Tab 1	**SB 282** by **Rouson (CO-INTRODUCERS) Jones, Book**; (Similar to CS/H 00795) Mental Health and Substance Use Disorders

Tab 2	**SB 292** by **Polsky (CO-INTRODUCERS) Book**; (Compare to H 01073) Newborn Screenings

764450	D	S	RCS	AHS, Polsky	Delete everything after	01/19 12:40 PM
629500	AA	S	RCS	AHS, Polsky	Delete L.93 - 94:	01/19 12:40 PM

Tab 3	**SB 534** by **Harrell**; (Identical to H 00885) Prescription Drugs Used in the Treatment of Schizophrenia for Medicaid Recipients

Tab 4	**SB 544** by **Boyd**; (Similar to CS/H 00731) Drug-related Overdose Prevention

599944	D	S	RCS	AHS, Boyd	Delete everything after	01/19 12:41 PM

Tab 5	**CS/SB 632** by **HP, Bradley**; (Identical to H 00847) Occupational Therapy

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

APPROPRIATIONS SUBCOMMITTEE ON HEALTH AND HUMAN SERVICES
Senator Bean, Chair
Senator Rodriguez, Vice Chair

MEETING DATE: Wednesday, January 19, 2022
TIME: 10:30 a.m.—12:00 noon
PLACE: *Pat Thomas Committee Room,* 412 Knott Building

MEMBERS: Senator Bean, Chair; Senator Rodriguez, Vice Chair; Senators Book, Brodeur, Burgess, Diaz, Farmer, Harrell, Jones, Rodrigues, and Rouson

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**SB 282** Rouson (Similar CS/H 795)	Mental Health and Substance Use Disorders; Providing that the use of peer specialists is an essential element of a coordinated system of care in recovery from a substance use disorder or mental illness; revising background screening requirements for certain peer specialists; requiring the Department of Children and Families to develop a training program for peer specialists and to give preference to trainers who are certified peer specialists; authorizing the department to certify peer specialists, either directly or by approving a third-party credentialing entity, etc. CF 11/30/2021 Favorable AHS 01/19/2022 Favorable AP	Favorable Yeas 9 Nays 0
2	**SB 292** Polsky (Compare H 1073)	Newborn Screenings; Revising requirements for the Department of Health's rules related to newborn screenings; requiring hospitals and other state-licensed birthing facilities to test for congenital cytomegalovirus in newborns under certain circumstances, etc. HP 11/03/2021 Favorable AHS 01/19/2022 Fav/CS AP	Fav/CS Yeas 9 Nays 0
3	**SB 534** Harrell (Identical H 885)	Prescription Drugs Used in the Treatment of Schizophrenia for Medicaid Recipients; Authorizing the approval of drug products or certain medication prescribed for the treatment of schizophrenia or schizotypal or delusional disorders for Medicaid recipients who have not met the step-therapy prior authorization criteria, when the drug product or certain medication meets specified criteria, etc. HP 12/02/2021 Favorable AHS 01/19/2022 Favorable AP	Favorable Yeas 9 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	**SB 544** Boyd (Identical H 731)	Drug-related Overdose Prevention; Requiring the Florida Public Health Institute, Inc., in consultation with the Department of Health, to educate the public regarding the use of emergency opioid antagonists; authorizing pharmacists to order certain emergency opioid antagonists; providing certain authorized persons immunity from civil or criminal liability for administering emergency opioid antagonists under certain circumstances; authorizing civilian personnel of law enforcement agencies to administer emergency opioid antagonists under certain circumstances, etc. HP 12/02/2021 Favorable AHS 01/19/2022 Fav/CS AP	Fav/CS Yeas 9 Nays 0
5	**CS/SB 632** Health Policy / Bradley (Identical H 847)	Occupational Therapy; Revising eligibility requirements for the occupational therapist licensure examination; authorizing certain licensed occupational therapists to use a specified title and the associated initials; prohibiting certain persons from using a specified title and the associated initials; providing criminal penalties, etc. HP 12/02/2021 Fav/CS AHS 01/19/2022 Favorable AP	Favorable Yeas 9 Nays 0
	Other Related Meeting Documents		

By Senator Rouson

19-00096-22 2022282__

A bill to be entitled

An act relating to mental health and substance use disorders; amending s. 394.4573, F.S.; providing that the use of peer specialists is an essential element of a coordinated system of care in recovery from a substance use disorder or mental illness; making a technical change; amending s. 397.4073, F.S.; revising background screening requirements for certain peer specialists; revising authorizations relating to work by applicants who have committed disqualifying offenses; making a technical change; amending s. 397.417, F.S.; providing legislative findings and intent; revising requirements for certification as a peer specialist; requiring the Department of Children and Families to develop a training program for peer specialists and to give preference to trainers who are certified peer specialists; requiring the training program to coincide with a competency exam and be based on current practice standards; authorizing the department to certify peer specialists, either directly or by approving a third-party credentialing entity; prohibiting third-party credentialing entities from conducting background screenings for peer specialists; requiring that a person providing recovery support services be certified or be supervised by a licensed behavioral health care professional or a certain certified peer specialist; authorizing the department, a behavioral health managing entity, or the Medicaid program to reimburse

19-00096-22 2022282__

recovery support services as a recovery service; encouraging Medicaid managed care plans to use peer specialists in providing recovery services; requiring peer specialists and certain persons to meet the requirements of a background screening as a condition of employment and continued employment; requiring certain entities to forward fingerprints to specified entities; requiring the department to screen results to determine if the peer specialist meets the certification requirements; requiring that fees for state and federal fingerprint processing be borne by the peer specialist applying for employment; requiring that any arrest record identified through background screening be reported to the department; authorizing the department or the Agency for Health Care Administration to contract with certain vendors for fingerprinting; specifying requirements for vendors; specifying disqualifying offenses for a peer specialist who applies for certification; authorizing a person who does not meet background screening requirements to request an exemption from disqualification from the department or the agency; providing that a peer specialist certified as of the effective date of the act is deemed to satisfy the requirements of the act; providing an effective date.

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

Section 1. Paragraph (l) of subsection (2) and subsection

(3) of section 394.4573, Florida Statutes, are amended to read:

394.4573 Coordinated system of care; annual assessment; essential elements; measures of performance; system improvement grants; reports.—On or before December 1 of each year, the department shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives an assessment of the behavioral health services in this state. The assessment shall consider, at a minimum, the extent to which designated receiving systems function as no-wrong-door models, the availability of treatment and recovery services that use recovery-oriented and peer-involved approaches, the availability of less-restrictive services, and the use of evidence-informed practices. The assessment shall also consider the availability of and access to coordinated specialty care programs and identify any gaps in the availability of and access to such programs in the state. The department's assessment shall consider, at a minimum, the needs assessments conducted by the managing entities pursuant to s. 394.9082(5). Beginning in 2017, the department shall compile and include in the report all plans submitted by managing entities pursuant to s. 394.9082(8) and the department's evaluation of each plan.

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

(l) Recovery support, including, but not limited to, the use of peer specialists to assist in the individual's recovery from a substance use disorder or mental illness; support for competitive employment, educational attainment, independent living skills development, family support and education, wellness management, and self-care; and assistance in obtaining

housing that meets the individual's needs. Such housing may include mental health residential treatment facilities, limited mental health assisted living facilities, adult family care homes, and supportive housing. Housing provided using state funds must provide a safe and decent environment free from abuse and neglect.

(3) SYSTEM IMPROVEMENT GRANTS.—Subject to a specific appropriation by the Legislature, the department may award system improvement grants to managing entities based on a detailed plan to enhance services in accordance with the no-wrong-door model as defined in subsection (1) and to address specific needs identified in the assessment prepared by the department pursuant to this section. Such a grant must be awarded through a performance-based contract that links payments to the documented and measurable achievement of system improvements.

Section 2. Paragraphs (a) and (g) of subsection (1) of section 397.4073, Florida Statutes, are amended to read:

397.4073 Background checks of service provider personnel.—

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

(a) For all individuals screened on or after July 1, 2022 2019, background checks shall apply as follows:

1. All owners, directors, chief financial officers, and clinical supervisors of service providers are subject to level 2 background screening as provided under s. 408.809 and chapter 435. Inmate substance abuse programs operated directly or under contract with the Department of Corrections are exempt from this requirement.

2. All service provider personnel who have direct contact with children receiving services or with adults who are developmentally disabled receiving services are subject to level 2 background screening as provided under s. 408.809 and chapter 435.

3. All peer specialists who have direct contact with individuals receiving services are subject to a background screening as provided in s. 397.417(5) ~~level 2 background screening as provided under s. 408.809 and chapter 435~~.

(g) If 5 years or more, or 3 years or more in the case of a certified peer specialist or an individual seeking certification as a peer specialist pursuant to s. 397.417, have elapsed since an applicant for an exemption from disqualification has completed or has been lawfully released from confinement, supervision, or a nonmonetary condition imposed by a court for the applicant's most recent disqualifying offense, the applicant may work with adults with substance use disorders, mental health disorders, or co-occurring disorders under the supervision of persons who meet all personnel requirements of this chapter for up to 180 ~~90~~ days after being notified of his or her disqualification or until the department makes a final determination regarding his or her request for an exemption from disqualification, whichever is earlier.

Section 3. Section 397.417, Florida Statutes, is amended to read:

397.417 Peer specialists.—

(1) LEGISLATIVE FINDINGS AND INTENT.—

(a) The Legislature finds that:

1. The ability to provide adequate behavioral health

services is limited by a shortage of professionals and paraprofessionals.

2. The state is experiencing an increase in opioid addictions, many of which prove fatal.

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

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

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

6. Persons who are otherwise qualified to serve as peer specialists may have a criminal history that prevents them from meeting background screening requirements.

(b) The Legislature intends to expand the use of peer specialists as a cost-effective means of providing services. The Legislature also intends to ensure that peer specialists meet specified qualifications and modified background screening requirements and are adequately reimbursed for their services.

(2) QUALIFICATIONS.—

(a) A person may seek certification as a peer specialist if he or she has been in recovery from a substance use disorder or mental illness for the past 2 years or if he or she is a family member or caregiver of a person with a substance use disorder or mental illness.

(b) To obtain certification as a peer specialist, a person must complete the training program developed under subsection (3), achieve a passing score on the competency exam described in paragraph (3)(a), and meet the background screening requirements

specified in subsection (5).

(3) DUTIES OF THE DEPARTMENT.—

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

(b) The department may certify peer specialists directly or may approve one or more third-party credentialing entities for the purposes of certifying peer specialists, approving training programs for individuals seeking certification as peer specialists, approving continuing education programs, and establishing the minimum requirements and standards applicants must meet to maintain certification. Background screening required for achieving certification must be conducted as provided in subsection (5) and may not be conducted by third-party credentialing entities.

(c) The department shall require that a person providing recovery support services be certified; however, an individual who is not certified may provide recovery support services as a peer specialist for up to 1 year if he or she is working toward certification and is supervised by a qualified professional or by a certified peer specialist who has at least 2 years of full-time experience as a peer specialist at a licensed behavioral health organization.

(4) PAYMENT.—Recovery support services may be reimbursed as a recovery service through the department, a behavioral health managing entity, or the Medicaid program. Medicaid managed care plans are encouraged to use peer specialists in providing

recovery services.

(5) BACKGROUND SCREENING.—

(a) A peer specialist, or an individual who is working toward certification and providing recovery support services as provided in subsection (3), must have completed or have been lawfully released from confinement, supervision, or any nonmonetary condition imposed by the court for any felony and must undergo a background screening as a condition of initial and continued employment. The applicant must submit a full set of fingerprints to the department or to a vendor, an entity, or an agency that enters into an agreement with the Department of Law Enforcement as provided in s. 943.053(13). The department, vendor, entity, or agency shall forward the fingerprints to the Department of Law Enforcement for state processing and the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for national processing. The department shall screen the results to determine if a peer specialist meets certification requirements. The applicant is responsible for all fees charged in connection with state and federal fingerprint processing and retention. The state cost for fingerprint processing shall be as provided in s. 943.053(3)(e) for records provided to persons or entities other than those specified as exceptions therein. Fingerprints submitted to the Department of Law Enforcement pursuant to this paragraph shall be retained as provided in s. 435.12 and, when the Department of Law Enforcement begins participation in the program, enrolled in the Federal Bureau of Investigation's national retained fingerprint arrest notification program, as provided in s. 943.05(4). Any arrest record identified must be reported to the

department.

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

(c) Vendors who submit fingerprints on behalf of employers must:

1. Meet the requirements of s. 943.053; and

2. Have the ability to communicate electronically with the state agency accepting screening results from the Department of Law Enforcement and provide the applicant's full first name, middle initial, and last name; social security number or individual taxpayer identification number; date of birth; mailing address; sex; and race.

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

(e) The background screening conducted under this subsection must ensure that a peer specialist has not been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record has not been sealed or expunged for, any offense

prohibited under any of the following state laws or similar laws of another jurisdiction:

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

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

3. Section 409.920, relating to Medicaid provider fraud, if the offense was a felony of the first or second degree.

4. Section 415.111, relating to abuse, neglect, or exploitation of vulnerable adults.

5. Any offense that constitutes domestic violence as defined in s. 741.28.

6. Section 777.04, relating to attempts, solicitation, and conspiracy to commit an offense listed in this paragraph.

7. Section 782.04, relating to murder.

8. Section 782.07, relating to manslaughter, aggravated manslaughter of an elderly person or a disabled adult, aggravated manslaughter of a child, or aggravated manslaughter of an officer, a firefighter, an emergency medical technician, or a paramedic.

9. Section 782.071, relating to vehicular homicide.

10. Section 782.09, relating to killing an unborn child by injury to the mother.

11. Chapter 784, relating to assault, battery, and culpable negligence, if the offense was a felony.

12. Section 787.01, relating to kidnapping.

13. Section 787.02, relating to false imprisonment.

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

15. Section 787.04(2), relating to leading, taking, enticing, or removing a minor beyond state limits, or concealing the location of a minor, with criminal intent pending custody proceedings.

16. Section 787.04(3), relating to leading, taking, enticing, or removing a minor beyond state limits, or concealing the location of a minor, with criminal intent pending dependency proceedings or proceedings concerning alleged abuse or neglect of a minor.

17. Section 790.115(1), relating to exhibiting firearms or weapons within 1,000 feet of a school.

18. Section 790.115(2)(b), relating to possessing an electric weapon or device, a destructive device, or any other weapon on school property.

19. Section 794.011, relating to sexual battery.

20. Former s. 794.041, relating to prohibited acts of persons in familial or custodial authority.

21. Section 794.05, relating to unlawful sexual activity with certain minors.

22. Section 794.08, relating to female genital mutilation.

23. Section 796.07, relating to procuring another to commit prostitution, except for those offenses expunged pursuant to s. 943.0583.

24. Section 798.02, relating to lewd and lascivious behavior.

25. Chapter 800, relating to lewdness and indecent exposure.

26. Section 806.01, relating to arson.

27. Section 810.02, relating to burglary, if the offense was a felony of the first degree.

28. Section 810.14, relating to voyeurism, if the offense was a felony.

29. Section 810.145, relating to video voyeurism, if the offense was a felony.

30. Section 812.13, relating to robbery.

31. Section 812.131, relating to robbery by sudden snatching.

32. Section 812.133, relating to carjacking.

33. Section 812.135, relating to home-invasion robbery.

34. Section 817.034, relating to communications fraud, if the offense was a felony of the first degree.

35. Section 817.234, relating to false and fraudulent insurance claims, if the offense was a felony of the first or second degree.

36. Section 817.50, relating to fraudulently obtaining goods or services from a health care provider and false reports of a communicable disease.

37. Section 817.505, relating to patient brokering.

38. Section 817.568, relating to fraudulent use of personal identification, if the offense was a felony of the first or second degree.

39. Section 825.102, relating to abuse, aggravated abuse, or neglect of an elderly person or a disabled adult.

40. Section 825.1025, relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or a disabled person.

41. Section 825.103, relating to exploitation of an elderly person or a disabled adult, if the offense was a felony.

42. Section 826.04, relating to incest.

43. Section 827.03, relating to child abuse, aggravated child abuse, or neglect of a child.

44. Section 827.04, relating to contributing to the delinquency or dependency of a child.

45. Former s. 827.05, relating to negligent treatment of children.

46. Section 827.071, relating to sexual performance by a child.

47. Section 831.30, relating to fraud in obtaining medicinal drugs.

48. Section 831.31, relating to the sale, manufacture, delivery, or possession with intent to sell, manufacture, or deliver of any counterfeit controlled substance, if the offense was a felony.

49. Section 843.01, relating to resisting arrest with violence.

50. Section 843.025, relating to depriving a law enforcement, correctional, or correctional probation officer of the means of protection or communication.

51. Section 843.12, relating to aiding in an escape.

52. Section 843.13, relating to aiding in the escape of juvenile inmates of correctional institutions.

53. Chapter 847, relating to obscenity.

54. Section 874.05, relating to encouraging or recruiting another to join a criminal gang.

55. Chapter 893, relating to drug abuse prevention and

control, if the offense was a felony of the second degree or greater severity.

56. Section 895.03, relating to racketeering and collection of unlawful debts.

57. Section 896.101, relating to the Florida Money Laundering Act.

58. Section 916.1075, relating to sexual misconduct with certain forensic clients and reporting of such sexual misconduct.

59. Section 944.35(3), relating to inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm.

60. Section 944.40, relating to escape.

61. Section 944.46, relating to harboring, concealing, or aiding an escaped prisoner.

62. Section 944.47, relating to introduction of contraband into a correctional institution.

63. Section 985.701, relating to sexual misconduct in juvenile justice programs.

64. Section 985.711, relating to introduction of contraband into a detention facility.

(6) EXEMPTION REQUESTS.—A person who wishes to become a peer specialist and is disqualified under subsection (5) may request an exemption from disqualification pursuant to s. 435.07 from the department or the Agency for Health Care Administration, as applicable.

(7) GRANDFATHER CLAUSE.—A peer specialist certified as of July 1, 2022, is deemed to satisfy the requirements of this section.

~~(1) An individual may seek certification as a peer~~

~~specialist if he or she has been in recovery from a substance use disorder or mental illness for at least 2 years, or if he or she has at least 2 years of experience as a family member or caregiver of a person with a substance use disorder or mental illness.~~

~~(2) The department shall approve one or more third-party credentialing entities for the purposes of certifying peer specialists, approving training programs for individuals seeking certification as peer specialists, approving continuing education programs, and establishing the minimum requirements and standards that applicants must achieve to maintain certification. To obtain approval, the third party credentialing entity must demonstrate compliance with nationally recognized standards for developing and administering professional certification programs to certify peer specialists.~~

~~(3) An individual providing department-funded recovery support services as a peer specialist shall be certified pursuant to subsection (2). An individual who is not certified may provide recovery support services as a peer specialist for up to 1 year if he or she is working toward certification and is supervised by a qualified professional or by a certified peer specialist who has at least 3 years of full-time experience as a peer specialist at a licensed behavioral health organization.~~

Section 4. This act shall take effect July 1, 2022.

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

The Florida Senate

Committee Agenda Request

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

Subject: Committee Agenda Request

Date: December 22, 2021

I respectfully request that **Senate Bill #282**, relating to Mental Health and Substance Use Disorders, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator Darryl Ervin Rouson
Florida Senate, District 19

File signed original with committee office

S-020 (03/2004)

1-19-22
Meeting Date

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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SB-282
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Joe Dmitrovic Phone 717-554-2000

Address 3650 Salt Marsh Circle Email joedmitrovic@yahoo.com
Street

Melbourne FL 32904
City State Zip

Speaking: ☑ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Meeting Date	Bill Number or Topic
	SB 282
Committee	**Amendment Barcode (if applicable)**

Name Robert Cooper **Phone** (352) 476-9061

Address 807 SW 3rd Ave **Email** RCooper@ZeroHourLifeCenter.org
Street

OCALA FL 34471
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** **Waive Speaking:** ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

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1-19-22
Meeting Date

Approps. Subcommittee on HHS
Committee

282
Bill Number or Topic

Amendment Barcode (if applicable)

Name Natalie Kelly

Phone 850-570-5747

Address 122 S calhoun st.
Street

Email natalie@flmanagingentities.com

Tallahassee FL 32301
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing: Florida Association of Managing Entities

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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1.19.2022
Meeting Date

Approps - HHS
Committee

282
Bill Number or Topic

Amendment Barcode (if applicable)

Name Dr. Stephen Viel

Phone 386.425.4000

Address Halifax Health
Street
303 N. Clyde Morris Blvd
City Daytona Bch State FL Zip 32114

Email Stephen.Viel@Halifax.org

Speaking: ☑ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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1/19/22
Meeting Date

Appropriations-HHS
Committee

SB282
Bill Number or Topic

Amendment Barcode (if applicable)

Name Gayle Giese for Florida Mental Health Advocacy Coalition + NAMI Florida

Phone 954-258-9704

Address 1800 E. Oak Knoll Cir.
Street

Email [redacted] gaye@flmhac.org

Davie FL 33324
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1/19/22
Meeting Date

Appropriations
Committee

SB 282
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jennifer Luciani fw

Phone 732-766-6255

Address 5900 N. Farragut Drive
Street
Hollywood FL 33021
City State Zip

Email jenn3323@hotmail.com

NATIONAL ALLIANCE for mental illness (Brevard County)

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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

S-001 (08/10/2021)

DUPLICATE

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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January 19, 2022
Meeting Date

HHS Approps
Committee

282
Bill Number or Topic

Amendment Barcode (if applicable)

Name Barney Bishop III

Phone 850-510-9922

Address 2215 Thomasville Road
Street

Email Barney@BarneyBishop.com

Tallahassee FL 32308
City State Zip

Speaking: ☑ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
Florida Smart Justice Alliance

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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1/19
Meeting Date

Health Approps
Committee

SB 282
Bill Number or Topic

Amendment Barcode (if applicable)

Name DAVID MICA, JR Phone

Address 306 E College Ave Email
Street

32312
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing: FL Hospital Association

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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January 19, 2022
Meeting Date

Appropriations Subcommittee on Health and Human Services
Committee

SB 282
Bill Number or Topic

Amendment Barcode (if applicable)

Name Sean Burnfin

Phone (850) 922-0358

Address 500 South Duval Street
Street

Email burnfins@flcourts.org

Tallahassee | Florida | 32399
City | State | Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
State Courts System -
Steering Committee on Problem-Solving Courts

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

1030

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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1/18/2022
Meeting Date

282
Bill Number or Topic

App. Subcommittee on Health & Human Services 412K
Committee

Amendment Barcode (if applicable)

Name Kathleen Murphy

Phone 407-855-7604

Address 1747 Central Florida Parkway
Street
Orlando, FL 32809
City State Zip

Email legislation@floridapta.org

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:
Florida PTA

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S-001 (08/10/2021)

1/19/22
Meeting Date

The Florida Senate

APPEARANCE RECORD

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SB282
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Howard Clayton Myers II Phone 352-440-0373

Address 6095 SW 84th Ln Trenton FL 32693 Email Clayton.TBC@gmail.com
Street

City State Zip

Speaking: ☒ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ **I am appearing without compensation or sponsorship.**

☐ **I am a registered lobbyist, representing:**

☐ **I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:**

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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1/19/22
Meeting Date

SB 282
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Debby Sweem **Phone** 352-210-2601

Address 2885 NE 272 Ave. **Email** debbysweemfndr@gmail.com
Street

Old Town Fl. 32680
City *State* *Zip*

Speaking: ☑ For ☐ Against ☐ Information **OR** **Waive Speaking:** ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ **I am appearing without compensation or sponsorship.**

☐ **I am a registered lobbyist, representing:**

☐ **I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:**

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S-001 (08/10/2021)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Subcommittee on Health and Human Services

BILL:	SB 282
INTRODUCER:	Senator Rouson and others
SUBJECT:	Mental Health and Substance Use Disorders
DATE:	January 18, 2022
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Delia	Cox	CF	**Favorable**
2.	Sneed	Money	AHS	**Favorable**
3.			AP	

I. Summary:

SB 282 promotes the use of peer specialists to assist an individual's recovery from substance use disorder (SUD) or mental illness. Peer specialists are persons who have recovered from a substance use disorder or mental illness who support a person with a current substance use disorder or mental illness.

