26 PM Amendment 897662
3:02:27 PM Senator Gaetz explains the amendment
3:03:25 PM Voice vote to reconsider 897662 without objection
3:03:48 PM Amendment 958928
3:04:00 PM Senator Gaetz explains the amendment
3:05:19 PM Virindia Doss, Executive Director, FL Commission on Ethics, waives in support
3:05:56 PM Senator Gaetz waives close on substitute amendment 958928
3:06:17 PM Voice vote - substitute amendment is adopted
3:06:40 PM Back on bill as amended
3:06:43 PM Kraig Conn, Florida League of Cities, speaks against the bill
3:09:23 PM Senator Gaetz closes on the bill
3:09:53 PM Roll call
3:10:16 PM CS/CS/CS/SB 1372 is reported favorably
3:10:33 PM CS/HB 7111
3:11:31 PM Senator Simmons explains taking up the bill
3:21:38 PM Senator Gibson with a question
3:22:01 PM Senator Simmons responds
3:22:23 PM Senator Montford with a question
3:23:07 PM Senator Simmons responds

3:23:58 PM Senator Galvano with a question
3:24:12 PM Senator Simmons responds
3:24:21 PM Tom Cibula, Staff Director for Senate Judiciary Committee gives background on the bill
3:28:57 PM Senator Gibson with a question
3:29:29 PM Tom Cibula responds
3:29:50 PM Senator Gibson with a follow up
3:30:07 PM Tom Cibula responds
3:30:20 PM Senator Latvala with a question
3:31:05 PM Tom Cibula responds
3:31:44 PM Senator Latvala with a followup
3:32:05 PM Tom Cibula responds
3:32:24 PM Senator Latvala with a question
3:33:14 PM Senator Soto comments
3:33:28 PM Senator Montford with a question
3:33:52 PM Tom Cibula responds
3:33:59 PM Senator Montford with a follow up
3:34:18 PM Tom Cibula responds
3:34:28 PM Senator Soto with a question
3:35:06 PM Senator Simmons responds
3:35:32 PM Senator Soto with a follow up
3:35:47 PM Senator Lee speaks on the procedure
3:36:37 PM Senator Soto with a question
3:37:09 PM Tom Cibula responds
3:38:10 PM Senator Soto with a follow up
3:38:44 PM Senator Simmons responds
3:39:30 PM Courtney Gager, speaking for the bill
3:40:56 PM Pam Olsen, Legislative Workgroup Chair, Florida Faith Based Advisory Council, speaks in support of the bill
3:43:33 PM Senator Latvala with a question
3:44:19 PM Pam Olsen responds
3:45:18 PM Senator Latvala with a follow up
3:45:31 PM Pam Olsen responds
3:46:39 PM Senator Latvala with a follow up
3:47:19 PM Pam Olsen responds
3:48:03 PM Senator Latvala comments
3:48:23 PM Senator Montford with a question
3:48:54 PM Pam Olsen responds
3:49:45 PM Senator Montford with a follow up
3:49:55 PM Pam Olsen responds
3:50:46 PM Senator Gibson with a question
3:51:08 PM Pam Olsen responds
3:52:10 PM Senator Gibson with a question
3:52:15 PM Pam Olsen responds
3:52:42 PM John Stemberger, President and General Counsel, Florida Family Action, legislative arm of the Florida Family Policy Council speaks in support of the bill
3:53:46 PM Council speaks in support of the bill
3:56:38 PM Senator Lee with a question
3:58:27 PM John Stemberger responds
4:00:14 PM Senator Galvano with a question
4:00:24 PM John Stemberger responds
4:00:37 PM Senator Montford with a question
4:00:58 PM John Stemberger responds
4:01:05 PM Senator Montford with a follow up
4:01:53 PM John Stemberger responds
4:02:39 PM Senator Soto with a question
4:02:56 PM John Stemberger responds
4:04:02 PM Senator Gaetz with a question
4:06:04 PM John Stemberger responds
4:07:01 PM Senator Gaetz with a follow up
4:07:43 PM John Stemberger responds