Specifically, the bill:

- Adds the use of peer specialists as an essential element of a coordinated system of care;
- Provides legislative findings and intent related to the use of peer specialists in the provision of behavioral health care;
- Requires the Department of Children and Families (the DCF) to develop a training program for peer specialists, giving preference to trainers who are certified peer specialists;
- Requires the DCF to certify peer specialists, directly or through the use of a third-party credentialing entity;
- Revises background screening requirements and codifies existing training and certification requirements for peer specialists;
- Adds offenses for which individuals seeking certification as a peer specialist may seek an exemption from eligibility disqualification;
- Allows peer specialists to work with adults with mental health disorders, in addition to SUDs and co-occurring disorders, while a request for an exemption from a background check disqualification is pending;
- Expands the statutory limit for the number of days during which a service provider can work while a request for exemption from a background check disqualification is pending to 180 days from the current 90 days;
- Allows for recovery support services to be reimbursed as a recovery service through the DCF, a behavioral health managing entity, or the Medicaid program; and

- Provides that individuals certified as peer specialists by July 1, 2022, will be deemed to have met the requirements for certification under the bill.

The bill is expected to have an insignificant negative fiscal impact on state government. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2022.

II. Present Situation:

Substance Abuse

Substance abuse is the harmful or hazardous use of psychoactive substances, including alcohol and illicit drugs. Substance use disorder (SUD) is determined based on specified criteria included in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5).[1] According to the DSM-5, a diagnosis of SUD is based on evidence of impaired control, social impairment, risky use, and pharmacological criteria.[2] SUD occurs when an individual chronically uses alcohol or drugs, resulting in significant impairment, such as health problems, disability, and failure to meet major responsibilities at work, school, or home.[3] Repeated drug use leads to changes in the brain's structure and function that can make a person more susceptible to developing a substance abuse disorder.[4] Imaging studies of brains belonging to persons with SUD reveal physical changes in areas of the brain critical to judgment, decision making, learning and memory, and behavior control.[5]

In 2020, approximately 40.3 million people aged 12 or older had a SUD related to corresponding use of alcohol or illicit drugs within the previous year, including 28.3 million people diagnosed with alcohol use disorder (AUD), 18.4 million people diagnosed with drug use disorder, and 6.5 million people diagnosed with both AUD and SUD.[6] The most common substance abuse disorders in the United States are from the use of alcohol, tobacco, cannabis, opioids, hallucinogens, and stimulants.[7]

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[1] The *World Health Organization, Mental Health and Substance Abuse*, available at https://www.who.int/westernpacific/about/how-we-work/programmes/mental-health-and-substance-abuse; the National Institute on Drug Abuse (NIDA), *The Science of Drug Use and Addiction: The Basics*, available at https://www.drugabuse.gov/publications/media-guide/science-drug-use-addiction-basics (last visited November 17, 2021).
[2] The National Association of Addiction Treatment Providers, *Substance Use Disorder*, available at https://www.naatp.org/resources/clinical/substance-use-disorder (last visited November 17, 2021).
[3] The Substance Abuse and Mental Health Services Administration (The SAMHSA), *Substance Use Disorders,* available at http://www.samhsa.gov/disorders/substance-use (last visited November 17, 2021).
[4] The NIDA, *Drugs, Brains, and Behavior: The Science of Addiction*, available at https://www.drugabuse.gov/publications/drugs-brains-behavior-science-addiction/drug-abuse-addiction (last visited November 17, 2021).
[5] *Id*.
[6] The SAMHSA, *Key Substance Use and Mental Health Indicators in the United States: Results from the 2020 National Survey on Drug Use and Health*, p. 3, available at https://www.samhsa.gov/data/sites/default/files/reports/rpt35325/NSDUHFFRPDFWHTMLFiles2020/2020NSDUHFFR1PDFW102121.pdf (last visited November 17, 2021).
[7] The Rural Health Information Hub, *Defining Substance Abuse and Substance Use Disorders*, available at https://www.ruralhealthinfo.org/toolkits/substance-abuse/1/definition (last visited November 17, 2021).

The number of drug overdose deaths in the U.S. rose by nearly 29% over a 12-month period ending in April 2021, to an estimated 100,306.[8] Over 75% of overdose deaths during this period were attributable to opioids.[9] Opioid-related deaths increased by 35% over comparative 12-month periods, from approximately 56,064 as of April 2020 to 75,673 in the period ending in April 2021.[10]

Substance Abuse Treatment in Florida

In the early 1970s, the federal government enacted laws creating formula grants for states to develop continuums of care for individuals and families affected by substance abuse.[11] The laws resulted in separate funding streams and requirements for alcoholism and drug abuse. In response to the laws, the Florida Legislature enacted chs. 396 and 397, F.S., relating to alcohol and drug abuse, respectively.[12] Each of these laws governed different aspects of addiction, and thus had different rules adopted by the state to fully implement the respective pieces of legislation.[13] However, because persons with substance abuse issues often do not restrict their misuse to one substance or another, having two separate laws dealing with the prevention and treatment of addiction was cumbersome and did not adequately address Florida's substance abuse problem.[14] In 1993, legislation was adopted to combine ch. 396 and 397, F.S., into a single law, the Hal S. Marchman Alcohol and Other Drug Services Act (Marchman Act).[15]

The Marchman Act encourages individuals to seek services on a voluntary basis within the existing financial and space capacities of a service provider.[16] However, denial of addiction is a prevalent symptom of SUD, creating a barrier to timely intervention and effective treatment.[17] As a result, treatment typically must stem from a third party providing the intervention needed for SUD treatment.[18]

The Department of Children and Families (DCF) administers a statewide system of safety-net services for substance abuse and mental health (SAMH) prevention, treatment and recovery for

[8] The Center for Disease Control and Prevention, National Center for Health Statistics, *Vital Statistics Rapid Release: Provisional Drug Overdose Death Counts*, available at https://www.cdc.gov/nchs/nvss/vsrr/drug-overdose-data.htm (last visited November 17, 2021).
[9] U.S. News and World Report, *CDC Data: Drug Overdose Deaths Top 100k for First Time*, November 17, 2021, available at https://www.usnews.com/news/health-news/articles/2021-11-17/drug-overdose-deaths-top-100k-over-12-months-for-first-time (last visited November 17, 2021).
[10] *Id*.
[11] The DCF, *Baker Act and Marchman Act Project Team Report for Fiscal Year 2016-2017*, p. 4-5. (on file with the Senate Children, Families, and Elder Affairs Committee).
[12] *Id*.
[13] *Id*.
[14] *Id*.
[15] Chapter 93-39, s. 2, Laws of Fla., codifying current ch. 397, F.S.
[16] *See* s. 397.601(1) and (2), F.S. An individual who wishes to enter treatment may apply to a service provider for voluntary admission. Within the financial and space capabilities of the service provider, the individual must be admitted to treatment when sufficient evidence exists that he or she is impaired by substance abuse and his or her medical and behavioral conditions are not beyond the safe management capabilities of the service provider.
[17] Darran Duchene and Patrick Lane, *Fundamentals of the Marchman Act*, Risk RX, Vol. 6 No. 2 (Apr. – Jun. 2006) State University System of Florida Self-Insurance Programs, available at http://flbog.sip.ufl.edu/risk-rx-article/fundamentals-of-the-marchman-act/ (last visited November 17, 2021).
[18] *Id*.

children and adults who are otherwise unable to obtain these services. Services are provided based upon state and federally established priority populations.[19] The DCF provides treatment for SUD through a community-based provider system offering detoxification,[20] treatment services[21] and recovery support[22] for individuals affected by substance misuse, abuse or dependence.[23]

Peer Specialists

Research has shown that social support provided by peers is beneficial to those in recovery from a SUD or mental illness.[24] Section 397.311, F.S., defines a peer specialist as "a person who has been in recovery from a SUD or mental illness for at least 2 years who uses his or her personal experience to provide services in behavioral health settings to support others in their recovery, or a person who has at least 2 years of experience as a family member or caregiver of an individual who has a SUD or mental illness. The term does not include a qualified professional or a person otherwise certified under ch. 394 or ch. 397."[25]

There are four primary types of social support provided by peers:

- Emotional: where a peer demonstrates empathy, caring or concern to bolster a person's self-esteem. (i.e., peer mentoring or peer-led support groups).
- Informational: where a peer shares knowledge and information to provide life or vocational skills training. (i.e., parenting classes, job readiness training, or wellness seminars).
- Instrumental: where a peer provides concrete assistance to help others accomplish tasks. (i.e., child care, transportation, and help accessing health and human services).
- Affiliational: where a peer facilitates contacts with other people to promote learning of social skills, create a sense of community, and acquire a sense of belonging. (i.e., recovery centers, sports league participation, and alcohol or drug free socialization opportunities).[26]

In Florida, the DCF and Medicaid both allow reimbursement for peer support services, but only if provided by certified peer specialists.[27]

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[19] *See* chs. 394 and 397, F.S.

[20] Detoxification services use medical and clinical procedures to assist individuals and adults as they withdraw from the physiological and psychological effects of substance abuse.

[21] Treatment services include a wide array of assessment, counseling, case management, and support that are designed to help individuals who have lost their abilities to control their substance use on their own and require formal, structured intervention and support.

[22] Recovery support services, including transitional housing, life skills training, parenting skills, and peer-based individual and group counseling, are offered during and following treatment to further assist individuals in their development of the knowledge and skills necessary to maintain their recovery.

[23] The DCF, *Treatment for Substance Abuse*, available at https://www.myflfamilies.com/service-programs/samh/substance-abuse.shtml (last visited November 17, 2021).

[24] Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment, *What Are Peer Recovery Support Services?*, available at https://store.samhsa.gov/system/files/sma09-4454.pdf (last visited November 17, 2021).

[25] Section 397.311(30), F.S.

[26] The DCF, *Florida Peer Services Handbook* at p. 4-5, 2016, available at https://www.myflfamilies.com/service-programs/samh/publications/docs/peer-services/DCF-Peer-Guidance.pdf (last visited November 17, 2021).

[27] The DCF, *Agency Analysis for HB 369 (2019)*, p. 2, February 8, 2019 (on file with the Senate Committee on Children, Families, and Elder Affairs). Florida's Medicaid program currently covers peer recovery services; the DCF allows the state's behavioral health managing entities to reimburse for peer recovery services.

An individual seeking to become a certified peer specialist must have either been in recovery from a SUD or mental illness for at least two years, or must have at least two years of experience as a family member or caregiver of an individual suffering from a substance use disorder or mental illness.[28] The DCF must approve one or more third-party credentialing entities for the purposes of certifying peer specialists, approving training programs for individuals seeking certification as peer specialists, approving continuing education programs, and establishing the minimum requirements and standards that applicants must achieve to maintain certification.[29] To obtain approval, the third-party credentialing entity must demonstrate compliance with nationally recognized standards for developing and administering professional certification programs to certify peer specialists.[30] All individuals providing DCF-funded recovery support services as a peer specialist must be certified, however an individual who is not currently certified may work as a peer specialist for a maximum of one year if they are working toward certification and are supervised by a qualified professional or by a certified peer specialist with at least three years of full-time experience as a peer specialist at a licensed behavioral health organization.[31]

The Florida Certification Board (FCB) is currently the only credentialing entity approved by the DCF for certifying peer specialists in the state.[32] The FCB credentials Certified Recovery Peer Specialist (CRPS) which assist in providing client directed care by helping individuals develop skills and relationships that will allow them to achieve and maintain recovery from SUDs and mental illness.[33] CRPS applicants must attest to having been in recovery for a minimum of two years.[34] The CRPS must also have demonstrated competency through training and experience in the performance domains of: Recovery Support, Advocacy, Mentoring and Professional Responsibilities.[35] As of June 2020, 630 individuals maintain active CRPS certifications statewide.[36]

Individuals seeking certification must adhere to the CRPS credentialing standards and requirements, complete a background screening, and have completed all court-ordered sanctions related to any prior crimes committed for at least three years.[37] Prospective CRPS must also successfully complete training and a competency exam demonstrating proficiency in certain educational areas.[38]

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[28] Section 397.417(1), F.S.
[29] Section 397.417(2), F.S.
[30] *Id*.
[31] Section 397.417(3), F.S.
[32] The DCF, *Agency Analysis for SB 130 (2021 Regular Session)*, p. 2, December 10, 2020 (on file with the Senate Committee on Children, Families, and Elder Affairs) (hereinafter cited as, "The DCF SB 130 (2021) Analysis"). CS/CS/SB 130 (2021) is substantially identical to SB 282.
[33] *Id*.
[34] *Id*.
[35] *Id*.
[36] *Id*.
[37] *Id*.
[38] *Id*.

Background Screening

Substance Use Disorder and Criminal History

Certain individuals receiving substance abuse treatment may have a criminal or violent history: about 54 percent of state prisoners and 61 percent of sentenced jail inmates incarcerated for violent offenses met the Diagnostic and Statistical Manual of Mental Disorders, 4th Edition, (DSM-IV) criteria for drug dependence or abuse.[39] Additionally, individuals who use illicit drugs are more likely to commit crimes, and it is common for many offenses, including violent crimes, to be committed by individuals who had used drugs or alcohol prior to committing the crime, or who were using at the time of the offense.[40] As a result, individuals who have recovered from a SUD or mental illness often have a criminal history which may disqualify them from employment in the substance abuse treatment industry due to Florida's background screening process.

Background Screening Process

Current law establishes standard procedures for criminal history background screening of prospective employees; ch. 435, F.S., outlines the screening requirements. There are two levels of background screening: level 1 and level 2. Level 1 screening includes, at a minimum, employment history checks and statewide criminal correspondence checks through the Florida Department of Law Enforcement (FDLE) and a check of the Dru Sjodin National Sex Offender Public Website,[41] and may include criminal records checks through local law enforcement agencies. A level 2 background screening includes, but is not limited to, fingerprinting for statewide criminal history records checks through the FDLE and national criminal history checks through the Federal Bureau of Investigation (FBI), and may include local criminal records checks through local law enforcement agencies.[42]

Every person required by law to be screened pursuant to ch. 435, F.S., must submit a complete set of information necessary to conduct a screening to his or her employer.[43] Such information for a level 2 screening includes fingerprints, which are taken by a vendor that submits them electronically to the FDLE.[44]

For both level 1 and 2 screenings, an employer must submit the information necessary for screening to the FDLE within five working days after receiving it.[45] Additionally, for both levels

[39] Jennifer Bronson, et al., *Drug Use, Dependence, and Abuse Among State Prisoners and Jail Inmates, 2007-2009*, U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics at p. 1, June 2017, available at https://www.bjs.gov/content/pub/pdf/dudaspji0709.pdf (last visited November 17, 2021).
[40] National Institute on Drug Abuse, *Principles of Drug Abuse Treatment for Criminal Justice Populations: A Research-Based Guide* at p. 12, available at https://d14rmgtrwzf5a.cloudfront.net/sites/default/files/txcriminaljustice_0.pdf (last visited November 17, 2021).
[41] The Dru Sjodin National Sex Offender Public Website is a U.S. government website that links public state, territorial, and tribal sex offender registries in one national search site, available at https://www.nsopw.gov/ (last visited November 17, 2021).
[42] Section 435.04, F.S.
[43] Section 435.05(1)(a), F.S.
[44] Sections 435.03(1) and 435.04(1)(a), F.S.
[45] Section 435.05(1)(b)-(c), F.S.

of screening, the FDLE must perform a criminal history record check of its records.[46] For a level 1 screening, this is the only information searched, and once complete, the FDLE responds to the employer or agency, who must then inform the employee whether screening has revealed any disqualifying information.[47] For level 2 screening, the FDLE also requests the FBI to conduct a national criminal history record check of its records for each employee for whom the request is made.[48]

The person undergoing screening must supply any missing criminal or other necessary information upon request to the requesting employer or agency within 30 days after receiving the request for the information.[49]

Disqualifying Offenses

Regardless of whether the screening is level 1 or level 2, the screening employer or agency must make sure that the applicant has good moral character by ensuring that the employee has not been arrested for and is awaiting final disposition of, been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record has not been sealed or expunged for, any of the following 52 offenses prohibited under Florida law, or similar law of another jurisdiction:

- Section 393.135, F.S., relating to sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct.
- Section 394.4593, F.S., relating to sexual misconduct with certain mental health patients and reporting of such sexual misconduct.
- Section 415.111, F.S., relating to adult abuse, neglect, or exploitation of aged persons or disabled adults.
- Section 777.04, F.S., relating to attempts, solicitation, and conspiracy to commit an offense listed in this subsection.
- Section 782.04, F.S., relating to murder.
- Section 782.07, F.S., relating to manslaughter, aggravated manslaughter of an elderly person or disabled adult, or aggravated manslaughter of a child.
- Section 782.071, F.S., relating to vehicular homicide.
- Section 782.09, F.S., relating to killing of an unborn child by injury to the mother.
- Chapter 784, F.S., relating to assault, battery, and culpable negligence, if the offense was a felony.
- Section 784.011, F.S., relating to assault, if the victim of the offense was a minor.
- Section 784.03, F.S., relating to battery, if the victim of the offense was a minor.
- Section 787.01, F.S., relating to kidnapping.
- Section 787.02, F.S., relating to false imprisonment.
- Section 787.025, F.S., relating to luring or enticing a child.
- Section 787.04(2), F.S., relating to taking, enticing, or removing a child beyond the state limits with criminal intent pending custody proceedings.

[46] *Id*.
[47] Section 435.05(1)(b), F.S.
[48] Section 435.05(1)(c), F.S.
[49] Section 435.05(1)(d), F.S.

- Section 787.04(3), F.S., relating to carrying a child beyond the state lines with criminal intent to avoid producing a child at a custody hearing or delivering the child to the designated person.
- Section 790.115(1), F.S., relating to exhibiting firearms or weapons within 1,000 feet of a school.
- Section 790.115(2)(b), F.S., relating to possessing an electric weapon or device, destructive device, or other weapon on school property.
- Section 794.011, F.S., relating to sexual battery.
- Former s. 794.041, F.S., relating to prohibited acts of persons in familial or custodial authority.
- Section 794.05, F.S., relating to unlawful sexual activity with certain minors.
- Chapter 796, F.S., relating to prostitution.
- Section 798.02, F.S., relating to lewd and lascivious behavior.
- Chapter 800, F.S., relating to lewdness and indecent exposure.
- Section 806.01, F.S., relating to arson.
- Section 810.02, F.S., relating to burglary.
- Section 810.14, F.S., relating to voyeurism, if the offense is a felony.
- Section 810.145, F.S., relating to video voyeurism, if the offense is a felony.
- Chapter 812, F.S., relating to theft, robbery, and related crimes, if the offense is a felony.
- Section 817.563, F.S., relating to fraudulent sale of controlled substances, only if the offense was a felony.
- Section 825.102, F.S., relating to abuse, aggravated abuse, or neglect of an elderly person or disabled adult.
- Section 825.1025, F.S., relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled adult.
- Section 825.103, F.S., relating to exploitation of an elderly person or disabled adult, if the offense was a felony.
- Section 826.04, F.S., relating to incest.
- Section 827.03, F.S., relating to child abuse, aggravated child abuse, or neglect of a child.
- Section 827.04, F.S., relating to contributing to the delinquency or dependency of a child.
- Former s. 827.05, F.S., relating to negligent treatment of children.
- Section 827.071, F.S., relating to sexual performance by a child.
- Section 843.01, F.S., relating to resisting arrest with violence.
- Section 843.025, F.S., relating to depriving a law enforcement, correctional, or correctional probation officer of means of protection or communication.
- Section 843.12, F.S., relating to aiding in an escape.
- Section 843.13, F.S., relating to aiding in the escape of juvenile inmates in correctional institutions.
- Chapter 847, F.S., relating to obscene literature.
- Section 874.05, F.S., relating to encouraging or recruiting another to join a criminal gang.
- Chapter 893, F.S., relating to drug abuse prevention and control, only if the offense was a felony or if any other person involved in the offense was a minor.
- Section 916.1075, F.S., relating to sexual misconduct with certain forensic clients and reporting of such sexual misconduct.

- Section 944.35(3), F.S., relating to inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm.
- Section 944.40, F.S., relating to escape.
- Section 944.46, F.S., relating to harboring, concealing, or aiding an escaped prisoner.
- Section 944.47, F.S., relating to introduction of contraband into a correctional facility.
- Section 985.701, F.S., relating to sexual misconduct in juvenile justice programs.
- Section 985.711, F.S., relating to contraband introduced into detention facilities.[50]

Exemption from Disqualification

If an individual is disqualified due to a pending arrest, conviction, plea of nolo contendere, or adjudication of delinquency to one or more of the disqualifying offenses, s. 435.07, F.S., allows the Secretary of the appropriate agency (in the case of substance abuse treatment, the DCF) to exempt applicants from disqualification under certain circumstances.[51]

Receiving an exemption allows that individual to work despite the disqualifying crime in that person's past. However, an individual who is considered a sexual predator,[52] career offender,[53] or sexual offender (unless not required to register)[54] cannot ever be exempted from disqualification.[55]

Additionally, individuals (including peer specialists) employed, or applicants for employment, by treatment providers who treat adolescents 13 years of age and older who are disqualified from employment solely because of certain crimes may be exempted from disqualification from employment, without applying the 3-year waiting period.[56] These crimes include certain offenses related to:

- Prostitution;
- Unarmed burglary of a structure;
- Third degree felony grand theft;
- Sale of imitation controlled substance;
- Forgery;
- Uttering or publishing a forged instrument;
- Sale, manufacture, delivery, or possession with intent to sell, manufacture, or deliver controlled substances (excluding drug trafficking);
- Use, possession, manufacture, delivery, transportation, advertisement, or sale of drug paraphernalia; and
- Any related criminal attempt, solicitation, or conspiracy.[57]

To seek exemption from disqualification, an employee must submit a request for an exemption from disqualification within 30 days after being notified of a pending disqualification, and the

[50] Section 435.04(2), F.S.
[51] *See* Section 435.07(1), F.S.
[52] Section 775.21, F.S.
[53] Section 775.261, F.S.
[54] Section 943.0435, F.S.
[55] Section 435.07(4)(b), F.S.
[56] Section 435.07(2), F.S.
[57] *Id*.