4:08:05 PM Barbara DeVane, Florida NOW, waives in opposition
4:08:26 PM Michael Sheedy, Executive Director, FL Conference of Catholic Bishops, speaks for the bill

4:11:01 PM Senator Latvala with a question
4:11:16 PM Michael Sheedy responds
4:11:24 PM Senator Latvala with a follow up
4:11:50 PM Michael Sheedy responds
4:12:14 PM Senator Latvala with a question
4:12:27 PM Michael Sheedy responds
4:12:45 PM Senator Latvala with a follow up
4:12:58 PM Michael Sheedy responds
4:14:02 PM Senator Gibson with a question
4:15:22 PM Michael Sheedy responds
4:15:35 PM Senator Montford with a question
4:15:48 PM Michael Sheedy responds
4:15:59 PM Senator Soto with a question
4:16:27 PM Michael Sheedy responds
4:17:38 PM Amy Datz, National Council of Jewish Women, speaks against the bill
4:19:49 PM Senator Gaetz with a question
4:20:56 PM Amy Datz responds
4:21:17 PM Senator Gaetz with a follow up
4:21:45 PM Amy Datz responds
4:22:06 PM Senator Gaetz with a follow up
4:22:22 PM Amy Datz responds
4:22:35 PM Jerry Haag, President, Florida Baptist Children's Homes, speaks for the bill
4:25:28 PM Senator Montford with a question
4:25:58 PM Jerry Haag responds
4:27:00 PM Senator Gaetz with a question
4:27:44 PM Jerry Haag responds
4:28:02 PM Senator Gaetz with a follow up
4:28:29 PM Jerry Haag responds
4:28:49 PM Senator Soto with a question
4:29:00 PM Jerry Haag responds
4:30:05 PM Nandi Randolph, speaks for the bill
4:31:56 PM Pastor Eddie Eaton, Senior Pastor, West Pittman Baptist Church, waives in support
4:32:13 PM Mary Kator, Attorney, speaks against the bill
4:33:52 PM Amanda Williams, foster parent, speaks against the bill
4:34:52 PM Maria Bates, Adoption Attorney, Adoption & Family Planning Law Center, LLC, speaks against the bill
4:36:32 PM Senator Gibson with a question
4:37:17 PM Maria Bates responds
4:38:05 PM Denise Brogan-Kator, Senior Legislative Counsel, Family Equality Council, speaks against the bill
4:39:40 PM Amber Kelly, Director of Foundation for Defense of Families, speaks for the bill
4:41:11 PM Tom Lukasik, Vice President, 4Kids of South Florida, Inc., speaks for the bill
4:42:50 PM Mark Phillips, Legislative Affairs, FL Family Action, waives in support
4:43:07 PM Sean Kolasker, Legislative Coordinator, Broward County, waives in opposition
4:43:13 PM Catherine Baer, The Tea Party Network, speaks for the bill
4:44:53 PM Randy Osborne, Director of Education, Florida Eagle Forum, speaks for the bill
4:46:05 PM Bill Bunkley, President, Florida Ethics and Religious Liberty Commission, speaks for the bill
4:48:16 PM Senator Latvala with a question
4:48:36 PM Bill Bunkley responds
4:49:37 PM Norberto Katz, Hearing Officer, Family Law Section of the Florida Bar, speaks against the bill
4:50:34 PM Heather Rosenberg, President, Tallahassee Area Foster & Adoptive Parent Association, speaks against the bill
4:52:07 PM Diane Fisher, Reverend Elder, Gentle Shepherd Metropolitan Community Church, speaks against the bill
4:53:32 PM Brant Copeland, Pastor, First Presbyterian Church
4:54:24 PM speaks against the bill
4:54:52 PM Daria Monroe, Deputy Director, Embraced by Grace, speaks for the bill
4:56:17 PM Nancy Rivera speaks for the bill
4:58:13 PM Nathaniel Gill, student, speaks against the bill
5:00:08 PM Motion to temporarily postpone the bill without objection
5:00:24 PM Senator Simmons comments
5:01:09 PM Without objection, meeting is adjourned