DCF must grant or deny the application within 60 days of the receipt of a completed application.[58]

To be exempted from disqualification and thus be able to work, the applicant must demonstrate by clear and convincing evidence that he or she should not be disqualified from employment.[59] Clear and convincing evidence is a heavier burden than the preponderance of the evidence standard but less than beyond a reasonable doubt.[60] This means that the evidence presented is credible and verifiable, and that the memories of witnesses are clear and without confusion.[61] This evidence must create a firm belief and conviction of the truth of the facts presented and, considered as a whole, must convince DCF representatives without hesitancy that the requester will not pose a threat if allowed to hold a position of special trust relative to children, vulnerable adults, or to developmentally disabled individuals.[62] Evidence that may support an exemption includes, but is not limited to:

- Personal references.
- Letters from employers or other professionals.
- Evidence of rehabilitation, including documentation of successful participation in a rehabilitation program.
- Evidence of further education or training.
- Evidence of community involvement.
- Evidence of special awards or recognition.
- Evidence of military service.
- Parenting or other caregiver experiences.[63]

After the DCF receives a complete exemption request package from the applicant, the background screening coordinator searches available data, including, but not limited to, a review of records and pertinent court documents including case disposition and the applicant's plea in order to determine the appropriateness of granting the applicant an exemption.[64] These materials, in addition to the information provided by the applicant, form the basis for a recommendation as to whether the exemption should be granted.[65]

After all reasonable evidence is gathered, the background screening coordinator consults with his or her supervisor, and after consultation with the supervisor, the coordinator and the supervisor will recommend whether the exemption should be granted.[66] The regional legal counsel's office reviews the recommendation to grant or deny an exemption to determine legal sufficiency. The criminal justice coordinator in the region in which the background screening coordinator is

[58] Section 397.4073(1)(f), F.S.
[59] Section 435.07(3)(a), F.S.
[60] The DCF, *CF Operating Procedure 60-18, Personnel: Exemption from Disqualification*, at p. 1, (Aug. 1, 2010), available at https://www.myflfamilies.com/admin/publications/cfops/CFOP%20060-xx%20Human%20Resources/CFOP%2060-18,%20Exemption%20from%20Disqualification.pdf (last visited November 17, 2021) (hereinafter, "The DCF Operating Procedure").
[61] *Id*.
[62] *Id*.
[63] *Id*. at 3-4.
[64] *Id*. at 5.
[65] *Id*.
[66] *Id*.

located also reviews the exemption request file and recommendation and makes an initial determination whether to grant or deny the exemption.[67]

If the regional criminal justice coordinator makes an initial determination that the exemption should be granted, the exemption request file and recommendations are forwarded to the regional director, who has delegated authority from the DCF Secretary to grant or deny the exemption.[68] After an exemption request decision is final, the background screener provides a written response to the applicant as to whether the request is granted or denied.[69]

If the DCF grants the exemption, the applicant and the facility or employer are notified of the decision by regular mail.[70] However, if the request is denied, notification of the decision is sent by certified mail, return receipt requested, to the applicant, addressed to the last known address and a separate letter of denial is sent by regular mail to the facility or employer.[71] If the application is denied, the denial letter must set forth pertinent facts that the background screening coordinator, the background screening coordinator's supervisor, the criminal justice coordinator, and regional director, where appropriate, used in deciding to deny the exemption request.[72] It must also inform the denied applicant of the availability of an administrative review[73] pursuant to ch. 120, F.S.[74]

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

Only certain individuals affiliated with substance abuse treatment providers require background screening. Section 397.4073, F.S., requires peer specialists who have direct contact[75] with individuals receiving services must undergo a level 2 background screening as provided under s. 408.809 and ch. 435.[76] Applicant peer specialists are required to pay the costs associated with such screenings.[77] Similarly, all owners, directors, chief financial officers, and clinical supervisors of service providers, as well as all service provider personnel who have direct contact with children receiving services or with adults who are developmentally disabled receiving services must also undergo level 2 background screening.

Other statutory provisions are tailored to facilitate individuals in recovery who have disqualifying offenses being able to work in substance abuse treatment. The DCF may grant exemptions from disqualification for an individual seeking certification as a peer specialist if at least three years have passed since the individual has completed, or been lawfully released from, any confinement, supervision, or nonmonetary condition imposed by a court for the individual's

[67] *Id*.
[68] *Id*.
[69] *Id.* at 5.
[70] *Id*. at 6.
[71] *Id*.
[72] *Id*.
[73] All notices of denial of an exemption shall advise the applicant of the basis for the denial, that an administrative hearing pursuant to s. 120.57, F.S., may be requested, and that the request must be made within 21 days of receipt of the denial letter or the applicant's right to an appeal will be waived.
[74] The DCF Operating Procedure at 6.
[75] Direct contact is not defined in ch. 397, F.S.
[76] Section 397.4073(a)3., F.S.
[77] Section 408.809(5), F.S.

most recent disqualifying offense.[78] Similar to the conditional employment granted to other select applicants in s. 397.4073, certified peer specialists may work with adults with SUD for up to 90 days after being notified of his or her disqualification or until the DCF makes a final determination regarding the request for an exemption from disqualification if three years or more have elapsed since the most recent disqualifying offense, whichever is earlier.[79]

III. Effect of Proposed Changes:

Coordinated System of Care

The bill amends s. 394.4573, F.S., relating to coordinated systems of care, to add the use of peer specialists to assist in an individual's recovery from a substance use disorder or mental illness to the list of essential elements of a coordinated system of behavioral health care.

Legislative Findings and Intent

The bill provides legislative findings and intent, as follows:

- The Legislature finds that the ability to provide adequate behavioral health services is limited by a shortage of professionals and paraprofessionals.
- The Legislature finds that the state is experiencing an increase in opioid addictions, many of which prove fatal.
- The Legislature finds that peer specialists provide effective support services because they share common life experiences with the persons they assist.
- The Legislature finds that peer specialists promote a sense of community among those in recovery.
- The Legislature finds that research has shown that peer support facilitates recovery and reduces health care costs.
- The Legislature finds that persons who are otherwise qualified to serve as peer specialists may have a criminal history that prevents them from meeting background screening requirements.
- It is the intent of the Legislature that the use of peer specialists be expanded as a cost-effective means of providing services.
- It is the intent of the Legislature to ensure that peer specialists meet specified qualifications and modified background screening requirements and are adequately reimbursed for their services.

Criteria for Becoming a Certified Peer Specialist

The bill codifies a number of criteria currently used by the Florida Certification Board (FCB) in the process of certifying peer specialists. Specifically, the bill requires that persons seeking certification as peer specialists:

- Be in recovery from a substance use disorder (SUD) or mental illness for the past two years, or be a family member or caregiver of an individual with a history of SUD or mental illness;

[78] Section 397.4073(4)(b)1.a., F.S.
[79] Section 397.4073(1)(g), F.S.

- Pass a competency exam developed under the bill by the Department of Children and Families (DCF); and
- Undergo background screening as provided under the bill.

Duties of the Department of Children and Families (DCF)

Currently, the FCB provides training and administers a competency exam for peer specialists seeking certification. Under the bill, the DCF is made statutorily responsible for:

- Creating a training program for peer specialists, giving preference to trainers who are certified peer specialists. The training program must coincide with a competency exam and be based on current practice standards; and
- Mandating that all individuals providing recovery support services become certified.

Individuals may practice as a peer specialist prior to becoming certified for up to one year if the individual is actively working toward certification and is supervised by a qualified professional[80] or a certified peer specialist with at least two years of full-time experience as a peer specialist at a licensed behavioral health organization.

Background Screening

The bill specifies revised background screening requirements, requiring applicants to submit a full set of fingerprints to the DCF, or to a vendor, entity, or agency[81] that has entered into an agreement with the Florida Department of Law Enforcement (FDLE). Fingerprints must then be forwarded to the FDLE for state processing and retention, and to the FBI for national processing and retention. This will enable the FDLE to conduct ongoing, fingerprint-based, state and national background checks on certified peer specialists. The bill mandates any arrest record discovered be reported to the DCF. The bill requires the DCF to screen results in order to ensure an applicant meets the requirements of certification, and it provides that the applicant peer specialist is to pay all fees charged in connection with state and federal fingerprint processing and retention.[82]

The bill authorizes the DCF or the Agency for Health Care Administration (the AHCA) to contract with vendors for electronic fingerprinting, provided that such contracts ensure the integrity and security of all personal identifying information obtained. Vendors who submit fingerprints on behalf of employees must:

[80] Section 397.311(35) defines "qualified professional" to mean "a physician or a physician assistant licensed under chapter 458 or chapter 459; a professional licensed under chapter 490 or chapter 491; an advanced practice registered nurse licensed under part I of chapter 464; or a person who is certified through a department-recognized certification process for substance abuse treatment services and who holds, at a minimum, a bachelor's degree." A person who is certified in substance abuse treatment services by a state-recognized certification process in another state at the time of employment with a licensed substance abuse provider in this state may perform the functions of a qualified professional as defined in this chapter but must meet certification requirements contained in this subsection no later than 1 year after his or her date of employment.
[81] Section 943.053(13), F.S., provides criteria which must be followed in order for the FDLE to accept fingerprint submissions from private vendors, entities, or agencies.
[82] This cost is already borne by the applicant under current law requiring level 2 background screening for certified peer specialists. *See* ss. 397.4073(1)(a)3. and 408.809(5), F.S.

- Meet the requirements of s. 943.053, F.S.;[83]
- Be capable of communicating electronically with the state agency accepting screening results from the FDLE; and
- Be capable of providing the applicant's:
  - Full first name, middle initial, and last name;
  - Social security number or individual taxpayer identification number;
  - Date of birth;
  - Mailing address;
  - Sex; and
  - Race.

The bill provides that a background screening of a peer specialist must ensure that a prospective peer specialist has not been arrested for and awaiting final disposition of, found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record has not been sealed or expunged for, any felony within the past three years. The bill also requires that background screening ensure the applicant has not, at any time, been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record has not been sealed or expunged for, the following laws or similar laws of other jurisdictions:

- Section 393.135, relating to sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct.
- Section 394.4593, relating to sexual misconduct with certain mental health patients and reporting of such sexual misconduct.
- Section 409.920, relating to Medicaid provider fraud, if the offense was a felony of the first or second degree.
- Section 415.111, relating to abuse, neglect, or exploitation of vulnerable adults.
- Any offense that constitutes domestic violence as defined in s. 741.28, F.S.
- Section 777.04, relating to attempts, solicitation, and conspiracy to commit an offense listed in this paragraph.
- Section 782.04, relating to murder.
- Section 782.07, relating to manslaughter, aggravated manslaughter of an elderly person or a disabled adult, aggravated manslaughter of a child, or aggravated manslaughter of an officer, a firefighter, an emergency medical technician, or a paramedic.
- Section 782.071, relating to vehicular homicide.
- Section 782.09, relating to killing an unborn child by injury to the mother.
- Chapter 784, relating to assault, battery, and culpable negligence, if the offense was a felony.
- Section 787.01, relating to kidnapping.
- Section 787.02, relating to false imprisonment.
- Section 787.025, relating to luring or enticing a child.

[83] Section 943.053, F.S., provides, among other things, standards for vendors meant to ensure that all persons having direct or indirect responsibility for verifying identification, taking fingerprints, and electronically submitting fingerprints are qualified to do so and will ensure the integrity and security of all personal information gathered from the persons whose fingerprints are submitted.

- Section 787.04(2), relating to leading, taking, enticing, or removing a minor beyond state limits, or concealing the location of a minor, with criminal intent pending custody proceedings.
- Section 787.04(3), relating to leading, taking, enticing, or removing a minor beyond state limits, or concealing the location of a minor, with criminal intent pending dependency proceedings or proceedings concerning alleged abuse or neglect of a minor.
- Section 790.115(1), relating to exhibiting firearms or weapons within 1,000 feet of a school.
- Section 790.115(2)(b), relating to possessing an electric weapon or device, a destructive device, or any other weapon on school property.
- Section 794.011, relating to sexual battery.
- Former s. 794.041, relating to prohibited acts of persons in familial or custodial authority.
- Section 794.05, relating to unlawful sexual activity with certain minors.
- Section 794.08, relating to female genital mutilation.
- Section 796.07, relating to procuring another to commit prostitution, except for those offenses expunged pursuant to s. 943.0583.
- Section 798.02, relating to lewd and lascivious behavior.
- Chapter 800, relating to lewdness and indecent exposure.
- Section 806.01, relating to arson.
- Section 810.02, relating to burglary, if the offense was a felony of the first degree.
- Section 810.14, relating to voyeurism, if the offense was a felony.
- Section 810.145, relating to video voyeurism, if the offense was a felony.
- Section 812.13, relating to robbery.
- Section 812.131, relating to robbery by sudden snatching.
- Section 812.133, relating to carjacking.
- Section 812.135, relating to home-invasion robbery.
- Section 817.034, relating to communications fraud, if the offense was a felony of the first degree.
- Section 817.234, relating to false and fraudulent insurance claims, if the offense was a felony of the first or second degree.
- Section 817.50, relating to fraudulently obtaining goods or services from a health care provider and false reports of a communicable disease.
- Section 817.505, relating to patient brokering.
- Section 817.568, relating to fraudulent use of personal identification, if the offense was a felony of the first or second degree.
- Section 825.102, relating to abuse, aggravated abuse, or neglect of an elderly person or a disabled adult.
- Section 825.1025, relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or a disabled person.
- Section 825.103, relating to exploitation of an elderly person or a disabled adult, if the offense was a felony.
- Section 826.04, relating to incest.
- Section 827.03, relating to child abuse, aggravated child abuse, or neglect of a child.
- Section 827.04, relating to contributing to the delinquency or dependency of a child.
- Former s. 827.05, relating to negligent treatment of children.
- Section 827.071, relating to sexual performance by a child.

- Section 831.30, relating to fraud in obtaining medicinal drugs.
- Section 831.31, relating to sale, manufacture, delivery, possession with intent to sell, manufacture, or deliver of any counterfeit controlled substance, if the offense was a felony.
- Section 843.01, relating to resisting arrest with violence.
- Section 843.025, relating to depriving a law enforcement, correctional, or correctional probation officer of the means of protection or communication.
- Section 843.12, relating to aiding in an escape.
- Section 843.13, relating to aiding in the escape of juvenile inmates of correctional institutions.
- Chapter 847, relating to obscenity.
- Section 874.05, relating to encouraging or recruiting another to join a criminal gang.
- Chapter 893, relating to drug abuse prevention and control, if the offense was a felony of the second degree or greater severity.
- Section 895.03, relating to racketeering and collection of unlawful debts.
- Section 896.101, relating to the Florida Money Laundering Act.
- Section 916.1075, relating to sexual misconduct with certain forensic clients and reporting of such sexual misconduct.
- Section 944.35(3), relating to inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm.
- Section 944.40, relating to escape.
- Section 944.46, relating to harboring, concealing, or aiding an escaped prisoner.
- Section 944.47, relating to introduction of contraband into a correctional institution.
- Section 985.701, relating to sexual misconduct in juvenile justice programs.
- Section 985.711, relating to introduction of contraband into a detention facility.

The new screening requirements of the bill eliminate the following disqualifying offenses from current law for peer specialists:

- Misdemeanor assault, or battery (Ch. 784, F.S.).
- Prostitution (Ch. 796, F.S.), with the exception of those offenses listed in s. 796.07, F.S., which have not been expunged.
- Lower level burglary offenses (s. 810.02, F.S.).
- Lower level theft and robbery offenses (Ch. 812, F.S.).
- Lower level drug abuse offenses (s. 817.563 and Ch. 893, F.S.).
- Credit card fraud (ss. 817.481, 817.60, and 817.61, F.S.).
- Forgery (ss. 831.01, 831.02, 831.07 and 831.09, F.S.).

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

The bill also allows service provider personnel, including peer specialists, to work with adults with mental health disorders (in addition to the current allowance to work with adults suffering from SUDs or co-occurring disorders) while an exemption request is pending, and extends the time limit for such work from 90 days to 180 days.

The bill grandfathers in all peer specialists certified as of July 1, 2022, by stating they are recognized as having met the requirements of the bill.

Deleted Provisions of s. 397.417, F.S.

The bill eliminates and replaces all of the current provisions of s. 397.417, F.S. Specifically, the bill:

- Eliminates the requirement that a family member or caregiver of an individual with a SUD or mental illness have at least two years of experience in order to attain certification as a peer specialist;
- Requires the DCF to develop a peer specialist training program rather than a third-party credentialing entity;
- Allows the DCF the option of certifying peer specialists directly or approving third party credentialing entities to do so; and
- Permits an individual with two years of full-time experience as a peer specialist to supervise an individual providing recovery support services and working toward certification (supervisory certified peer specialists currently must have at least three years of experience).

Effective Date

The bill is effective July 1, 2022

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

SB 282 eliminates several disqualifying criminal offenses which often result in disqualification from certification eligibility, and as a result the DCF stated that there may be additional revenues generated for certification providers from fees paid by a greater number of individuals seeking certification.[84]

C. Government Sector Impact:

The DCF estimates there may be a negative impact to state government due to a potential increase in background screenings being conducted, and a possible increase in the number of exemptions from disqualification requested, leading to a heavier workload for the department's Background Screening Office.[85] However, any additional workload will likely be absorbed within existing department resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 394.4573, 397.4073, and 397.417.

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.

[84] The DCF SB 130 (2021) Analysis at p. 6.
[85] *Id* at p. 5.

By Senator Polsky

29-00372-22 2022292__

A bill to be entitled

An act relating to newborn screenings; amending s. 383.14, F.S.; revising requirements for the Department of Health's rules related to newborn screenings; amending s. 383.145, F.S.; defining terms; requiring hospitals and other state-licensed birthing facilities to test for congenital cytomegalovirus in newborns under certain circumstances; making technical and conforming changes; providing an effective date.

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

Section 1. Paragraph (a) of subsection (2) of section 383.14, Florida Statutes, is amended to read:

383.14 Screening for metabolic disorders, other hereditary and congenital disorders, and environmental risk factors.—

(2) RULES.—

(a) After consultation with the Genetics and Newborn Screening Advisory Council, the department shall adopt and enforce rules requiring that every newborn in this state shall:

1. Before becoming 1 week of age, be subjected to a test for phenylketonuria;

2. Before becoming 3 weeks of age, be subjected to a test for congenital cytomegalovirus;

3. Be tested for any condition included on the federal Recommended Uniform Screening Panel which the council advises the department should be included under the state's screening program. After the council recommends that a condition be included, the department shall submit a legislative budget

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request to seek an appropriation to add testing of the condition to the newborn screening program. The department shall expand statewide screening of newborns to include screening for such conditions within 18 months after the council renders such advice, if a test approved by the United States Food and Drug Administration or a test offered by an alternative vendor is available. If such a test is not available within 18 months after the council makes its recommendation, the department shall implement such screening as soon as a test offered by the United States Food and Drug Administration or by an alternative vendor is available; and

4.~~3.~~ At the appropriate age, be tested for such other metabolic diseases and hereditary or congenital disorders as the department may deem necessary from time to time.

Section 2. Section 383.145, Florida Statutes, is amended to read:

383.145 Newborn and infant hearing screening.—

(1) LEGISLATIVE INTENT.—It is the intent of the Legislature ~~this section is~~ to provide a statewide comprehensive and coordinated interdisciplinary program of early hearing impairment screening, identification, and followup care for newborns. The goal is to screen all newborns for hearing impairment in order to alleviate the adverse effects of hearing loss on speech and language development, academic performance, and cognitive development. It is further the intent of the Legislature that ~~the provisions of~~ this section ~~act~~ only be implemented to the extent that funds are specifically included in the General Appropriations Act for carrying out the purposes of this section.

(2) DEFINITIONS.—As used in this section, the term:

(a) "Agency" means the Agency for Health Care Administration.

(b) "Audiologist" means a person licensed under part I of chapter 468 to practice audiology.

(c) "Department" means the Department of Health.

(d) ~~(c)~~ "Hearing impairment" means a hearing loss of 30 dB HL or greater in the frequency region important for speech recognition and comprehension in one or both ears, approximately 500 through 4,000 hertz.

(e) "Hospital" means a facility as defined in s. 395.002(13) and licensed under chapter 395 and part II of chapter 408.

(f) ~~(d)~~ "Infant" means an age range from 30 days through 12 months.

(g) ~~(e)~~ "Licensed health care provider" means a physician licensed under ~~pursuant to~~ chapter 458 or chapter 459, a nurse licensed under ~~pursuant to~~ chapter 464, or an audiologist licensed under part I of ~~pursuant to~~ chapter 468~~,~~ rendering services within the scope of his or her license.

(h) ~~(f)~~ "Management" means the habilitation of the hearing-impaired child.

(i) ~~(g)~~ "Newborn" means an age range from birth through 29 days.

(j) "Physician" means a person licensed under chapter 458 to practice medicine or chapter 459 to practice osteopathic medicine.

(k) ~~(h)~~ "Screening" means a test or battery of tests administered to determine the need for an in-depth hearing

diagnostic evaluation.

(3) REQUIREMENTS FOR SCREENING OF NEWBORNS; INSURANCE COVERAGE; REFERRAL FOR ONGOING SERVICES.—

(a) Each ~~licensed~~ hospital or other state-licensed birthing facility that provides maternity and newborn care services shall ensure ~~provide~~ that all newborns are, before ~~prior to~~ discharge, screened for the detection of hearing loss~~,~~ to prevent the consequences of unidentified disorders. If a newborn fails the screening for the detection of hearing loss, the hospital or other state-licensed birthing facility must administer a urine polymerase chain reaction test or other diagnostically equivalent test on the newborn to screen for congenital cytomegalovirus.

(b) Each licensed birth center that provides maternity and newborn care services shall ensure ~~provide~~ that all newborns are, before ~~prior to~~ discharge, referred to an ~~a licensed~~ audiologist, a physician ~~licensed under chapter 458 or chapter 459~~, ~~or~~ a hospital, or another ~~other~~ newborn hearing screening provider~~,~~ for screening for the detection of hearing loss~~,~~ to prevent the consequences of unidentified disorders. The referral for appointment must ~~shall~~ be made within 30 days after discharge. Written documentation of the referral must be placed in the newborn's medical chart.

(c) If the parent or legal guardian of the newborn objects to the screening, the screening may ~~must~~ not be completed. In such case, the physician, midwife, or other person who is attending the newborn shall maintain a record that the screening has not been performed and attach a written objection that must be signed by the parent or guardian.

(d) For home births, the health care provider in attendance is responsible for coordination and referral to an ~~a licensed~~ audiologist, a physician, a hospital, or another ~~other~~ newborn hearing screening provider. The referral for appointment must ~~shall~~ be made within 30 days after the birth. In cases in which the home birth is not attended by a primary health care provider, a referral to an ~~a licensed~~ audiologist, a physician ~~licensed pursuant to chapter 458 or chapter 459~~, a hospital, or another ~~other~~ newborn hearing screening provider must be made by the health care provider within the first 3 months after the child's birth.

(e) All newborn and infant hearing screenings must ~~shall~~ be conducted by an ~~a licensed~~ audiologist, a physician ~~licensed under chapter 458 or chapter 459~~, or an appropriately supervised individual who has completed documented training specifically for newborn hearing screening. Every ~~licensed~~ hospital that provides maternity or newborn care services shall obtain the services of an ~~a licensed~~ audiologist, a physician ~~licensed pursuant to chapter 458 or chapter 459~~, or another ~~other~~ newborn hearing screening provider, through employment or contract or written memorandum of understanding, for the purposes of appropriate staff training, screening program supervision, monitoring the scoring and interpretation of test results, rendering of appropriate recommendations, and coordination of appropriate followup services. Appropriate documentation of the screening completion, results, interpretation, and recommendations must be placed in the medical record within 24 hours after completion of the screening procedure.

(f) The screening of a newborn's hearing must ~~should~~ be

completed before the newborn is discharged from the hospital. However, if the screening is not completed before discharge due to scheduling or temporary staffing limitations, the screening must be completed within 30 days after discharge. Screenings completed after discharge or performed because of initial screening failure must be completed by an audiologist ~~licensed in the state~~, a physician ~~licensed under chapter 458 or chapter 459~~, ~~or~~ a hospital, or another ~~other~~ newborn hearing screening provider.

(g) Each hospital shall formally designate a lead physician responsible for programmatic oversight for newborn hearing screening. Each birth center shall designate a licensed health care provider to provide such programmatic oversight and to ensure that the appropriate referrals are being completed.

(h) When ordered by the treating physician, screening of a newborn's hearing must include auditory brainstem responses, or evoked otacoustic emissions, or appropriate technology as approved by the United States Food and Drug Administration.

(i) Newborn hearing screening must be conducted on all newborns in hospitals in this state on birth admission. When a newborn is delivered in a facility other than a hospital, the parents must be instructed on the importance of having the hearing screening performed and must be given information to assist them in having the screening performed within 3 months after the child's birth.

(j) The initial procedure for screening the hearing of the newborn or infant and any medically necessary followup reevaluations leading to diagnosis shall be a covered benefit, reimbursable under Medicaid as an expense compensated

supplemental to the per diem rate for Medicaid patients enrolled in MediPass or Medicaid patients covered by a fee for service program. For Medicaid patients enrolled in HMOs, providers shall be reimbursed directly by the Medicaid Program Office at the Medicaid rate. This service may not be considered a covered service for the purposes of establishing the payment rate for Medicaid HMOs. All health insurance policies and health maintenance organizations as provided under ss. 627.6416, 627.6579, and 641.31(30), except for supplemental policies that only provide coverage for specific diseases, hospital indemnity, or Medicare supplement, or to the supplemental polices, shall compensate providers for the covered benefit at the contracted rate. Nonhospital-based providers are ~~shall be~~ eligible to bill Medicaid for the professional and technical component of each procedure code.

(k) A child who is diagnosed as having a permanent hearing impairment must ~~shall~~ be referred to the primary care physician for medical management, treatment, and followup services. Furthermore, in accordance with Part C of the Individuals with Disabilities Education Act, Pub. L. No. 108-446, Infants and Toddlers with Disabilities, any child from birth to 36 months of age who is diagnosed as having a hearing impairment that requires ongoing special hearing services must be referred to the Children's Medical Services Early Intervention Program serving the geographical area in which the child resides.

(l) Any person who is not covered through insurance and cannot afford the costs for testing must ~~shall~~ be given a list of newborn hearing screening providers who provide the necessary testing free of charge.

Section 3. This act shall take effect July 1, 2022.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Agriculture
Appropriations Subcommittee on Education
Community Affairs
Education
Ethics and Elections
Judiciary

SENATOR TINA SCOTT POLSKY
29th District

November 3, 2021

Chairman Aaron Bean
Appropriations Subcommittee on Health and Human Services
201 The Capitol
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chairman Bean,

I respectfully request that you place SB 292, relating to Newborn Screenings, on the agenda of the Appropriations Subcommittee on Health and Human Services, at your earliest convenience.

Should you have any questions or concerns, please feel free to contact me or my office. Thank you in advance for your consideration.

Kindest Regards,

Senator Tina S. Polsky
Florida Senate, District 29

cc: Tonya Money, Staff Director
Robin Jackson, Administrative Assistant

REPLY TO:
❒ 5301 North Federal Highway, Suite 135, Boca Raton, Florida 33487 (561) 443-8170
❒ 222 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5029

Senate's Website: *www.flsenate.gov*

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

2022 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Florida Department of Health

BILL INFORMATION	
BILL NUMBER:	292
BILL TITLE:	Newborn Screenings
BILL SPONSOR:	Polsky
EFFECTIVE DATE:	7/1/2022

COMMITTEES OF REFERENCE
1) Health Policy
2) Approp. Subcom. on Health and Human Services
3) Appropriations
4) Click or tap here to enter text.
5) Click or tap here to enter text.

CURRENT COMMITTEE
Health Policy

SIMILAR BILLS	
BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.

PREVIOUS LEGISLATION	
BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.
YEAR:	Click or tap here to enter text.
LAST ACTION:	Click or tap here to enter text.

IDENTICAL BILLS	
BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.

Is this bill part of an agency package?
No

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	N/A
LEAD AGENCY ANALYST:	Kimberly Porter
ADDITIONAL ANALYST(S):	Jennifer Martin
LEGAL ANALYST:	Louise St. Laurent
FISCAL ANALYST:	Marcus Richartz

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

This bill would require the Department of Health (DOH), Newborn Screening Program (NBS) to test for congenital cytomegalovirus (CMV). The bill requires every newborn to be screened for CMV before three weeks of age, and the bill requires all newborns who fail the hearing screening be tested for CMV.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Florida Newborn Screening Program

Florida's NBS was established in 1965, and the processes are governed by Sections 383.14 and 383.145, Florida Statutes (F.S.). NBS currently screens for 57 conditions prior to discharge. Of the conditions screened, 55 conditions are screened through the collection of blood spots. Screening of the two remaining conditions – hearing (hearing screening) and critical congenital heart defect (CCHD) (pulse oximetry) - are completed at the birthing facility through point of care (POC) testing.

The newborn screening specimen card, which includes the drops of blood and the results of the hearing and CCHD screen is sent to the DOH Bureau of Public Health Laboratory (BPHL) Jacksonville location. On average, the BPHL – Jacksonville tests 250,000 specimens per year.

When an abnormal blood screening result occurs, additional testing is required. The DOH Division of Children's Medical Services NBS Follow-up Program contacts health care providers and parents to ensure confirmatory testing occurs.

The NBS Hearing Program supports a comprehensive statewide hearing screening and follow-up referral system. Hearing loss is one of the most common birth defects in the United States, with approximately 2 newborns per 1,000 born with hearing loss each year.

NBS Hearing staff provide follow-up to parents of infants who do not pass the newborn hearing screen to ensure timely diagnosis and enrollment in early intervention for children diagnosed with hearing loss. In 2020, 9,500 infants did not pass the hearing screening, and 261 infants were diagnosed with hearing loss. It is estimated that approximately 52% of the 9,500 infants who did not pass the hearing screening required active follow-up by staff to ensure timely diagnosis and intervention.

Federal and State Newborn Screening Advisory Councils

Prior to consideration for inclusion on the state screening panel, a condition is recommended to the Advisory Committee on Heritable Disorders in Newborns and Children (ACHDNC), which advises the Secretary of the U.S. Department of Health and Human Services (HHS). The ACHDNC conducts an evidence review on the most appropriate application of universal newborn screening tests, technologies, policies, guidelines, and standards. Once the ACHDNC votes to recommend the addition of a condition to the recommended uniform screening panel (RUSP), the Secretary makes the final decision. Each state determines the conditions included in their state newborn screening programs.

After the Secretary of HHS adds a condition to the RUSP, the Genetics and Newborn Screening and Advisory Council (GNSAC) carefully reviews the recommendation to ensure:

- The condition is known to result in significant impairment in health, intellect, or functional ability if not treated before clinical signs appear;
- The condition can be detected using screening methods which are accepted by current medical practice;
- The condition can be detected prior to the infant becoming 2 weeks of age, or at the appropriate age as indicated by accepted medical practice;
- After screening for the disorder, reasonable cost benefits can be anticipated through a comparison of tangible program costs with those medical, institutional, and special educational costs likely to be incurred by an undetected population; and

- When screening for a disorder, sufficient pediatric medical infrastructure is available to provide continued services for patients' diagnostic services and medical maintenance.

In addition, GNSAC, BPHL, and NBS Follow-up Program consider the following:

- Procedures for collecting and transmitting specimens and recording results and

- Methods to more effectively evaluate, coordinate, and consolidate screening programs and genetics services for children.

CMV Screening

In 2019, the National CMV Foundation nominated CMV for inclusion on the RUSP. The nomination package was reviewed by the ACHDNC. The Committee requested additional data that demonstrates strong scientific evidence that supports the benefit of screening, a good screening test, and the availability of effective treatments. The National CMV Foundation chose to pause nomination to collect additional data prior to resubmission. To date, CMV has not been resubmitted to ACHDNC.

According to the Centers for Disease Control and Prevention (CDC), nearly one in three children are infected with CMV by age five. Congenital CMV infection can be diagnosed by testing a newborn baby's saliva, urine, or blood. However, blood is not the best fluid to test newborns with suspected CMV infection. The FDA granted authorization of the Alethia CMV Assay Test System for use in detecting CMV deoxyribonucleic acid (DNA) from a saliva swab. Specimens must be collected as soon as possible after birth, but before three weeks to confirm a diagnosis of congenital CMV infection.

According to the CDC, treating babies with signs of congenital CMV infection at birth with antiviral medications, primarily valganciclovir, may improve hearing and developmental outcomes. Valganciclovir can have serious side effects and has only been studied in babies with signs of congenital CMV infection. There is limited information on the effectiveness of available treatments to treat hearing loss alone. Children diagnosed with hearing loss should receive services such as speech or occupational therapy. These services help ensure children develop important communication, language, and social skills. Children with hearing loss can also learn other ways to communicate, such as using sign language, and to use devices such as hearing aids and cochlear implants. The earlier children with hearing loss start receiving services, the more likely to reach their full potential.

2. EFFECT OF THE BILL:

This bill adds a condition to the newborn screening panel outside of the traditional process.

Lines 20 and 24 require all newborns be tested for CMV within three weeks of birth.

Lines 95 through 100 requires hospitals or other state licensed birthing facility to administer a urine Polymerase Chain Reaction or other diagnostically equivalent CMV test to all newborns who fail the newborn hearing screening.

Neither of the current three methods of collecting newborn screening specimens can be used to screen for CMV. Therefore, hospitals and the state must create a new process to collect, report, and manage screening for CMV.

Point of Care (POC) Testing at Birthing Facility

Assuming CMV testing would be conducted as a POC at the birthing facility prior to discharge, testing for all newborns prior to three weeks of age and for all newborns who fail the hearing screen impacts on hospital and birthing facilities will include at a minimum, a change in processes, access to appropriate testing equipment and supplies, laboratory services, and staffing education.

The impact on DOH if testing is POC would include:

- Revisions to the training for birthing facilities, midwives, hearing screeners, and physicians' offices that collect newborn screening specimens and perform hearing screens.
- Increased Newborn Hearing staffing, estimated at two new follow-up staff, to conduct expedited and

specialized follow-up to ensure children who test positive for CMV receive timely treatment.
- Restructure of the Newborn Hearing Program staffing organization, including one supervisory position, to support increased staffing, follow-up activities, and data informatics.
- Updates to the NBS Specimen Collection Card (form DH 677) to collect CMV as a Hearing Risk Factor to ensure proper and complete data collection.
- Updates to the web portal and data systems and data integration processes. These updates would allow NBS to incorporate CMV for use in expedited follow-up, create queries for analysis of consent, and conduct quality assurance reviews.

CMV Testing through BPHL for Newborns:

For the BPHL Jacksonville location to process the tests the impact would be, at a minimum, as follows:
- The addition of a different sample type (urine) would require BPHL to establish a separate laboratory section to process and analyze urine samples which would cost $250,000 for renovations and $300,000 for instrumentation.
- Increased staffing of 8 laboratory personnel and 2 data entry personnel.
    - 1 x Medical Laboratory Scientist (MLS) IV (SES): salary fringe – Total $110,4105
    - 5 x MLS II: salary fringe – Total $375,377
    - 2 x MLS III: salary fringe – Total $180,689
    - 2 x Data Entry Operator: salary fringe – Total $98,592
- Increased office supply and laboratory testing supply costs associated with this addition.
- An indeterminant cost for changes to the Laboratory Information Management System (LIMS), which is used for resulting andreporting, as well as integrated data systems that supply data into the LIMS system. This is estimated at $75,000.
- The increase in laboratory tests and results would require additional printed reports and postage for shipping. This is estimated to an additional $15,000 annually.
- Each newborn requiring CMV screening will increase cost of approximately $70 each for the laboratory test and ancillary testing supplies. If the newborns parents or legal guardians are uninsured, or, if the private insurance denies payment, the Laboratory will absorb the cost of the screening.
    - It is estimated in Florida that approximately 9,500 infants will fail the newborn hearing screen requiring a CMV screen. Resulting in 950, or approximately 10% of infants who will potentially test positive for CMV.
    - On average, Florida tests 250,000 specimens per year.

Line 112 of the bill amends the consent provision deleting “must” and inserting “may.” This change could give the impression that screening may occur when a parent refuses consent.

Line 204 has an effective date of July 1, 2022. The length of time required to begin screening for a new condition ranges between 12 and 24 months. Therefore, the effective date to begin screening would exceed the current effective date of the bill.

3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y☒ N☐

If yes, explain:	The bill requires the Department of Health, Newborn Screening Program (NBS) to amend Administrative Rule requiring newborn screening for CMV
Is the change consistent with the agency’s core mission?	Y☒ N☐
Rule(s) impacted (provide references to F.A.C., etc.):	64C-7.002 Collection Procedures for Newborn Screening 64C-7.005 - Reporting of Newborn Screening Test Results

4. **WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?**

Proponents and summary of position:	Unknown
Opponents and summary of position:	Unknown

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y☐ N☒

If yes, provide a description:	N/A
Date Due:	N/A
Bill Section Number(s):	N/A

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL? Y☐ N☒

Board:	N/A
Board Purpose:	N/A
Who Appoints:	N/A
Changes:	N/A
Bill Section Number(s):	N/A

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? Y☐ N☒

Revenues:	N/A
Expenditures:	N/A
Does the legislation increase local taxes or fees? If yes, explain.	N/A
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	N/A

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT? Y☒ N☐

Revenues:	Unknown

Expenditures:	NBS Follow-up POC Test or BPHL NBS Program If the intent is for the NBS Program to include CMV testing as a POC test completed at the hospital for infants with failed hearing screens (approximately 9,500/year), the fiscal impact would include: · Increased NBS Hearing (3 FTE) staffing for specialized and expedited follow-up. · Reorganization of the current program structure. · Funding is required in the initial year for $50,000 to update the CMS data system to include CMV case management to the system. Recurring cost for staffing increase salary/fringe: $198,305 Non-Recurring expenses: $63,947 Recurring expenses: $22,869 Recurring HR Outsourcing (107040): $916 Total Recurring: $222,090 Total Non-Recurring: $63,947 NBS - Total Recurring/Non-Recurring: $286,037 ---------- NBS and BPHL @ 9,500 Tests If the intent is for the BPHL - Jacksonville to process the tests for only newborns with failed hearing screens, this law would impact the NBS Program in multiple ways to include: BPHL – Salary and Fringe Jacksonville Lab 1 x MLS IV (SES): salary fringe – Total $99,928 5 x MLS II: salary fringe – Total $339,740 2 x MLS III: salary fringe – Total $163,535 2 x Data Entry Operator: salary fringe – Total $89,232 Total salary fringe: $692,435 BPHL Recurring Expenses $70 per test x 9500 specimens per year = $665,000 (Recurring) · Additional postage and printing costs at $15,000 per year. (Recurring) · Standard Expense with limited travel -$118,550 (Recurring) · HR Outsourcing (107040) - $3,051 (Recurring) · Total Recurring Expense: $801,601 BPHL Non-Recurring Expenses · Funding is required in the initial year for $618,000 to purchase laboratory instrumentation. · Funding is required in the initial year for $250,000 to renovate laboratory space. · Funding is required in the initial year for $75,000 to update the LIMS data system. · Standard Non-Recurring Expenses: $45,792 · Total Non-Recurring Expense: $988,792 BPHL Total Recurring: $1,494,036 BPHL Total Non-Recurring: $988,792 BPHL Total Recurring/Non-Recurring: $2,482,828 Grand Total for NBS and BPHL @ 9,500 tests = $2,768,865 ---------- NBS and BPHL @ 250,000 tests If the intent is for the BPHL - Jacksonville to process the tests for ALL newborns, this law would impact the NBS Program in multiple ways to include: Salary/Fringe Recurring · Increased NBS Hearing (3 FTE) staffing for specialized and expedited follow-up - $198,305 · Increased Laboratory staff (10 FTE) - $692,435 · Reorganization of the current program structure. · Total: $890,740 RECURRING Expenses · $70 per test x 250,000 specimens per year = $17,500,000 (Recurring) · Additional postage and printing costs at $15,000 per year. (Recurring) · Standard Expenses (recurring) - $141,419

	· HR Outsourcing (recurring) - $3,966 · Total Recurring Expenses: $17,660,385 Non-Recurring Expenses · Funding to update the CMS data system to include CMV case management to the system. - $50,000 (non-recurring) · Funding to purchase laboratory instrumentation. (non-recurring) - $618,000 · Funding to renovate laboratory space. $250,000 (non-recurring) · Funding is required in the initial year for $75,000 to update the LIMS data system. (non-recurring) · Standard Expenses (Non-Recurring): $59,739 · Total Non-Recurring Expenses: $1,052,739 Grand Total Recurring: $18,551,125 Grand Total Non-Recurring: $1,052,739 Grand Total Recurring/Non-Recurring: $19,603,864
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	N/A

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? Y☒ N☐

Revenues:	Unknown
Expenditures:	Medicaid and private insurance companies would be billed for the newborn screening tests, which would include CMV testing. The estimated cost for CMV testing by urine polymerase chain reaction is $70 per test. If the intent is for POC testing, hospitals and birthing facilities could also incur the cost for additional testing equipment if they are not equipped to test for CMV. If the intent is for the BPHL – Jacksonville to complete testing, hospitals and birthing facilities would be responsible for the cost of shipping urine specimens and/or saliva specimens. Saliva specimens require cold storage during shipping. This additional cost is indeterminate.
Other:	N/A

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? Y☐ N☒

If yes, explain impact.	N/A
Bill Section Number:	N/A

TECHNOLOGY IMPACT

1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)? Y☒ N☐

If yes, describe the anticipated impact to the agency including any fiscal impact.	Additional records maintenance for both the BPHL in Jacksonville and the NBS Hearing Program would require a data system enhancement.

FEDERAL IMPACT

1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y☐ N☒

If yes, describe the anticipated impact including any fiscal impact.	N/A

ADDITIONAL COMMENTS

None.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	Lines 23-24 require all newborns to be tested for CMV which conflicts with lines 95-100 which state that if a newborn fails the screening for the detection of hearing loss, the hospital or other state-licensed birthing facility must administer a urine polymerase chain reaction test or other diagnostically equivalent test on the newborn to screen for congenital cytomegalovirus.

The Florida Senate

APPEARANCE RECORD

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1/19/22
Meeting Date

HHS
Committee

292
Bill Number or Topic

DE
Amendment Barcode (if applicable)

Name Doug Bell

Phone 850 205 1000

Address 119 S. Monroe
Street

Email doug.bell@mhdfirm.com

City State Zip

Speaking: ☐ For ☒ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

Florida Chapter of the American Academy of Pediatrics

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

1/19/22
Meeting Date

The Florida Senate

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292
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Jared Willis **Phone**

Address 200 W College Ave, Ste. 201 **Email** jwillis@strategosgroup.com
Street

32301
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** **Waive Speaking:** ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:
Nemours Children's Hospital

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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1/19
Meeting Date

Health Policy
Committee

SB 292
Bill Number or Topic

Amendment Barcode (if applicable)

Name DAVID MICA, Jr **Phone**

Address 306 E. College Ave **Email**
Street

32312
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** **Waive Speaking:** ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ **I am appearing without compensation or sponsorship.**

☑ **I am a registered lobbyist, representing:**
Florida Hospital Association

☐ **I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:**

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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1/19/2022
Meeting Date

App. Subcte. HHS
Committee

NEWBORN
292 SCREENINGS
Bill Number or Topic

Amendment Barcode (if applicable)

Name JEAN SIEBENALER (SEE-BEN-AH-LER) Phone 513-532-5408

Address 7502 OLD BAY POINTE RD Email J.siebenaler@gmail.com
Street

MILTON FL 32583
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** **Waive Speaking:** ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

1030

The Florida Senate

APPEARANCE RECORD

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01/19/2022
Meeting Date

292
Bill Number or Topic

App. Shaman Health & Human Services 412K
Committee

Amendment Barcode (if applicable)

Name Kathleen Murphy

Phone 407-855-7604

Address 1747 Central Florida Parkway
Street
Orlando FL 32809
City State Zip

Email legislation@floridapta.org

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☑ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:
Florida PTA

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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1/19/22
Meeting Date

292 Newborn Screening
Bill Number or Topic

Ap Subcommittee on Health and Human Servic
Committee

Amendment Barcode (if applicable)

Name Constance S. Albright

Phone 3524060045

Address 36800 Lake Norris Rd
Street

Email connie albright@mac.com

Eustis FL 32736
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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1/19/22
Meeting Date

HCA
Committee

0292
Bill Number or Topic

Amendment Barcode (if applicable)

Name Theresa Bulger (pronounced BUL-JER Tuh-REE-SA) Phone 904 880 9063

Address 253 Hayden
Street

Tallahassee FL
City State Zip

Email bulger12@yahoo.com

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

764450

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/19/2022	.	
	.	
	.	
	.	

Appropriations Subcommittee on Health and Human Services (Polsky) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 383.145, Florida Statutes, is amended to read:

383.145 Newborn and infant hearing screening.—

(1) LEGISLATIVE INTENT.—It is the intent of the Legislature ~~this section is~~ to provide a statewide comprehensive and coordinated interdisciplinary program of early hearing loss

764450

~~impairment~~ screening, identification, and follow-up ~~followup~~ care for newborns. The goal is to screen all newborns for hearing loss ~~impairment~~ in order to alleviate the adverse effects of hearing loss on speech and language development, academic performance, and cognitive development. It is further the intent of the Legislature that ~~the provisions of~~ this section ~~act~~ only be implemented to the extent that funds are specifically included in the General Appropriations Act for carrying out the purposes of this section.

(2) DEFINITIONS.—As used in this section, the term:

(a) "Audiologist" means a person licensed under part I of chapter 468 to practice audiology ~~"Agency" means the Agency for Health Care Administration~~.

(b) "Department" means the Department of Health.

(c) "Hearing loss ~~impairment~~" means a hearing loss of 30 dB HL or greater in the frequency region important for speech recognition and comprehension in one or both ears, approximately 500 through 4,000 hertz.

(d) "Hospital" means a facility as defined in s. 395.002(13) and licensed under chapter 395 and part II of chapter 408.

(e) "Infant" means an age range from 30 days through 12 months.

(f) ~~(c)~~ "Licensed health care provider" means a physician or physician assistant licensed under ~~pursuant to~~ chapter 458; an osteopathic physician or physician assistant licensed under ~~or~~ chapter 459; an advanced practice registered nurse, a registered nurse, or a licensed practical nurse licensed under part I of ~~pursuant to~~ chapter 464; a midwife licensed under chapter 467;~~,~~

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or a speech-language pathologist or an audiologist licensed under part I of ~~pursuant to~~ chapter 468~~, rendering services within the scope of his or her license~~.

(g) ~~(f)~~ "Management" means the habilitation of the ~~hearing-impaired~~ child with hearing loss.

(h) ~~(g)~~ "Newborn" means an age range from birth through 29 days.

(i) "Physician" means a person licensed under chapter 458 to practice medicine or chapter 459 to practice osteopathic medicine.

(j) ~~(h)~~ "Screening" means a test or battery of tests administered to determine the need for an in-depth hearing diagnostic evaluation.

(3) REQUIREMENTS FOR SCREENING OF NEWBORNS; INSURANCE COVERAGE; REFERRAL FOR ONGOING SERVICES.—

(a) Each ~~licensed~~ hospital or other state-licensed birthing facility that provides maternity and newborn care services shall ensure ~~provide~~ that all newborns are, before ~~prior to~~ discharge, screened for the detection of hearing loss~~,~~ to prevent the consequences of unidentified disorders. If a newborn fails the screening for the detection of hearing loss, the hospital or other state-licensed birthing facility must administer a test approved by the United States Food and Drug Administration or another diagnostically equivalent test on the newborn to screen for congenital cytomegalovirus before the newborn becomes 21 days of age or before discharge, whichever occurs earlier.

(b) Each licensed birth center that provides maternity and newborn care services shall ensure ~~provide~~ that all newborns are, before ~~prior to~~ discharge, referred to an ~~a licensed~~

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audiologist, a physician ~~licensed under chapter 458 or chapter 459~~, ~~or~~ a hospital, or another ~~other~~ newborn hearing screening provider~~,~~ for screening for the detection of hearing loss~~,~~ to prevent the consequences of unidentified disorders. ~~The referral for appointment shall be made within 30 days after discharge.~~ Written documentation of the referral must be placed in the newborn's medical chart.

(c) If the parent or legal guardian of the newborn objects to the screening, the screening must not be completed. In such case, the physician, midwife, or other person who is attending the newborn shall maintain a record that the screening has not been performed and attach a written objection that must be signed by the parent or guardian.

(d) For home births, the health care provider in attendance is responsible for coordination and referral to an ~~a licensed~~ audiologist, a physician, a hospital, or another ~~other~~ newborn hearing screening provider. The referral for appointment must ~~shall~~ be made within 7 ~~30~~ days after the birth. ~~In cases in which the home birth is not attended by a primary health care provider, a referral to a licensed audiologist, physician licensed pursuant to chapter 458 or chapter 459, hospital, or other newborn hearing screening provider must be made by the health care provider within the first 3 months after the child's birth.~~

(e) Licensed health care providers practicing in the primary care setting must ensure that newborns in their care are screened for hearing loss within 21 days after the birth. If a newborn fails the screening for the detection of hearing loss, the licensed health care provider must administer a test

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approved by the United States Food and Drug Administration or another diagnostically equivalent test on the newborn to screen for congenital cytomegalovirus before the newborn becomes 21 days of age.

(f) All newborn and infant hearing screenings must ~~shall~~ be conducted by an ~~a licensed~~ audiologist, a physician ~~licensed under chapter 458 or chapter 459~~, or an appropriately supervised individual who has completed documented training specifically for newborn hearing screening. Every ~~licensed~~ hospital that provides maternity or newborn care services shall obtain the services of an ~~a licensed~~ audiologist, a physician ~~licensed pursuant to chapter 458 or chapter 459~~, or another ~~other~~ newborn hearing screening provider, through employment or contract or written memorandum of understanding, for the purposes of appropriate staff training, screening program supervision, monitoring the scoring and interpretation of test results, rendering of appropriate recommendations, and coordination of appropriate follow-up ~~followup~~ services. Appropriate documentation of the screening completion, results, interpretation, and recommendations must be placed in the medical record within 24 hours after completion of the screening procedure.

(g) ~~(f)~~ The screening of a newborn's hearing must ~~should~~ be completed before the newborn is discharged from the hospital. However, if the screening is not completed before discharge due to scheduling or temporary staffing limitations, the screening must be completed within 21 ~~30~~ days after the birth ~~discharge~~. Screenings completed after discharge or performed because of initial screening failure must be completed by an audiologist

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~~licensed in the state~~, a physician ~~licensed under chapter 458 or chapter 459~~, ~~or~~ a hospital, or another ~~other~~ newborn hearing screening provider.

(h) ~~(g)~~ Each hospital shall formally designate a lead physician responsible for programmatic oversight for newborn hearing screening. Each birth center shall designate a licensed health care provider to provide such programmatic oversight and to ensure that the appropriate referrals are being completed.

(i) ~~(h)~~ When ordered by the treating physician, screening of a newborn's hearing must include auditory brainstem responses, or evoked otoacoustic ~~otacoustic~~ emissions, or appropriate technology as approved by the United States Food and Drug Administration.

(j) ~~(i)~~ The results of any test conducted pursuant to this section, including, but not limited to, newborn hearing loss screening, congenital cytomegalovirus testing, and any related diagnostic testing, must be reported to the department within 7 days after receipt of such results ~~Newborn hearing screening must be conducted on all newborns in hospitals in this state on birth admission. When a newborn is delivered in a facility other than a hospital, the parents must be instructed on the importance of having the hearing screening performed and must be given information to assist them in having the screening performed within 3 months after the child's birth~~.

(k) ~~(j)~~ The initial procedure for screening the hearing of the newborn or infant and any medically necessary follow-up ~~followup~~ reevaluations leading to diagnosis shall be a covered benefit for~~, reimbursable under Medicaid as an expense compensated supplemental to the per diem rate for Medicaid~~

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~~patients enrolled in MediPass or~~ Medicaid patients covered by a fee for service program. For Medicaid patients enrolled in HMOs, providers shall be reimbursed directly by the Medicaid Program Office at the Medicaid rate. This service may not be considered a covered service for the purposes of establishing the payment rate for Medicaid HMOs. All health insurance policies and health maintenance organizations as provided under ss. 627.6416, 627.6579, and 641.31(30), except for supplemental policies that only provide coverage for specific diseases, hospital indemnity, or Medicare supplement, or to the supplemental polices, shall compensate providers for the covered benefit at the contracted rate. Nonhospital-based providers are ~~shall be~~ eligible to bill Medicaid for the professional and technical component of each procedure code.

(l)~~(k)~~ A child who is diagnosed as having ~~a~~ permanent hearing loss must ~~impairment shall~~ be referred to the primary care physician for medical management, treatment, and follow-up ~~followup~~ services. Furthermore, in accordance with Part C of the Individuals with Disabilities Education Act, Pub. L. No. 108-446, Infants and Toddlers with Disabilities, any child from birth to 36 months of age who is diagnosed as having ~~a~~ hearing loss ~~impairment~~ that requires ongoing special hearing services must be referred to the Children's Medical Services Early Intervention Program serving the geographical area in which the child resides.

~~(l) Any person who is not covered through insurance and cannot afford the costs for testing shall be given a list of newborn hearing screening providers who provide the necessary testing free of charge.~~

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Section 2. This act shall take effect January 1, 2023.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to newborn screenings; amending s. 383.145, F.S.; revising and defining terms; requiring hospitals and other state-licensed birthing facilities to test for congenital cytomegalovirus in newborns within a specified timeframe under certain circumstances; revising the timeframe in which health care providers attending home births must make certain referrals; requiring certain health care providers practicing in the primary care setting to screen newborns in their care for hearing loss within a specified timeframe; requiring such providers to test such newborns for congenital cytomegalovirus within a specified timeframe under certain circumstances; revising the timeframe within which hospitals must complete newborn hearing screenings that were not completed before discharge due to temporary staffing or scheduling limitations; providing that certain test results must be reported to the Department of Health within a specified timeframe; deleting a requirement that the parents of certain newborns be instructed on and provided specified information; revising a provision related to Medicaid coverage of newborn

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hearing screenings and follow-up reevaluations to delete obsolete language; deleting a requirement that certain uninsured persons be provided a list of specified providers; providing an effective date.

629500

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/19/2022	.	
	.	
	.	
	.	

Appropriations Subcommittee on Health and Human Services (Polsky) recommended the following:

Senate Amendment to Amendment (764450) (with title amendment)

Delete lines 93 - 94
and insert:
(e) Each licensed health care provider practicing in the primary care setting must ensure that a newborn in his or her care whose birth was not attended by a health care provider is

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

629500

And the title is amended as follows:

Delete line 201

and insert:

certain newborns in their care for hearing loss within a

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Subcommittee on Health and Human Services

BILL:	PCS/SB 292 (304450)
INTRODUCER:	Appropriations Subcommittee on Health and Human Services; Senators Polsky and Book
SUBJECT:	Newborn Screenings
DATE:	January 21, 2022
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Brown	HP	**Favorable**
2.	Gerbrandt	Money	AHS	**Recommend: Fav/CS**
3.			AP	

I. Summary:

PCS/SB 292 amends section 383.14, Florida Statutes, to require a hospital or other state-licensed birthing facility to test newborns for congenital cytomegalovirus should the newborn fail his or her screening for hearing loss. The screening for hearing loss is required under current law to be administered prior to being discharged from the hospital or birthing facility.

The bill also requires licensed health care providers practicing in the primary care setting to ensure that newborns in their care whose birth was not attended to by a health care provider are screened for hearing loss within 21 days after birth. The licensed health care provider must test for congenital cytomegalovirus should the newborn fail his or her screening for hearing loss.

The bill adds physicians to the list of facilities and practitioners to whom a parent may be referred to obtain the required newborn hearing screening after a home birth.

The bill is expected to have a significant negative fiscal impact on the Department of Health. See section V of this analysis.

The bill takes effect on January 1, 2023.

II. Present Situation:

Cytomegalovirus

Cytomegalovirus (CMV) is a common virus for people of all ages; however, a healthy person's immune system usually keeps the virus from causing illness.[1] In the United States, nearly one in three children are already infected with CMV by age five. Over half of adults have been infected with CMV by age 40. Once CMV is in a person's body, it stays there for life and can reactivate. A person can also be re-infected with a different strain (variety) of the virus. Most people with CMV infection have no symptoms and aren't aware that they have been infected.[2]

A pregnant woman can pass CMV to her unborn baby. The virus in the woman's blood can cross through the placenta and infect the baby. This can happen when a pregnant woman is infected with CMV for the first time or is infected with CMV again during pregnancy.[3]

Some babies with congenital CMV infection have health problems that are apparent at birth or that develop later during infancy or childhood. In the most severe cases, CMV can cause the death of an unborn baby (pregnancy loss).

Some babies with congenital CMV infection have signs at birth. These signs include:
- Rash.
- Jaundice (yellowing of the skin or whites of the eyes).
- Microcephaly (small head).
- Low birth weight.
- Hepatosplenomegaly (enlarged liver and spleen).
- Seizures.
- Retinitis (damaged eye retina).

Some babies with signs of congenital CMV infection at birth may have long-term health problems, such as:
- Hearing loss.
- Developmental and motor delay.
- Vision loss.
- Microcephaly (small head).
- Seizures.

Some babies without signs of congenital CMV infection at birth may have hearing loss. Hearing loss may be present at birth or may develop later, even in babies who passed the newborn hearing test.[4]

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[1] About Cytomegalovirus (CMV), Centers for Disease Control and Prevention, available at https://www.cdc.gov/cmv/overview.html (last visited Oct. 29, 2021).
[2] *Id.*
[3] Babies Born with Congenital Cytomegalovirus (CMV), Centers for Disease Control and Prevention, available at https://www.cdc.gov/cmv/congenital-infection.html, (last visited Jan. 12, 2022).
[4] *Id.*

CMV is the most common infectious cause of birth defects in the United States. About one out of 200 babies is born with congenital CMV. One out of five babies with congenital CMV will have symptoms or long-term health problems, such as hearing loss. Hearing loss may progress from mild to severe during the first two years of life, which is a critical period for language learning. Over time, hearing loss can affect a child's ability to develop communication, language, and social skills.[5]

Some babies may have hearing loss that may or may not be detected by newborn hearing test. Congenital CMV infection is diagnosed by detection of CMV DNA in the urine, saliva (preferred specimens), or blood, within three weeks after birth. Infection cannot be diagnosed using tests that detect antibodies to CMV. Congenital CMV infection cannot be diagnosed using samples collected more than three weeks after birth because testing after this time cannot distinguish between congenital infection and an infection acquired during or after delivery.[6]

Babies who show signs of congenital CMV disease can be treated with medicines called antivirals. Antivirals may decrease the severity of hearing loss. Babies who get treated with antivirals should be closely monitored by their doctor because of possible side effects.[7]

Florida's Newborn Screening Program

Florida's Newborn Screening Program (NBS) was established in 1965, and the processes are governed by ss. 383.14 and 383.145, F.S. The NBS currently screens for 57 conditions prior to discharge of the newborn from the hospital or other licensed birthing facility. Of the conditions screened, 55 conditions are screened through the collection of blood spots. Screening of the two remaining conditions, hearing loss and critical congenital heart defect (CCHD), are completed at the birthing facility through point of care testing.[8]

The newborn screening specimen card, which includes the drops of blood, is sent to the Department of Health's (department) Bureau of Public Health Laboratory (BPHL) in Jacksonville for analysis. On average, the BPHL in Jacksonville tests 250,000 specimens per year. When an abnormal blood screening result occurs, additional testing is required. The department's Division of Children's Medical Services NBS Follow-up Program contacts health care providers and parents to ensure confirmatory testing occurs.[9]

Newborn and Infant Hearing Screening

Section 383.145, F.S., requires that a newborn hearing screening must be conducted on all newborns in hospitals in this state on birth admission. When a newborn is delivered in a facility other than a hospital, the parents must be instructed on the importance of having the hearing

[5] CMV Fact Sheet for Healthcare Providers, Centers for Disease Control and Prevention, available at CMV Fact Sheet for Healthcare Providers | CDC, (last visited Jan. 12, 2022).
[6] About Cytomegalovirus (CMV), Centers for Disease Control and Prevention, available at https://www.cdc.gov/cmv/overview.html (last visited Jan. 12, 2022).
[7] Congenital CMV and Hearing Loss, Centers for Disease Control and Prevention, available at https://www.cdc.gov/cmv/hearing-loss.html, (last visited Oct. 29, 2021).
[8] Department of Health analysis of SB 292, 11/2/2021, on file with Senate Health Policy Committee staff.
[9] *Id*.

screening performed and must be given information to assist them in having the screening performed within three months after the child's birth.[10]

Before a newborn is discharged from a hospital or other state-licensed birthing facility that provides maternity and newborn care services, and unless objected to by the parent or legal guardian,[11] the newborn must be screened for the detection of hearing loss to prevent the consequences of unidentified disorders.[12] However, if the screening is not completed before discharge due to scheduling or temporary staffing limitations, the screening must be completed within 30 days after the birth.[13] Before a newborn is discharged from a licensed birth center, such facility must refer the newborn to a licensed audiologist, physician, or hospital for screening for detection of hearing loss and referral for appointment must be made within 30 days after discharge.[14] If the birth is a home birth, the health care provider in attendance must provide a referral to a licensed audiologist, hospital, or other newborn hearing screening provider and the referral for appointment must be made within 30 days after the birth.[15]

The section also requires that all screenings be conducted by a licensed audiologist, a licensed physician, or appropriately supervised individual who has completed documented training specifically for newborn hearing screening.[16] When ordered by the treating physician, screening of a newborn's hearing must include auditory brainstem responses, or evoked otoacoustic emissions, or appropriate technology as approved by the United States Food and Drug Administration (FDA).[17]

A child who is diagnosed as having a permanent hearing impairment must be referred to the primary care physician for medical management, treatment, and follow-up services. Furthermore, any child from birth to 36 months of age who is diagnosed as having a hearing impairment that requires ongoing special hearing services must be referred to the Children's Medical Services Early Intervention Program serving the geographical area in which the child resides.[18] Any person who is not covered through insurance and cannot afford the costs for testing must be given a list of newborn hearing screening providers who provide the necessary testing free of charge.[19]

III. Effect of Proposed Changes:

The bill amends s. 383.145, F.S., to require a hospital or other state-licensed birthing facility to administer a FDA approved test, or other diagnostically equivalent test, on a newborn to screen for congenital cytomegalovirus should the newborn fail his or her screening for hearing loss. The congenital cytomegalovirus test must be administered before the newborn becomes 21 days of age or before discharge, whichever occurs earlier.

[10] s. 383.145(3)(i), F.S.
[11] s. 383.145(3)(c), F.S.
[12] s. 383.145(3)(a), F.S.
[13] s. 383.145(3)(g), F.S.
[14] s. 383.145(3)(b), F.S.
[15] s. 383.145(3)(d), F.S.
[16] s. 383.145(3)(e), F.S.
[17] s. 383.145(3)(h), F.S.
[18] Section. 383.145(3)(k), F.S.
[19] Section. 383.145(3)(l), F.S.

The bill also requires licensed health care providers practicing in the primary care setting to ensure that newborns in their care whose birth was not attended to by a health care provider are screened for hearing loss within 21 days after birth. If a newborn fails the hearing screening the bill requires licensed health care provider to administer a FDA approved test to screen for congenital cytomegalovirus before the newborn becomes 21 days of age.

Current law requires that all newborns delivered in a hospital or other state-licensed birthing facility must have a hearing screen performed prior to being discharged. However, if the screening is not completed before discharge due to scheduling or temporary staffing limitations, the screening must be completed within 30 days after birth. The bill requires screenings in these cases to be completed within 21 days after birth.

The bill clarifies that newborns delivered in a licensed birth center must be referred to a newborn hearing screening provider before discharge.

Current law requires that health care providers in attendance of a home birth are responsible for coordination and referral to a licensed audiologist, a hospital, or another newborn hearing screening provider and that the referral for appointment must be made within 30 days after the birth. The bill requires that the referral for appointment be made within 7 days after birth and adds physicians to the list of facilities and practitioners to whom a parent may be referred to for obtaining the required newborn hearing screening after a home birth.

Under current law, parents of newborns who are not delivered in a hospital must be instructed on the importance of having a hearing screening performed within three months after birth. Persons who cannot afford the cost of a hearing test must be provided a list of newborn hearing screening providers who provide the testing for free. The bill deletes both of these provisions.

The bill requires that the results of a newborn hearing screening and congenital cytomegalovirus and any related diagnostic testing to be reported to the department within 7 days after receipt of such results.

Current law defines a “licensed health care provider” as a physician licensed under chapter 458 or 459, F.S., a nurse licensed pursuant to chapter 464, F.S., or an audiologist licensed pursuant to chapter 468, F.S., rendering services within the scope of his or her license. The bill amends this definition to include a licensed physician assistant, a midwife licensed under chapter 467, F.S., and a speech language pathologist.

The bill defines the terms audiologist, hospital, and physician for clarity in the section. The bill also makes conforming changes and deletes obsolete provisions.

The bill takes effect on January 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

SB 292 will have a significant negative fiscal impact on the department. The department estimates a potential general revenue impact of $440,749 ($372,153 recurring, and $68,596 nonrecurring), and four FTE to implement the provisions of the bill.[20,21]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

[20] Email from Andrew Love, Legislative Planning Director, Florida Department of Health, to Jay Howard, Senior Legislative Analyst, Florida Senate (Jan 10, 2022) (on file with the Senate Appropriations Committee on Health and Human Services).
[21] Florida Department of Health, Senate Bill 292 Legislative Bill Analysis (Jan. 20, 2022) (on file with the Senate Appropriations Committee on Health and Human Services).

VIII. Statutes Affected:

This bill substantially amends section 383.145 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.)

Recommended CS by Appropriations Subcommittee on Health and Human Services on January 19, 2022:
The committee substitute:

- Deletes a requirement in the underlying bill that each newborn be tested for congenital cytomegalovirus before becoming three weeks of age.
- Amends the definition of a licensed health care provider to include a licensed physician assistant, a midwife licensed under chapter 467, and a speech language pathologist.
- Deletes a requirement in the underlying bill that hospitals must administer a specific congenital cytomegalovirus test and instead requires a FDA approved test.
- For home births, requires that a referral for appointment for a hearing screen must be made within 7 days, instead of 30 days, after birth.
- Requires licensed health care providers practicing in the primary care setting to ensure that newborns in their care whose birth was not attended to by a health care provider are screened for hearing loss within 21 days after birth.
- Requires licensed health care providers practicing in the primary care setting to administer a FDA approved, or diagnostically equivalent, congenital cytomegalovirus test on newborns who fail their hearing screen, before the newborn is 21 days of age.
- Requires hearing screening to be conducted within 21 days, instead of 30 days, if due to scheduling or temporary staffing issues a newborn cannot be screened prior to discharge from a hospital.
- Requires that the results of a newborn hearing screening and congenital cytomegalovirus and any related diagnostic testing to be reported to the department within 7 days after receipt of such results.
- Deletes a provision related to a requirement that the parents of newborns not delivered in a hospital be notified of the importance of having a hearing screening.
- Deletes a provision related to a requirement that persons who cannot afford the cost for testing be provided a list of newborn hearing screening providers who provide the testing for free.
- Changes the effective date of the bill to January 1, 2023.
- Makes conforming changes and deletes obsolete provisions.

B. Amendments:

None.

By Senator Harrell

25-00651A-22 2022534__

A bill to be entitled

An act relating to prescription drugs used in the treatment of schizophrenia for Medicaid recipients; amending s. 409.912, F.S.; authorizing the approval of drug products or certain medication prescribed for the treatment of schizophrenia or schizotypal or delusional disorders for Medicaid recipients who have not met the step-therapy prior authorization criteria, when the drug product or certain medication meets specified criteria; providing an effective date.

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

Section 1. Paragraph (a) of subsection (5) of section 409.912, Florida Statutes, is amended to read:

409.912 Cost-effective purchasing of health care.—The agency shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care. To ensure that medical services are effectively utilized, the agency may, in any case, require a confirmation or second physician's opinion of the correct diagnosis for purposes of authorizing future services under the Medicaid program. This section does not restrict access to emergency services or poststabilization care services as defined in 42 C.F.R. s. 438.114. Such confirmation or second opinion shall be rendered in a manner approved by the agency. The agency shall maximize the use of prepaid per capita and prepaid aggregate fixed-sum basis services when appropriate and other alternative service delivery and reimbursement methodologies,

25-00651A-22 2022534__

including competitive bidding pursuant to s. 287.057, designed to facilitate the cost-effective purchase of a case-managed continuum of care. The agency shall also require providers to minimize the exposure of recipients to the need for acute inpatient, custodial, and other institutional care and the inappropriate or unnecessary use of high-cost services. The agency shall contract with a vendor to monitor and evaluate the clinical practice patterns of providers in order to identify trends that are outside the normal practice patterns of a provider's professional peers or the national guidelines of a provider's professional association. The vendor must be able to provide information and counseling to a provider whose practice patterns are outside the norms, in consultation with the agency, to improve patient care and reduce inappropriate utilization. The agency may mandate prior authorization, drug therapy management, or disease management participation for certain populations of Medicaid beneficiaries, certain drug classes, or particular drugs to prevent fraud, abuse, overuse, and possible dangerous drug interactions. The Pharmaceutical and Therapeutics Committee shall make recommendations to the agency on drugs for which prior authorization is required. The agency shall inform the Pharmaceutical and Therapeutics Committee of its decisions regarding drugs subject to prior authorization. The agency is authorized to limit the entities it contracts with or enrolls as Medicaid providers by developing a provider network through provider credentialing. The agency may competitively bid single-source-provider contracts if procurement of goods or services results in demonstrated cost savings to the state without limiting access to care. The agency may limit its network based

on the assessment of beneficiary access to care, provider availability, provider quality standards, time and distance standards for access to care, the cultural competence of the provider network, demographic characteristics of Medicaid beneficiaries, practice and provider-to-beneficiary standards, appointment wait times, beneficiary use of services, provider turnover, provider profiling, provider licensure history, previous program integrity investigations and findings, peer review, provider Medicaid policy and billing compliance records, clinical and medical record audits, and other factors. Providers are not entitled to enrollment in the Medicaid provider network. The agency shall determine instances in which allowing Medicaid beneficiaries to purchase durable medical equipment and other goods is less expensive to the Medicaid program than long-term rental of the equipment or goods. The agency may establish rules to facilitate purchases in lieu of long-term rentals in order to protect against fraud and abuse in the Medicaid program as defined in s. 409.913. The agency may seek federal waivers necessary to administer these policies.

(5)(a) The agency shall implement a Medicaid prescribed-drug spending-control program that includes the following components:

1. A Medicaid preferred drug list, which shall be a listing of cost-effective therapeutic options recommended by the Medicaid Pharmacy and Therapeutics Committee established pursuant to s. 409.91195 and adopted by the agency for each therapeutic class on the preferred drug list. At the discretion of the committee, and when feasible, the preferred drug list should include at least two products in a therapeutic class. The

agency may post the preferred drug list and updates to the list on an Internet website without following the rulemaking procedures of chapter 120. Antiretroviral agents are excluded from the preferred drug list. The agency shall also limit the amount of a prescribed drug dispensed to no more than a 34-day supply unless the drug products' smallest marketed package is greater than a 34-day supply, or the drug is determined by the agency to be a maintenance drug in which case a 100-day maximum supply may be authorized. The agency may seek any federal waivers necessary to implement these cost-control programs and to continue participation in the federal Medicaid rebate program, or alternatively to negotiate state-only manufacturer rebates. The agency may adopt rules to administer this subparagraph. The agency shall continue to provide unlimited contraceptive drugs and items. The agency must establish procedures to ensure that:

a. There is a response to a request for prior authorization by telephone or other telecommunication device within 24 hours after receipt of a request for prior authorization; and

b. A 72-hour supply of the drug prescribed is provided in an emergency or when the agency does not provide a response within 24 hours as required by sub-subparagraph a.

2. A provider of prescribed drugs is reimbursed in an amount not to exceed the lesser of the actual acquisition cost based on the Centers for Medicare and Medicaid Services National Average Drug Acquisition Cost pricing files plus a professional dispensing fee, the wholesale acquisition cost plus a professional dispensing fee, the state maximum allowable cost plus a professional dispensing fee, or the usual and customary

charge billed by the provider.

3. The agency shall develop and implement a process for managing the drug therapies of Medicaid recipients who are using significant numbers of prescribed drugs each month. The management process may include, but is not limited to, comprehensive, physician-directed medical-record reviews, claims analyses, and case evaluations to determine the medical necessity and appropriateness of a patient's treatment plan and drug therapies. The agency may contract with a private organization to provide drug-program-management services. The Medicaid drug benefit management program shall include initiatives to manage drug therapies for HIV/AIDS patients, patients using 20 or more unique prescriptions in a 180-day period, and the top 1,000 patients in annual spending. The agency shall enroll any Medicaid recipient in the drug benefit management program if he or she meets the specifications of this provision and is not enrolled in a Medicaid health maintenance organization.

4. The agency may limit the size of its pharmacy network based on need, competitive bidding, price negotiations, credentialing, or similar criteria. The agency shall give special consideration to rural areas in determining the size and location of pharmacies included in the Medicaid pharmacy network. A pharmacy credentialing process may include criteria such as a pharmacy's full-service status, location, size, patient educational programs, patient consultation, disease management services, and other characteristics. The agency may impose a moratorium on Medicaid pharmacy enrollment if it is determined that it has a sufficient number of Medicaid-

participating providers. The agency must allow dispensing practitioners to participate as a part of the Medicaid pharmacy network regardless of the practitioner's proximity to any other entity that is dispensing prescription drugs under the Medicaid program. A dispensing practitioner must meet all credentialing requirements applicable to his or her practice, as determined by the agency.

5. The agency shall develop and implement a program that requires Medicaid practitioners who issue written prescriptions for medicinal drugs to use a counterfeit-proof prescription pad for Medicaid prescriptions. The agency shall require the use of standardized counterfeit-proof prescription pads by prescribers who issue written prescriptions for Medicaid recipients. The agency may implement the program in targeted geographic areas or statewide.

6. The agency may enter into arrangements that require manufacturers of generic drugs prescribed to Medicaid recipients to provide rebates of at least 15.1 percent of the average manufacturer price for the manufacturer's generic products. These arrangements shall require that if a generic-drug manufacturer pays federal rebates for Medicaid-reimbursed drugs at a level below 15.1 percent, the manufacturer must provide a supplemental rebate to the state in an amount necessary to achieve a 15.1-percent rebate level.

7. The agency may establish a preferred drug list as described in this subsection, and, pursuant to the establishment of such preferred drug list, negotiate supplemental rebates from manufacturers that are in addition to those required by Title XIX of the Social Security Act and at no less than 14 percent of

the average manufacturer price as defined in 42 U.S.C. s. 1936 on the last day of a quarter unless the federal or supplemental rebate, or both, equals or exceeds 29 percent. There is no upper limit on the supplemental rebates the agency may negotiate. The agency may determine that specific products, brand-name or generic, are competitive at lower rebate percentages. Agreement to pay the minimum supplemental rebate percentage guarantees a manufacturer that the Medicaid Pharmaceutical and Therapeutics Committee will consider a product for inclusion on the preferred drug list. However, a pharmaceutical manufacturer is not guaranteed placement on the preferred drug list by simply paying the minimum supplemental rebate. Agency decisions will be made on the clinical efficacy of a drug and recommendations of the Medicaid Pharmaceutical and Therapeutics Committee, as well as the price of competing products minus federal and state rebates. The agency may contract with an outside agency or contractor to conduct negotiations for supplemental rebates. For the purposes of this section, the term "supplemental rebates" means cash rebates. Value-added programs as a substitution for supplemental rebates are prohibited. The agency may seek any federal waivers to implement this initiative.

8.a. The agency may implement a Medicaid behavioral drug management system. The agency may contract with a vendor that has experience in operating behavioral drug management systems to implement this program. The agency may seek federal waivers to implement this program.

b. The agency, in conjunction with the Department of Children and Families, may implement the Medicaid behavioral drug management system that is designed to improve the quality

of care and behavioral health prescribing practices based on best practice guidelines, improve patient adherence to medication plans, reduce clinical risk, and lower prescribed drug costs and the rate of inappropriate spending on Medicaid behavioral drugs. The program may include the following elements:

(I) Provide for the development and adoption of best practice guidelines for behavioral health-related drugs such as antipsychotics, antidepressants, and medications for treating bipolar disorders and other behavioral conditions; translate them into practice; review behavioral health prescribers and compare their prescribing patterns to a number of indicators that are based on national standards; and determine deviations from best practice guidelines.

(II) Implement processes for providing feedback to and educating prescribers using best practice educational materials and peer-to-peer consultation.

(III) Assess Medicaid beneficiaries who are outliers in their use of behavioral health drugs with regard to the numbers and types of drugs taken, drug dosages, combination drug therapies, and other indicators of improper use of behavioral health drugs.

(IV) Alert prescribers to patients who fail to refill prescriptions in a timely fashion, are prescribed multiple same-class behavioral health drugs, and may have other potential medication problems.

(V) Track spending trends for behavioral health drugs and deviation from best practice guidelines.

(VI) Use educational and technological approaches to

promote best practices, educate consumers, and train prescribers in the use of practice guidelines.

(VII) Disseminate electronic and published materials.

(VIII) Hold statewide and regional conferences.

(IX) Implement a disease management program with a model quality-based medication component for severely mentally ill individuals and emotionally disturbed children who are high users of care.

9. The agency shall implement a Medicaid prescription drug management system.

a. The agency may contract with a vendor that has experience in operating prescription drug management systems in order to implement this system. Any management system that is implemented in accordance with this subparagraph must rely on cooperation between physicians and pharmacists to determine appropriate practice patterns and clinical guidelines to improve the prescribing, dispensing, and use of drugs in the Medicaid program. The agency may seek federal waivers to implement this program.

b. The drug management system must be designed to improve the quality of care and prescribing practices based on best practice guidelines, improve patient adherence to medication plans, reduce clinical risk, and lower prescribed drug costs and the rate of inappropriate spending on Medicaid prescription drugs. The program must:

(I) Provide for the adoption of best practice guidelines for the prescribing and use of drugs in the Medicaid program, including translating best practice guidelines into practice; reviewing prescriber patterns and comparing them to indicators

that are based on national standards and practice patterns of clinical peers in their community, statewide, and nationally; and determine deviations from best practice guidelines.

(II) Implement processes for providing feedback to and educating prescribers using best practice educational materials and peer-to-peer consultation.

(III) Assess Medicaid recipients who are outliers in their use of a single or multiple prescription drugs with regard to the numbers and types of drugs taken, drug dosages, combination drug therapies, and other indicators of improper use of prescription drugs.

(IV) Alert prescribers to recipients who fail to refill prescriptions in a timely fashion, are prescribed multiple drugs that may be redundant or contraindicated, or may have other potential medication problems.

10. The agency may contract for drug rebate administration, including, but not limited to, calculating rebate amounts, invoicing manufacturers, negotiating disputes with manufacturers, and maintaining a database of rebate collections.

11. The agency may specify the preferred daily dosing form or strength for the purpose of promoting best practices with regard to the prescribing of certain drugs as specified in the General Appropriations Act and ensuring cost-effective prescribing practices.

12. The agency may require prior authorization for Medicaid-covered prescribed drugs. The agency may prior-authorize the use of a product:

a. For an indication not approved in labeling;

b. To comply with certain clinical guidelines; or

c. If the product has the potential for overuse, misuse, or abuse.

The agency may require the prescribing professional to provide information about the rationale and supporting medical evidence for the use of a drug. The agency shall post prior authorization, step-edit criteria and protocol, and updates to the list of drugs that are subject to prior authorization on the agency's Internet website within 21 days after the prior authorization and step-edit criteria and protocol and updates are approved by the agency. For purposes of this subparagraph, the term "step-edit" means an automatic electronic review of certain medications subject to prior authorization.

13. The agency, in conjunction with the Pharmaceutical and Therapeutics Committee, may require age-related prior authorizations for certain prescribed drugs. The agency may preauthorize the use of a drug for a recipient who may not meet the age requirement or may exceed the length of therapy for use of this product as recommended by the manufacturer and approved by the Food and Drug Administration. Prior authorization may require the prescribing professional to provide information about the rationale and supporting medical evidence for the use of a drug.

14. The agency shall implement a step-therapy prior authorization approval process for medications excluded from the preferred drug list. Medications listed on the preferred drug list must be used within the previous 12 months before the alternative medications that are not listed. The step-therapy prior authorization may require the prescriber to use the

medications of a similar drug class or for a similar medical indication unless contraindicated in the Food and Drug Administration labeling. The trial period between the specified steps may vary according to the medical indication. The step-therapy approval process shall be developed in accordance with the committee as stated in s. 409.91195(7) and (8). A drug product may be approved without meeting the step-therapy prior authorization criteria if the prescribing physician provides the agency with additional written medical or clinical documentation that the product is medically necessary because:

a. There is not a drug on the preferred drug list to treat the disease or medical condition which is an acceptable clinical alternative;

b. The alternatives have been ineffective in the treatment of the beneficiary's disease; ~~or~~

c. The drug product or medication of a similar drug class is prescribed for the treatment of schizophrenia or schizotypal or delusional disorders; prior authorization has been granted previously for the prescribed drug; and the medication was dispensed to the patient during the previous 12 months; or

d. Based on historic evidence and known characteristics of the patient and the drug, the drug is likely to be ineffective, or the number of doses have been ineffective.

The agency shall work with the physician to determine the best alternative for the patient. The agency may adopt rules waiving the requirements for written clinical documentation for specific drugs in limited clinical situations.

15. The agency shall implement a return and reuse program

for drugs dispensed by pharmacies to institutional recipients, which includes payment of a $5 restocking fee for the implementation and operation of the program. The return and reuse program shall be implemented electronically and in a manner that promotes efficiency. The program must permit a pharmacy to exclude drugs from the program if it is not practical or cost-effective for the drug to be included and must provide for the return to inventory of drugs that cannot be credited or returned in a cost-effective manner. The agency shall determine if the program has reduced the amount of Medicaid prescription drugs which are destroyed on an annual basis and if there are additional ways to ensure more prescription drugs are not destroyed which could safely be reused.

Section 2. This act shall take effect July 1, 2022.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
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Military and Veterans Affairs, Space, and Domestic Security, *Vice Chair*
Appropriations Subcommittee on Health and Human Services
Children, Families, and Elder Affairs
Finance and Tax
Reapportionment

SELECT SUBCOMMITTEE:
Select Subcommittee on Congressional Reapportionment

SENATOR GAYLE HARRELL
25th District

December 13, 2021

Senator Aaron Bean
404 Senate Building
404 South Monroe Street
Tallahassee, FL 32399

Chair Bean,

I respectfully request that **SB 534 – Prescription Drugs used in the treatment of Schizophrenia for Medicaid** recipients be placed on the next available agenda for the Appropriations Subcommittee on Health and Human Services Meeting.

Should you have any questions or concerns, please feel free to contact my office. Thank you in advance for your consideration.

Thank you,

Senator Gayle Harrell
Senate District 25

Cc: Tonya Kidd, Staff Director
Robin Jackson, Committee Administrative Assistant

REPLY TO:
❒ 215 SW Federal Highway, Suite 203, Stuart, Florida 34994 (772) 221-4019 FAX: (888) 263-7895
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WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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1/19/2022
Meeting Date

SB 534
Bill Number or Topic

Appropriations Subc. on HHS
Committee

Amendment Barcode (if applicable)

Name Paul Lowell

Phone 850-728-0861

Address 3250 NE 1st Ave Ste 203
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City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing: Sunovion

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

DUPLICATE

The Florida Senate

APPEARANCE RECORD

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January 19, 2022
Meeting Date

HHS Approps
Committee

534
Bill Number or Topic

Amendment Barcode (if applicable)

Name Barney Bishop III

Phone 850-510-9922

Address 2215 Thomasville Road
Street

Email Barney@BarneyBishop.com

Tallahassee FL 32308
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** **Waive Speaking:** ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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Florida Smart Justice Alliance

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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

S-001 (08/10/2021)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Subcommittee on Health and Human Services

BILL:	SB 534
INTRODUCER:	Senator Harrell
SUBJECT:	Prescription Drugs Used in the Treatment of Schizophrenia for Medicaid Recipients
DATE:	January 18, 2022
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Smith	Brown	HP	**Favorable**
2.	McKnight	Money	AHS	**Favorable**
3.			AP	

I. Summary:

SB 534 creates an exception from step-therapy prior authorization requirements within the Florida Medicaid program for a drug product that is prescribed for the treatment of schizophrenia or schizotypal or delusional disorders or a medication of a similar drug class if prior authorization was previously granted for the prescribed drug and the medication was dispensed to the patient during the previous 12 months.

The bill has an indeterminate fiscal impact on the Florida Medicaid program. *See* Section V of this analysis.

The bill takes effect on July 1, 2022.

II. Present Situation:

Florida Medicaid Program

Florida Medicaid is the health care safety net for low-income Floridians. The national Medicaid program is a partnership of federal and state governments established to provide coverage for health services for eligible persons. Florida's program is administered by the Agency for Health Care Administration (AHCA) and financed through state and federal funds.[1]

A Medicaid state plan is an agreement between a state and the federal government describing how the state administers its Medicaid programs. The state plan establishes groups of individuals covered under the Medicaid program, services that are provided, payment methodologies, and other administrative and organizational requirements.

[1] Section 20.42, F.S.

In order to participate in Medicaid, federal law requires states to cover certain population groups (mandatory eligibility groups) and gives states the flexibility to cover other population groups (optional eligibility groups). States set individual eligibility criteria within federal minimum standards. The AHCA may seek an amendment to the state plan as necessary to comply with federal or state laws or to implement program changes.

In Florida, the majority of Medicaid recipients receive their services through a managed care plan contracted with the AHCA under the Statewide Medicaid Managed Care (SMMC) program.[2] The SMMC program has three components, the Managed Medical Assistance (MMA) program, the Long-term Care program, and dental plans. Florida's SMMC offers a health care package covering acute, preventive, behavioral health, prescribed drugs, long-term care, and dental services.[3] The SMMC benefits are authorized by federal authority and are specifically required in ss. 409.973 and 409.98, F.S.

The AHCA contracts with managed care plans on a regional basis to provide services to eligible recipients. The MMA program, which covers most medical and acute care services for managed care plan enrollees, was fully implemented in 2014 and was re-procured for a period beginning December 2018 and ending in 2023.[4]

Coverage of Prescribed Drugs

Section 409.91195, F.S., establishes the Pharmaceutical and Therapeutics Committee within the AHCA and tasks it with developing a Florida Medicaid Preferred Drug List (PDL). The Governor appoints the eleven committee members, including five pharmacists, five physicians, and one consumer representative.[5] The committee must meet quarterly and must review all drug classes included in the PDL at least every 12 months.[6] The committee may recommend additions to and deletions from the PDL, such that the PDL provides for medically appropriate drug therapies for Medicaid patients which achieve cost savings contained in the General Appropriations Act.[7]

The committee considers the amount of rebates drug manufacturers are offering if their drug is placed on the PDL.[8] These state-negotiated supplemental rebates, along with federally negotiated rebates, can reduce the per-prescription cost of a brand name drug to below the cost of its generic equivalent.[9] Florida currently collects over $2 billion per year in federal and supplemental rebates for drugs dispensed to Medicaid recipients.[10] These funds are used to offset the cost of Medicaid services.[11]

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[2] Agency for Health Care Administration, *Senate Bill 534 Analysis* (Nov. 11, 2021) (on file with Senate Committee on Health Policy).
[3] *Id.*
[4] Agency for Health Care Administration, *Statewide Medicaid Managed Care: Overview*, *available at* https://ahca.myflorida.com/medicaid/statewide_mc/pdf/mma/SMMC_Overview_12042018.pdf (last visited Nov. 30, 2021).
[5] Section 409.91195(1), F.S.
[6] Section 409.91195(3), F.S.
[7] Section 409.91195(4), F.S.
[8] Section 409.91195(7), F.S.
[9] *Supra* note 2.
[10] *Id.*
[11] *Id.*

Medicaid managed care plans are required to provide all prescription drugs listed on the AHCA's PDL.[12] Because of this, the managed care plans have not implemented their own plan-specific formularies or PDLs. Medicaid managed care plans are required to provide a link to the AHCA's PDL on their websites.[13] Florida Medicaid covers all Food and Drug Administration (FDA) approved prescription medications.[14] Those not included on the PDL must receive prior approval by Medicaid or the health plans.[15]

The AHCA also manages the federally required Florida Medicaid Drug Utilization Review Board, which meets quarterly and develops and reviews clinical prior authorization criteria, including step-therapy protocols, for certain drugs that are not on the AHCA's Medicaid PDL.[16]

Medical Necessity

Federal law specifies that state Medicaid programs may not cover services that are not reasonable and (medically) necessary.[17] Each state has adopted its own definition of "medical necessity."[18] Section 409.913(1)(d), F.S., specifies that the AHCA is the final arbiter of medical necessity for purposes of medical reimbursement. Further, that paragraph requires determinations of medical necessity to be made by a licensed physician employed by or under contract with the AHCA (except for behavior analysis services, which may be determined by either a licensed physician or a doctoral-level board-certified behavior analyst), based upon information available at the time the goods or services are requested.

Pursuant to Rule 59G-1.010 of the Florida Administrative Code, care, goods, and services are medically necessary if they are:

- Necessary to protect life, to prevent significant illness or significant disability, or to alleviate severe pain;
- Individualized, specific, and consistent with symptoms or confirmed diagnosis of the illness or injury under treatment, and not in excess of the patient's needs;
- Consistent with generally accepted professional medical standards as determined by the Medicaid program, and not experimental or investigational;
- Reflective of the level of service that can be safely furnished, and for which no equally effective and more conservative or less costly treatment is available statewide; and
- Furnished in a manner not primarily intended for the convenience of the recipient, the recipient's caretaker, or the provider.

[12] Agency for Health Care Administration, *Senate Bill 534 Analysis* (Nov. 11, 2021) (on file with Senate Committee on Health Policy).
[13] Section 409.967(2)(c)2, F.S.
[14] *Supra* note 12.
[15] *Id.*
[16] *Id.*
[17] 42 U.S.C. s. 1395y.
[18] Dickey, Elizabeth, NOLO, Getting Approval for Medicaid Services: Medical Necessity *available at* https://www.nolo.com/legal-encyclopedia/getting-approval-medicaid-services-medical-necessity.html (last visited Nov. 30, 2021).

Prescribed Drug Prior Authorization Requirements, Step-Therapy Protocols

Prior authorization means a process by which a health care provider must qualify for payment coverage by obtaining advance approval from an insurer before a specific service is delivered to the patient.[19] Within the Florida Medicaid program, only care, goods, and services that are medically necessary will obtain prior authorization. The AHCA must respond to prior authorization requests for prescribed drugs within 24 hours of receipt of the request.[20] Medicaid managed care plans are contractually required to respond to prior authorization requests for prescribed drugs within 24 hours of receipt of the request.

Section 409.912(5)(a)14., F.S. requires the AHCA to implement a step-therapy[21] prior authorization process for prescribed drugs excluded from the PDL. The recipient must try the prescribed drug on the PDL within the 12 months before a non-PDL drug is approved. However, a non-PDL drug may be approved without meeting the step-therapy prior authorization criteria if the prescribing physician provides additional written medical documentation that the non-PDL product is medically necessary because:

- There is not a drug on the PDL to treat the disease or medical condition which is an acceptable clinical alternative;
- The alternative drugs have been ineffective in the treatment of the recipient's disease; or
- Based on historic evidence and known characteristics of the patient and the drug, the drug is likely to be ineffective, or the number of doses has been ineffective.

The AHCA must work with the physician to determine the best alternative for the recipient.[22]

Regardless of whether a drug is listed on the PDL, a Medicaid managed care plan's prior authorization criteria and protocols related to prescribed drugs cannot be more restrictive than the criteria established by the AHCA for Fee-for-Service Delivery System prior authorizations.[23] Medicaid managed care plans must ensure that the prior authorization process for prescribed drugs is readily accessible to health care providers and must provide timely responses to providers.[24]

Coverage of Prescription Drugs for Schizophrenia, Schizotypal, and Delusion Disorders

The PDL can be found on the AHCA's website.[25] The AHCA reports that the list includes numerous generic and brand name drugs for the treatment of schizophrenia, schizotypal or delusional disorders.[26] If the drug is not on the PDL, the prescriber must obtain prior

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[19] Riley, Hannah, Gistia Healthcare, *Making Sense of Prior Authorization, What is it?* (Apr. 21, 2020) *available at* https://www.gistia.com/insights/what-is-prior-authorization (last visited Nov. 30, 2021).
[20] Section 409.912(5)(a)1.a., F.S.
[21] Step therapy means trying less expensive options before "stepping up" to drugs that cost more. Blue Cross Blue Shield Blue Care Network of Michigan, *How does step therapy work?*, *available at* https://www.bcbsm.com/index/health-insurance-help/faqs/plan-types/pharmacy/what-is-step-therapy.html (last visited Nov. 30, 2021).
[22] Section 409.912(5)(a)14., F.S.
[23] Agency for Health Care Administration, *Senate Bill 534 Analysis* (Nov. 11, 2021) (on file with Senate Committee on Health Policy).
[24] Section 409.967(2)(c)2, F.S.
[25] Agency for Health Care Administration, Florida Medicaid Preferred Drug List (PDL) *available at* https://ahca.myflorida.com/medicaid/prescribed_drug/pharm_thera/fmpdl.shtml (last visited Nov. 30, 2021).
[26] *Supra* note 23.

authorization before dispensing the medication. Prior authorization requests are reviewed using the guidelines established by the University of South Florida for mental health medications.[27] Prior authorization criteria and automated edits can be found on the AHCA's website.[28]

Schizophrenia, Schizotypal, and Delusional Disorders

It was estimated that in 2017, approximately 184,607 adults residing in Florida had schizophrenia. Of that number, approximately 73,843 went untreated.[29]

Schizophrenia is a serious mental disorder that causes people to interpret reality abnormally. Schizophrenia may result in some combination of hallucinations, delusions, and extremely disordered thinking and behavior that impairs daily functioning, and can be disabling.[30] People with schizophrenia require lifelong treatment. Treatments may include: biofeedback and stress management, electroconvulsive therapy, psychotherapy, psychopharmacology (the use of medications), and repetitive transcranial magnetic stimulation.[31] Common medications include one, or a combination of, antidepressants, mood stabilizers, anti-psychotic drugs, anti-anxiety medicines, and stimulants.[32] These treatments are also used for patients with schizotypal personality disorders and delusional disorders.

Schizotypal Personality Disorder can easily be confused with schizophrenia. While people with schizotypal personality disorder may experience brief psychotic episodes with delusions or hallucinations, the episodes are not as frequent, prolonged, or intense as in schizophrenia.[33] Furthermore, people with schizotypal personality disorder usually can be made aware of the difference between their distorted ideas and reality. Those with schizophrenia generally cannot be swayed from their delusions.[34]

Similarly, Delusional Disorder is distinguished from schizophrenia by the presence of a delusion or delusions persisting for at least a month without any of the other symptoms of psychosis (for example, hallucinations, disorganized speech, or disorganized behavior).[35]

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[27] Agency for Health Care Administration, *Senate Bill 534 Analysis* (Nov. 11, 2021) (on file with Senate Committee on Health Policy).. The guidelines can be found at https://floridabhcenter.org/ (last visited Nov. 30, 2021). These guidelines are included on the criteria for antipsychotic medications.
[28] Agency for Health Care Administration, Drug Criteria, *available at* https://ahca.myflorida.com/medicaid/prescribed_drug/drug_criteria.shtml (last visited Nov. 30, 2021).
[29] Treatment Advocacy Center, Florida, *available at* https://www.treatmentadvocacycenter.org/browse-by-state/florida (last visited Nov. 30, 2021).
[30] Mayo Clinic, Schizophrenia, *available at* https://www.mayoclinic.org/diseases-conditions/schizophrenia/symptoms-causes/syc-20354443 (last visited Nov. 30, 2021).
[31] University of Miami Health System, Schizophrenia, *available at* https://umiamihealth.org/en/treatments-and-services/psychiatry/schizophrenia (last visited Nov. 30, 2021).
[32] *Id.*
[33] Mayo Clinic, Schizotypal Personality Disorder, *available at* https://www.mayoclinic.org/diseases-conditions/schizotypal-personality-disorder/symptoms-causes/syc-20353919 (last visited Nov. 30, 2021).
[34] *Id.*
[35] Carol Tamminga, MD, Delusional Disorder, Merk Manual (May 2020), *available at* https://www.merckmanuals.com/home/mental-health-disorders/schizophrenia-and-related-disorders/delusional-disorder (last visited Nov. 30, 2021).

III. Effect of Proposed Changes:

Section 1 amends s. 409.912(5)(a)14., F.S., to create an exception from step-therapy prior authorization requirements within the Florida Medicaid program for a drug product that is prescribed for the treatment of schizophrenia or schizotypal or delusional disorders or a medication of a similar drug class if prior authorization was previously granted for the prescribed drug and the medication was dispensed to the patient during the previous 12 months.

In practice, the pharmacy benefit manager for the Florida Medicaid Fee-for-Service delivery system would review the exception request on behalf of the Agency for Health Care Administration. Managed care plans would process their own exceptions. Providers may transmit written medical or clinical documentation by facsimile or submit their requests through the electronic prior authorization system (ePA).[36]

Section 2 provides an effective date of July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

[36] Agency for Health Care Administration, *Senate Bill 534 Analysis* (Nov. 11, 2021) (on file with Senate Committee on Health Policy)..

B. Private Sector Impact:

None.

C. Government Sector Impact:

SB 534 has an indeterminate fiscal impact on the Florida Medicaid program. The bill will have a minimal operational effect on both the Medicaid fee-for-service delivery system and the Statewide Medicaid Managed Care program. For the medications prescribed for schizophrenia, schizotypal or delusional disorders, reviewers would only look for the product in the patient's history or a trial of one similar drug class trial rather than multiple drug trials of similar preferred medications.[37]

The Florida Medicaid Preferred Drug List (PDL) includes many generic medications with robust federal rebates and often additional supplemental rebates offered by drug manufacturers, resulting in a reduced cost to Medicaid. If numerous prescribing physicians prescribe higher cost, non-PDL drugs through the exception created in this bill, it may lead to a cost increase in therapeutic classes related to schizophrenia treatment.[38]

However, if the bill results in more expeditious and effective pharmaceutical care provided to Medicaid patients with the targeted disorders, Medicaid could experience savings due to reductions in the need for other types of expenses, such as, for example, expenses associated with inpatient hospital care. Such potential effect is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the section 409.912 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

[37] Agency for Health Care Administration, *Senate Bill 534 Analysis* (Nov. 11, 2021) (on file with Senate Committee on Health Policy).
[38] *Supra* note 37.

B. Amendments:

None.

By Senator Boyd

21-00566A-22 2022544__

A bill to be entitled

An act relating to drug-related overdose prevention; amending s. 381.887, F.S.; revising the purpose of specified provisions relating to the prescribing, ordering, and dispensing of emergency opioid antagonists to certain persons by authorized health care practitioners; requiring the Florida Public Health Institute, Inc., in consultation with the Department of Health, to educate the public regarding the use of emergency opioid antagonists; authorizing pharmacists to order certain emergency opioid antagonists; providing certain authorized persons immunity from civil or criminal liability for administering emergency opioid antagonists under certain circumstances; authorizing civilian personnel of law enforcement agencies to administer emergency opioid antagonists under certain circumstances; amending s. 395.1041, F.S.; requiring hospital emergency departments and urgent care centers to report incidents involving a suspected or actual overdose to the department under certain circumstances; providing requirements for the report; requiring hospital emergency departments and urgent care centers to use best efforts to report such incidents to the department within a specified timeframe; amending s. 401.253, F.S.; requiring, rather than authorizing, basic life support services and advanced life support services to report incidents involving a suspected or actual overdose of a

21-00566A-22 2022544__

controlled substance within a specified timeframe; providing an effective date.

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

Section 1. Subsections (2), (3), and (4) of section 381.887, Florida Statutes, are amended to read:

381.887 Emergency treatment for suspected opioid overdose.—

(2)(a) The purpose of this section is to provide for the prescribing, ordering, and dispensing ~~prescription~~ of emergency opioid antagonists ~~an emergency opioid antagonist~~ to patients and caregivers and to encourage the prescribing, ordering, and dispensing ~~prescription~~ of emergency opioid antagonists by authorized health care practitioners.

(b) The Florida Public Health Institute, Inc., in consultation with the Department of Health, shall educate the public regarding the use of emergency opioid antagonists in accordance with s. 381.981(2)(r).

(3)(a) An authorized health care practitioner may prescribe and dispense an emergency opioid antagonist to, and a pharmacist may order an emergency opioid antagonist with an autoinjection delivery system or intranasal application delivery system for, a patient or caregiver for use in accordance with this section.~~,~~ ~~and~~

(b) A pharmacist ~~pharmacists~~ may dispense an emergency opioid antagonist pursuant to a prescription by an authorized health care practitioner. A pharmacist may dispense an emergency opioid antagonist with ~~such a prescription or pursuant to a non-patient-specific standing order for~~ an autoinjection delivery

system or intranasal application delivery system, which must be appropriately labeled with instructions for use, pursuant to a pharmacist's order or pursuant to a nonpatient-specific standing order.

(c) A ~~such~~ patient or caregiver is authorized to store and possess approved emergency opioid antagonists and, in an emergency situation when a physician is not immediately available, administer the emergency opioid antagonist to a person believed in good faith to be experiencing an opioid overdose, regardless of whether that person has a prescription for an emergency opioid antagonist.

(4) The following persons are authorized to possess, store, and administer emergency opioid antagonists as clinically indicated and are immune from any civil liability or criminal liability as a result of administering an emergency opioid antagonist:

(a) Emergency responders, including, but not limited to, law enforcement officers, paramedics, and emergency medical technicians.

(b) Crime laboratory personnel for the statewide criminal analysis laboratory system as described in s. 943.32, including, but not limited to, analysts, evidence intake personnel, and their supervisors.

(c) Civilian personnel of a law enforcement agency, including, but not limited to, employees of a sheriff's office authorized to provide child protective investigative services under s. 39.3065 and correctional probation officers who, while acting within the scope or course of employment, come into contact with controlled substances or persons at risk of

experiencing an opioid overdose.

Section 2. Subsection (8) is added to section 395.1041, Florida Statutes, to read:

395.1041 Access to emergency services and care.—

(8) REPORTING OF CONTROLLED SUBSTANCE OVERDOSES.—A hospital emergency department or urgent care center that treats and releases a person in response to a suspected or actual overdose of a controlled substance must report such incident to the department if the patient was not transported by a basic life support service or an advanced life support service as those terms are defined in s. 401.23. Such reports must be made using an appropriate method with secure access, including, but not limited to, the Washington/Baltimore High Intensity Drug Trafficking Overdose Detection Mapping Application Program or other program identified by department rule. Hospital emergency departments and urgent care centers shall use best efforts to make the report to the department within 120 hours after discovering an incident.

Section 3. Paragraph (a) of subsection (1) of section 401.253, Florida Statutes, is amended to read:

401.253 Reporting of controlled substance overdoses.—

(1)(a) A basic life support service or an advanced life support service that ~~which~~ treats and releases, or transports to a medical facility, a person in response to an emergency call for a suspected or actual overdose of a controlled substance must ~~may~~ report such incidents to the department. Such reports must be made using the Emergency Medical Service Tracking and Reporting System or other appropriate method with secure access, including, but not limited to, the Washington/Baltimore High

Intensity Drug Trafficking Overdose Detection Mapping Application Program or other program identified by ~~the~~ department ~~in~~ rule. ~~If a~~ Basic life support services and ~~service or~~ advanced life support services ~~service reports such incidents, it~~ shall use ~~make its~~ best efforts to make the report to the department within 120 hours after responding ~~it responds~~ to an ~~the~~ incident.

Section 4. This act shall take effect July 1, 2022.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Banking and Insurance, *Chair*
Agriculture
Appropriations Subcommittee on Agriculture, Environment, and General Government
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Judiciary
Rules

JOINT COMMITTEE:
Joint Legislative Auditing Committee

SENATOR JIM BOYD
21st District

December 2, 2021

Senator Aaron Bean
404 South Monroe Street
201 Capitol
Tallahassee, FL 32399

Dear Chairman Bean:

I respectfully request Senate Bill 544: Drug-related Overdose Prevention, be scheduled for a hearing in the Appropriations Subcommittee on Health and Human Services at your earliest convenience.

If I may be of assistance to you on this or any other matter, please do not hesitate to contact me.

Thank you for your consideration of this matter.

Best regards,

Jim Boyd

cc: Tonya Money
Robin Jackson

REPLY TO:
❒ 717 Manatee Avenue West, Bradenton, Florida 34205 (941) 742-6445
❒ 312 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5021

Senate's Website: *www.flsenate.gov*

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

2022 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Florida Department of Health

BILL INFORMATION	
BILL NUMBER:	544
BILL TITLE:	Drug-related Overdose Prevention
BILL SPONSOR:	Boyd
EFFECTIVE DATE:	July 1, 2022

COMMITTEES OF REFERENCE
1) Health Policy
2) Appropriations Subcom. on Health & Human Svcs
3) Appropriations
4) Click or tap here to enter text.
5) Click or tap here to enter text.

CURRENT COMMITTEE
Click or tap here to enter text.

SIMILAR BILLS	
BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.

PREVIOUS LEGISLATION	
BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.
YEAR:	Click or tap here to enter text.
LAST ACTION:	Click or tap here to enter text.

IDENTICAL BILLS	
BILL NUMBER:	731
SPONSOR:	Caruso

Is this bill part of an agency package?
No

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	January 11, 2022
LEAD AGENCY ANALYST:	Keshia Reid
ADDITIONAL ANALYST(S):	Click or tap here to enter text.
LEGAL ANALYST:	Louise St. Laurent
FISCAL ANALYST:	Jonathan Sackett

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

This bill requires the Florida Public Health Institute, Inc., in collaboration with the Department, to educate the public regarding the use of emergency opioid antagonists; authorizes pharmacists to order certain emergency opioid antagonists; provides certain authorized persons immunity from civil or criminal liability for administering emergency opioid antagonists under certain circumstances; and authorizes civilian personnel of law enforcement agencies to administer emergency opioid antagonists under certain circumstances.

This bill also requires hospital emergency departments and urgent care centers to report incidents involving a suspected or actual overdose to the Department if the patient was not transported by a basic or advanced life support service. It also requires basic and advanced life support services that treat and release or transport a person in response to an emergency call for a suspected or actual overdose to the Department. The bill states that these entities will use best efforts to report with 120 hours after the incident. This bill has an effective date of July 1, 2022.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

The Department of Health has several reporting systems to capture timely and comprehensive data to address opioid and drug overdose prevention efforts and proactively respond to this public health issue.

In 2017, HB 249 was signed into law, requiring the Department of Health to create a quarterly report that summarizes overdose data received by the Department from licensed emergency medical service (EMS) providers. This report is based on information received through the Florida Emergency Medical Services Tracking and Reporting System (EMSTARS) and represents a summary of EMS overdose responses reported into EMSTARS. Additional information on these reports can be found here: http://www.floridahealth.gov/statistics-and-data/ems-data-systems/biospatial/reporting.html.

In 2019, the Centers for Disease Control and Prevention (CDC) awarded Florida a new Overdose Data to Action (OD2A) grant. This grant funded program expanded the scope of the Department's existing drug overdose surveillance activities to include more non-opioid related overdoses and strengthened funding of prevention efforts. Through OD2A, the Department built an enhanced surveillance system and supporting infrastructure that allow a collaborative and targeted response to the drug overdose challenge, through the timely dissemination of surveillance data to key partners working to address drug overdoses. OD2A supports resources necessary to monitor non-fatal drug overdose visits at Florida emergency departments and hospitals through Florida's syndromic surveillance system, Electronic Surveillance System for the Early Notification of Community-based Epidemics (ESSENCE-FL), and leverage Florida's EMSTARS data to calculate drug overdose indicators. Currently, ESSENCE-FL receives data from 99% of Florida's emergency departments and from 100% of emergency departments in high intensity drug trafficking areas (HIDTA). Facilities submit data at least once a day with many facilities sending data every two hours or in real-time. EMSTARS is a voluntary program and records received by the Department represent 90 percent of the EMS responses throughout Florida.

An opioid antagonist, such as Narcan, is a drug that blocks the effects of exogenously administered opioids. Opioid antagonists are used in opioid overdoses to counteract life-threatening depression of the central nervous system and respiratory system, allowing an overdose victim to breathe normally.

Under current law, an authorized health care practitioner may prescribe and dispense an emergency opioid antagonist to a patient or caregiver, and pharmacists may dispense an emergency opioid antagonist pursuant to a prescription or pursuant to a non-patient-specific standing order. Section 381.887(1)(c), Florida Statutes, defines "caregiver" as a family member, friend, or person in a position to have recurring contact with a person at risk of experiencing an opioid overdose.

A patient or caregiver can store and possess approved emergency opioid antagonists and, in an emergency, when a physician is not immediately available, administer the emergency opioid antagonists to a person believed in good faith

to be experiencing an opioid overdose, regardless of whether that person has a prescription for an emergency opioid antagonist.

Emergency responders and crime laboratory personnel are authorized to possess, store, and administer emergency opioid antagonists. Current law affords civil liability immunity to anyone who possess, administers, prescribes, dispenses, or stores an approved emergency opioid antagonist.

In September 2021, Florida issued an updated statewide Standing Order for Naloxone. The Standing Order authorizes pharmacists to dispense certain naloxone formulations to emergency responders for administration to persons exhibiting signs of opioid overdose. Under the Standing Order, emergency responders, including law enforcement, firefighters, paramedics, and emergency medical technicians, can go to a pharmacy or community-based program for training on opioid antagonist administration and receive an opioid antagonist without a patient-specific prescription.

2. EFFECT OF THE BILL:

This bill requires hospital emergency departments and urgent care centers to report incidents involving a suspected or actual drug overdose to the Department if the patient was not transported by a basic or advanced life support service. It also requires basic and advanced life support services that treat and release, or transport to a medical facility, a person in response to an emergency call for a suspected or actual overdose to the Department.

State and local partners need access to comprehensive and timely data on fatal and nonfatal drug overdoses to understand the scope, direction, and contours of the epidemic. Near real-time reporting of suspected or actual overdoses to the Department's surveillance systems enables the successful development and implementation of data-driven strategies and objectives to address drug overdose in Florida, while providing rapid and up-to-date statistics on overdoses at the state and county levels.

Improving surveillance systems ensures prevention policies and actions are well-informed to do relevant and efficacious work to decrease the rate of opioid misuse and opioid use disorder within Florida.

The bill amends Section 381.887, Florida Statutes, to specify that the purpose of the section is for the prescribing, ordering, and dispensing of emergency opioid antagonists.

The bill allows a pharmacist to order an emergency opioid antagonist with an autoinjection delivery system or intranasal application delivery system for a patient or caregiver for use in accordance with Section 381.887, Florida Statutes. It further allows a pharmacist to dispense an emergency opioid antagonist pursuant to a prescription by an authorized health care practitioner. Pharmacists may dispense an emergency opioid antagonist with an autoinjection delivery system or intranasal application delivery system.

The bill expressly authorizes civilian personnel of a law enforcement agency or other agency, including, but not limited to, employees of a sheriff's office authorized to provide child protective investigative services under Section 39.3065, Florida Statutes, and correctional probation officers to possess, store, and administer emergency opioid antagonists. Personnel of a law enforcement agency or other agency are immune from civil liability or criminal liability as a result of administering an emergency opioid antagonist.

3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y☐ N☒

If yes, explain:	N/A
Is the change consistent with the agency's core mission?	Y☐ N☒
Rule(s) impacted (provide references to F.A.C., etc.):	N/A

4. **WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?**

Proponents and summary of position:	Unknown
Opponents and summary of position:	Unknown

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y☒ N☐

If yes, provide a description:	Reports to the Department must be made using an appropriate method with secure access. Best efforts must be made to report to the Department with 120 hours after the suspected or actual overdose incident.
Date Due:	N/A
Bill Section Number(s):	N/A

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL? Y☐ N☒

Board:	N/A
Board Purpose:	N/A
Who Appoints:	N/A
Changes:	N/A
Bill Section Number(s):	N/A

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? Y☐ N☒

Revenues:	N/A
Expenditures:	N/A
Does the legislation increase local taxes or fees? If yes, explain.	N/A
If yes, does the legislation provide for a local referendum or local governing body public vote	N/A

prior to implementation of the tax or fee increase?	

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT? Y☒ N☐

Revenues:	N/A
Expenditures:	The Department will incur a recurring cost for ongoing maintenance, additional data storage and software licensing of these reporting systems. The cost is estimated to be $64,000 recurring and can be absorbed with existing resources.
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	N/A

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? Y☒ N☐

Revenues:	N/A
Expenditures:	Hospital emergency departments, urgent care centers and life support services may have an increase in workload related to the reporting requirements of this bill.
Other:	N/A

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? Y☐ N☒

If yes, explain impact.	N/A
Bill Section Number:	N/A

TECHNOLOGY IMPACT

1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)? Y☒ N☐

If yes, describe the anticipated impact to the agency including any fiscal impact.	The Department has existing reporting systems for hospital emergency departments, urgent care centers and life support services to report these data; however, ongoing maintenance, additional data storage and software licensing will be needed. The cost is estimated to be $64,000 recurring and can be absorbed with existing resources.

FEDERAL IMPACT

1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y☐ N☐

If yes, describe the anticipated impact including any fiscal impact.	N/A

ADDITIONAL COMMENTS

The Department will incur a recurring cost for ongoing maintenance, additional data storage and software licensing of these reporting systems. The cost is estimated to be $64,000 recurring out of category 040000 (Expense). The cost can be absorbed with existing resources.

Interpretation of the proposed bill and language shows the Florida Department of Health will assist the Florida Public Health Institute, Inc. in educating the public regarding the use of emergency opioid antagonists in a consultant type role and therefore does not appear to pose any fiscal impact.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	No legal issues, concerns or comments identified at this time.

DUPLICATE

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

January 19, 2022
Meeting Date

HHS Approps
Committee

544
Bill Number or Topic

Amendment Barcode (if applicable)

Name Barney Bishop III

Phone 850-510-9922

Address 2215 Thomasville Road
Street

Email Barney@BarneyBishop.com

Tallahassee FL 32308
City *State* *Zip*

Speaking: ☑ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
Florida Smart Justice Alliance

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

1/14

Meeting Date

Health Approps

Committee

The Florida Senate

APPEARANCE RECORD

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SB 544

Bill Number or Topic

Amendment Barcode (if applicable)

Name DAVID MICA, JR **Phone**

Address 306 E College Ave **Email**

Street

City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** **Waive Speaking:** ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ **I am appearing without compensation or sponsorship.**

☑ **I am a registered lobbyist, representing:** Florida Hospital Association

☐ **I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:**

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

1/19/22
Meeting Date

Deliver both copies of this form to
Senate professional staff conducting the meeting

544
Bill Number or Topic

Appropriations Sub. on Health & Human Services
Committee

Amendment Barcode (if applicable)

Name Phillip Swaverman **Phone**

Address **Email**
Street

City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** **Waive Speaking:** ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ **I am appearing without compensation or sponsorship.**

☑ **I am a registered lobbyist, representing:**
~~Duncan Butchard~~
Americans for Prosperity

☐ **I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:**

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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

S-001 (08/10/2021)

599944

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/19/2022	.	
	.	
	.	
	.	

Appropriations Subcommittee on Health and Human Services (Boyd) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsections (2), (3), and (4) of section 381.887, Florida Statutes, are amended to read:

381.887 Emergency treatment for suspected opioid overdose.—

(2) The purpose of this section is to provide for the prescribing, ordering, and dispensing ~~prescription~~ of emergency opioid antagonists ~~an emergency opioid antagonist~~ to patients

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and caregivers and to encourage the prescribing, ordering, and dispensing ~~prescription~~ of emergency opioid antagonists by authorized health care practitioners.

(3)(a) An authorized health care practitioner may prescribe and dispense an emergency opioid antagonist to, and a pharmacist may order an emergency opioid antagonist with an autoinjection delivery system or intranasal application delivery system for, a patient or caregiver for use in accordance with this section.~~,~~ ~~and~~

(b) A pharmacist ~~pharmacists~~ may dispense an emergency opioid antagonist pursuant to a prescription by an authorized health care practitioner. A pharmacist may dispense an emergency opioid antagonist with ~~such a prescription or pursuant to a non-patient-specific standing order for~~ an autoinjection delivery system or intranasal application delivery system, which must be appropriately labeled with instructions for use, pursuant to a pharmacist's order or pursuant to a nonpatient-specific standing order.

(c) A ~~such~~ patient or caregiver is authorized to store and possess approved emergency opioid antagonists and, in an emergency situation when a physician is not immediately available, administer the emergency opioid antagonist to a person believed in good faith to be experiencing an opioid overdose, regardless of whether that person has a prescription for an emergency opioid antagonist.

(4) The following persons are authorized to possess, store, and administer emergency opioid antagonists as clinically indicated and are immune from any civil liability or criminal liability as a result of administering an emergency opioid

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antagonist:

(a) Emergency responders, including, but not limited to, law enforcement officers, paramedics, and emergency medical technicians.

(b) Crime laboratory personnel for the statewide criminal analysis laboratory system as described in s. 943.32, including, but not limited to, analysts, evidence intake personnel, and their supervisors.

(c) Personnel of a law enforcement agency or other agency, including, but not limited to, correctional probation officers and child protective investigators who, while acting within the scope or course of employment, come into contact with a controlled substance or persons at risk of experiencing an opioid overdose.

Section 2. Paragraph (r) of subsection (2) of section 381.981, Florida Statutes, is amended to read:

381.981 Health awareness campaigns.—

(2) The awareness campaigns shall include the provision of educational information about preventing, detecting, treating, and curing the following diseases or conditions. Additional diseases and conditions that impact the public health may be added by the board of directors of the Florida Public Health Institute, Inc.; however, each of the following diseases or conditions must be included in an awareness campaign during at least 1 month in any 24-month period:

(r) Substance abuse, including, but not limited to, emergency opioid antagonists.

Section 3. Subsection (8) is added to section 395.1041, Florida Statutes, to read:

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395.1041 Access to emergency services and care.—

(8) REPORTING OF CONTROLLED SUBSTANCE OVERDOSES.—A hospital emergency room or an urgent care center that treats and releases a person in response to a suspected or actual overdose of a controlled substance must report such incident to the department if the patient was not transported by a transport service operating pursuant to part III of chapter 401. Such reports must be made using an appropriate method with secure access, including, but not limited to, the Washington/Baltimore High Intensity Drug Trafficking Overdose Detection Mapping Application Program, the Florida Prehospital EMS Tracking and Reporting System (EMSTARS), or another program identified by department rule. If a hospital emergency room or an urgent care center reports such incident, it must make its best efforts to make the report to the department within 120 hours after knowledge of the incident.

Section 4. This act shall take effect July 1, 2022.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to drug-related overdose prevention; amending s. 381.887, F.S.; revising the purpose of specified provisions relating to the prescribing, ordering, and dispensing of emergency opioid antagonists to certain persons by authorized health care practitioners; authorizing pharmacists to order


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certain emergency opioid antagonists; providing certain authorized persons immunity from civil or criminal liability for administering emergency opioid antagonists under certain circumstances; authorizing personnel of law enforcement agencies and other agencies to administer emergency opioid antagonists under certain circumstances; amending s. 381.981, F.S.; revising requirements for a certain health awareness campaign; amending s. 395.1041, F.S.; requiring hospital emergency rooms and urgent care centers to report incidents involving a suspected or actual overdose to the department under certain circumstances; providing requirements for the report; requiring hospital emergency rooms and urgent care centers to use best efforts to report such incidents to the department within a specified timeframe; providing an effective date.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Subcommittee on Health and Human Services

BILL:	PCS/SB 544 (455298)
INTRODUCER:	Appropriations Subcommittee on Health and Human Services and Senator Boyd
SUBJECT:	Drug-related Overdose Prevention
DATE:	January 21, 2022 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Brown	HP	**Favorable**
2.	Howard	Money	AHS	**Fav/CS**
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 544 amends section 381.887, Florida Statutes, to expand access to emergency opioid antagonists by:

- Allowing pharmacists to order, as well as dispense, emergency opioid antagonists with an autoinjection delivery system or intranasal delivery system;
- Providing that specified persons who are authorized to possess, store, and administer emergency opioid antagonists are immune from any civil or criminal liability resulting from the administration of such emergency opioid antagonists; and
- Adding specified personnel of a law enforcement agency or other agencies to the list of persons who are authorized to possess, store, and administer emergency opioid antagonists.

The bill also amends section 395.1041, Florida Statutes, to require hospital emergency departments, urgent care centers, and basic (BLS) and advanced life support (ALS) providers to report the treatment of actual or suspected overdose victims under certain circumstances.

The bill amends section 381.981, Florida Statutes, requiring the Florida Public Health Institute, Inc., to include emergency opioid antagonists as part of substance abuses in their statutorily required health awareness campaigns.

The Department of Health (department) will incur costs for ongoing maintenance, additional storage and software licensing for their reporting systems for hospital emergency departments,

urgent care centers and life support services to report data which can be absorbed within existing resources.

The bill provides an effective date of July 1, 2022.

II. Present Situation:

History of the Opioid Crisis in Florida

According to the National Institute on Drug Abuse:[1]

- "In the late 1990s, pharmaceutical companies reassured the medical community that patients would not become addicted to prescription opioid pain relievers, and health care providers began to prescribe them at greater rates" and
- "This subsequently led to widespread diversion and misuse of these medications before it became clear that these medications could indeed be highly addictive."

Between the early 2000s and the early 2010s, Florida was infamous as the "pill mill capital" of the country. At the peak of the pill mill crisis, doctors in Florida bought 89 percent of all the oxycodone sold in the country.[2]

Between 2009 and 2011, the Legislature enacted a series of reforms to combat prescription drug abuse. These reforms included strict regulation of pain management clinics; creating the Prescription Drug Monitoring Program (PDMP); and stricter regulation on selling, distributing, and dispensing controlled substances.[3] "In 2016, the opioid prescription rate was 75 per 100 persons in Florida. This rate was down from a high of 83 per 100."[4]

As reported at the time by the Florida Attorney General's Opioid Working Group:

> Drug overdose is now the leading cause of non-injury related death in the United States. Since 2000, drug overdose death rates increased by 137 percent, including a 200 percent increase in the rate of overdose deaths involving opioids. In 2015, over 52,000 deaths in the U.S. were attributed to drug poisoning, and over 33,000 (63 percent) involved an opioid. In 2015, 3,535 deaths occurred in Florida where at least one drug was identified as the cause of death. More specifically, 2,535 deaths were caused by at least one opioid in 2015. Stated differently, seven lives per day were lost to opioids in Florida in 2015. Overall, the state had a rate of opioid-caused deaths of 13 per 100,000. The three counties with the

[1] National Institute on Drug Abuse, *Opioid Overdose Crisis* (Rev. Jan. 2019), *available at* https://www.drugabuse.gov/drugs-abuse/opioids/opioid-overdose-crisis (last visited Nov. 29, 2021).
[2] Lizette Alvarez, *Florida Shutting 'Pill Mill' Clinics*, The New York Times (Aug. 31, 2011), *available at* http://www.nytimes.com/2011/09/01/us/01drugs.html (last visited Nov. 29, 2021).
[3] *See* Chapters 2009-198, 2010-211, and 2011-141, Laws of Fla.
[4] Attorney General's Opioid Working Group, *Florida's Opioid Epidemic: Recommendations and Best Practices*, 7 (Mar. 1, 2019), *available at* https://myfloridalegal.com/webfiles.nsf/WF/TDGT-B9UTV9/$file/AG+Opioid+Working+Group+Report+Final+2-28-2019.pdf (last visited Nov. 29, 2021).

highest opioid death rate were Manatee County (37 per 100,000), Dixie County (30 per 100,000), and Palm Beach County (22 per 100,000).[5]

Early in 2017, the federal Centers for Disease Control and Prevention (CDC) declared the opioid crisis an epidemic.[6] Shortly thereafter, on May 3, 2017, Governor Rick Scott signed Executive Order 17-146 declaring the opioid epidemic a public health emergency in Florida.[7]

House Bill 21 (2018)

In 2018, the Florida Legislature passed CS/CS/HB 21 (Chapter 2018-13, Laws of Florida) to combat the opioid crisis. CS/CS/HB 21:

- Required additional training for practitioners on the safe and effective prescribing of controlled substances;
- Restricted the duration of prescriptions for Schedule II opioid medications to three days or up to seven days if medically necessary;
- Reworked the PDMP statute to require that prescribing practitioners check the PDMP prior to prescribing a controlled substance and to allow the integration of PDMP data with electronic health records and the sharing of PDMP data between Florida and other states; and
- Provided for additional funding for treatment and other issues related to opioid abuse.

Status of the Opioid Crisis after HB 21

There is some evidence that the passage of HB 21 reduced opioid use in Florida. For example, one study that reviewed pharmacy prescriptions claims for a health plan serving more than 45,000 Floridians found that on average, the number of enrollees per month that began opioid use between April of 2019 and August of 2019 dropped from 5.5 per 1,000 patients to 4.6 per 1,000 patients.[8]

Unfortunately, with the onset of the COVID-19 pandemic, the incidence of opioid use disorder and resulting overdose deaths has once again risen. A report from Project Opioid details provisional data from the department showing that deaths from drug overdoses have increased by 43 percent between 2019 and 2020, from 56 deaths per 100,000 in 2019 to 94 deaths per 100,000 in 2020. Additionally, fentanyl, an extremely potent opioid drug, is the leading cause of overdose deaths in Florida, and the incidence of fentanyl overdose deaths increased by 38 percent, from 2,348 in 2019 to 3,244 in 2020.[9]

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[5] *Id.*
[6] *See* Exec. Order No. 17-146, *available at* https://www.flgov.com/wp-content/uploads/2017/05/17146.pdf. (last visited Mar. 12, 2021).
[7] *Id.*
[8] Juan M. Hincapie-Castillo, et al., Changes in Opioid Use After Florida's Restriction Law for Acute Pain Prescriptions, JAMA Netw Open. 2020 Feb; 3(2): e200234, available at https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7049083/, (last visited Nov. 29, 2021).
[9] Project Opioid, A Pandemic Fueling an Epidemic in Florida in 2020, available at https://projectopioid.org/wp-content/uploads/2020/12/PO-2020-Data-Study-Final_New-Section.pdf (last visited Nov. 29, 2021).

Opioid Antagonists

Opioid receptor antagonists block one or more of the opioid receptors in the central or peripheral nervous system. The two most commonly used, centrally-acting opioid receptor antagonists are naloxone and naltrexone. Naloxone comes in intravenous, intramuscular, and intranasal formulations and is FDA-approved for the use in an opioid overdose and the reversal of respiratory depression associated with opioid use. Naltrexone is available in both oral and long-acting injectable formulations and is FDA-approved for the treatment of opioid and/or alcohol maintenance treatment. The most commonly used peripheral opioid receptor antagonist is methylnaltrexone, which is a potent competitive antagonist acting at the digestive tract and is also FDA-approved for the treatment of opioid-induced constipation.[10]

The Florida Public Health Institute, Inc.

The Florida Public Health Institute (Institute) is a not-for-profit corporation established by s. 381.98, F.S., with the purpose of advancing the knowledge and practice of public health, including promoting health awareness in Florida. The Institute is tasked with procuring funds to complement, supplement, and enhance the missions of the various organizations, entities, and departments that provide public health initiatives by serving as the lead corporation in the state for promoting public health awareness. The Institute is required to enter into partnerships with providers of continuing education for health care practitioners, including, but not limited to, hospitals and state and local medical organizations, to ensure that practitioners are aware of the most recent and complete diagnostic and treatment tools.

Additionally, s. 381.981, F.S., requires the Institute to, in consultation with the department, coordinate monthly health awareness campaigns with national, state, and local health care organizations and government entities, targeting a wide range of the public, including: parents; teachers and other school employees; students in 4th through 12th grades, colleges, and universities; state agency employees; county and local government employees; patients of county health departments; Medicaid recipients; health care professionals and providers; and the public in general. The health campaigns must include the following diseases in at least one monthly campaign every 24 months:

- Cancer, including breast, prostate, cervical, ovarian, colorectal, and skin cancer and leukemia.
- Heart disease.
- Stroke.
- Lung disease, including asthma and smoking-relating disease.
- Neurological disorders and disease, including Alzheimer's disease, Parkinson's disease, and epilepsy.
- Gastrointestinal disease.
- Kidney disease.
- Diabetes.

[10] *Opioid Antagonists*, Theriot, Jonathan, et. al., (last updated July 23, 2021), available at https://www.ncbi.nlm.nih.gov/books/NBK537079/#:~:text=3%5D%5B4%5D-,The%20two%20most%20commonly%20used%20centrally%20acting%20opioid%20receptor%20antagonists,depression%20associated%20with%20opioid%20use. (last visited Nov. 29, 2021).

- Liver disease.
- Autoimmune disorders.
- Birth defects and prenatal care.
- Obesity and malnutrition.
- Sexually transmissible disease.
- Hepatitis A, hepatitis B, and hepatitis C.
- Arthritis.
- Vaccine-preventable diseases.
- Infectious diseases, including HIV/AIDS.
- Substance abuse.
- Mental illness.
- Lupus.
- Osteoporosis.

III. Effect of Proposed Changes:

This bill amends s. 381.887, F.S., to:

- Include the prescribing, ordering and dispensing of emergency opioid antagonists within the purpose of the section, which is to provide for the emergency treatment for suspected opioid overdose;
- Authorize a pharmacist to order, and dispense pursuant to that order, an emergency opioid antagonist with an autoinjection delivery system or intranasal application delivery system to a patient or caregiver;[11]
- Add personnel of a law enforcement agency or other agencies to the list of persons authorized to possess, store, and administer emergency opioid antagonists under the section. The bill specifies that such personnel includes, but is not limited to, correctional probation officers and child protective investigators who, while acting within the scope or course of employment, come into contact with controlled substances or persons at risk of experiencing an opioid overdose; and
- Provide immunity from any civil or criminal liability to the listed persons authorized to possess, store, and administer emergency opioid antagonists under the section for the administering of emergency opioid antagonists.[12]

The bill amends s. 381.981, F.S., requiring the Florida Public Health Institute, Inc., to include emergency opioid antagonists as part of substance abuses in their statutorily required health awareness campaigns.

The bill also amends s. 395.1041, F.S., to require a hospital emergency department or urgent care center to report the treatment of a person in response to an actual or suspected overdose to the department if the patient was not transported to the hospital by a BLS or ALS provider and to require a BLS or ALS provider to report when it treats and releases or transports to a medical

[11] Section 381.887, F.S., defines "patient" as a person who is at risk of experiencing an opioid overdose, and defines "caregiver" as a family member, friend, or person in a position to have recurring contact with a person at risk of experiencing an opioid overdose.

[12] These persons include emergency responders as well as crime laboratory personnel for the statewide criminal analysis laboratory system and their supervisors.

facility a person in response to an emergency call for a suspected or actual overdose of a controlled substance. The provider must use an appropriate reporting method with secure access, including, but not limited to, the Washington/Baltimore High Intensity Drug Trafficking Overdose Detection Mapping Application Program or other program identified by the department rule and must use its best effort to report such incidents within 120 hours of discovering the incident.

The bill provides an effective date of July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

PCS/SB 544 may have an indeterminate negative fiscal impact on BLS providers, ALS providers, hospital emergency departments, and urgent care centers that are required to report specified incidents of treatment of patients suffering from suspected or actual overdoses of controlled substances.

C. Government Sector Impact:

The Department of Health has existing reporting systems for hospital emergency departments, urgent care centers and life support services to report data; however,

ongoing maintenance, additional data storage and software licensing will be needed. The cost is estimated to be $64,000 recurring and can be absorbed with existing resources.[13]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 381.887, 381.981, and 395.1041.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Recommended CS by Appropriations Subcommittee on Health and Human Services on January 19, 2022:
The committee substitute:

- Removes the requirement that the Florida Public Health Institute, Inc., in consultation with the Department of Health (department), educate the public regarding the use of emergency opioid antagonists as part of its statutory duty to educate the public regarding substance abuse; however, the Florida Public Health Institute must include emergency opioid antagonists in their educational information about preventing, detecting, treating, and curing disease awareness campaigns.
- Modifies the list of persons authorized to possess, store, and administer emergency opioid antagonists to include personnel of a law enforcement agency or other agency and that such personnel include, but is not limited to, correctional probation officers and child protective investigators.
- Removes the technical adjustments to s. 401.253, F.S.

B. Amendments:

None.

[13] Department of Health, Senate Bill 544, 2022 Agency Legislative Analysis (January 11, 2022) (on file with the Senate Appropriations Subcommittee on Health and Human Services).

By the Committee on Health Policy; and Senator Bradley

588-01611-22 2022632c1

A bill to be entitled

An act relating to occupational therapy; amending s. 468.203, F.S.; defining and revising terms; amending s. 468.209, F.S.; revising eligibility requirements for the occupational therapist licensure examination; amending s. 468.215, F.S.; authorizing certain licensed occupational therapists to use a specified title and the associated initials; amending s. 468.223, F.S.; prohibiting certain persons from using a specified title and the associated initials; providing criminal penalties; amending ss. 468.225, 490.014, and 491.014, F.S.; revising construction; reenacting s. 490.012(1)(c), F.S., relating to violations, penalties, and injunctions, to incorporate the amendment made to s. 490.014, F.S., in a reference thereto; amending s. 1002.394, F.S.; conforming a provision to changes made by the act; reenacting s. 1002.66(2)(c), F.S., relating to specialized instructional services for children with disabilities, to incorporate the amendments made to s. 468.203, F.S., in a reference thereto; providing an effective date.

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

Section 1. Subsection (4) of section 468.203, Florida Statutes, is amended to read:

468.203 Definitions.—As used in this act, the term:

(4) "Occupational therapy" means the therapeutic use of

588-01611-22 2022632c1

occupations through habilitation, rehabilitation, and the promotion of health and wellness with individuals, groups, or populations, along with their families or organizations, to support participation, performance, and function in the home, at school, in the workplace, in the community, and in other settings for clients who have, or who have been identified as being at risk of developing, an illness, an injury, a disease, a disorder, a condition, an impairment, a disability, an activity limitation, or a participation restriction ~~purposeful activity or interventions to achieve functional outcomes~~.

(a) For the purposes of this subsection:

1. "Activities of daily living" means functions and tasks for self-care which are performed on a daily or routine basis, including functional mobility, bathing, dressing, eating and swallowing, personal hygiene and grooming, toileting, and other similar tasks ~~"Achieving functional outcomes" means to maximize the independence and the maintenance of health of any individual who is limited by a physical injury or illness, a cognitive impairment, a psychosocial dysfunction, a mental illness, a developmental or a learning disability, or an adverse environmental condition~~.

2. "Assessment" means the use of skilled observation or the administration and interpretation of standardized or nonstandardized tests and measurements to identify areas for occupational therapy services.

3. "Health management" means therapeutic services designed to develop, manage, and maintain health and wellness routines, including self-management, performed with the goal of improving or maintaining health to support participation in occupations.

4. "Instrumental activities of daily living" means daily or routine activities a person must perform to live independently within the home and community.

5. "Occupational performance" means the ability to perceive, desire, recall, plan, and carry out roles, routines, tasks, and subtasks for the purpose of self-maintenance, self-preservation, productivity, leisure, and rest, for oneself or for others, in response to internal or external demands of occupations and contexts.

6. "Occupational therapy services in mental health" means occupation-based interventions and services for individuals, groups, populations, families, or communities to improve participation in daily occupations for individuals who are experiencing, are in recovery from, or are identified as being at risk of developing mental health conditions.

7. "Occupations" means meaningful and purposeful everyday activities performed and engaged in by individuals, groups, populations, families, or communities which occur in contexts and over time, such as activities of daily living, instrumental activities of daily living, health management, rest and sleep, education, work, play, leisure, and social participation. The term includes more specific occupations and the execution of multiple activities that are influenced by performance patterns, performance skills, and client factors, and that result in varied outcomes.

(b) The practice of occupational therapy includes ~~services include~~, but is ~~are~~ not limited to, the following services:

1. ~~The~~ Assessment, treatment, and education of or consultation with individuals, groups, and populations whose

abilities to participate safely in occupations, including activities of daily living, instrumental activities of daily living, rest and sleep, education, work, play, leisure, and social participation, are impaired or have been identified as being at risk of impairment due to issues related to, but not limited to, developmental deficiencies, the aging process, learning disabilities, physical environment and sociocultural context, physical injury or disease, cognitive impairments, or psychological and social disabilities ~~the individual, family, or other persons~~.

2. Methods or approaches used to determine abilities and limitations related to performance of occupations, including, but not limited to, the identification of physical, sensory, cognitive, emotional, or social deficiencies ~~Interventions directed toward developing daily living skills, work readiness or work performance, play skills or leisure capacities, or enhancing educational performance skills~~.

3. Specific occupational therapy techniques used for treatment which include, but are not limited to, training in activities of daily living; environmental modification; assessment of the need for the use of interventions such as the design, fabrication, and application of orthotics or orthotic devices; selecting, applying, and training in the use of assistive technology and adaptive devices; sensory, motor, and cognitive activities; therapeutic exercises; manual techniques; physical agent modalities; and occupational therapy services in mental health ~~Providing for the development of: sensory motor, perceptual, or neuromuscular functioning; range of motion; or emotional, motivational, cognitive, or psychosocial components~~

~~of performance~~.

~~These services may require assessment of the need for use of interventions such as the design, development, adaptation, application, or training in the use of assistive technology devices; the design, fabrication, or application of rehabilitative technology such as selected orthotic devices; training in the use of assistive technology; orthotic or prosthetic devices; the application of physical agent modalities as an adjunct to or in preparation for purposeful activity; the use of ergonomic principles; the adaptation of environments and processes to enhance functional performance; or the promotion of health and wellness.~~

(c) The use of devices subject to 21 C.F.R. s. 801.109 and identified by the board is expressly prohibited except by an occupational therapist or occupational therapy assistant who has received training as specified by the board. The board shall adopt rules to carry out the purpose of this provision.

Section 2. Subsection (2) of section 468.209, Florida Statutes, is amended to read:

468.209 Requirements for licensure.—

(2) An applicant who has practiced as a state-licensed or American Occupational Therapy Association-certified occupational therapy assistant for 4 years and who, before ~~prior to~~ January 24, 1988, completed a minimum of 24 weeks ~~6 months~~ of supervised occupational-therapist-level fieldwork experience may take the examination to be licensed as an occupational therapist without meeting the educational requirements for occupational therapists made otherwise applicable under paragraph (1)(b).

Section 3. Subsection (2) of section 468.215, Florida Statutes, is amended to read:

468.215 Issuance of license.—

(2)(a) Any person who is issued a license as an occupational therapist under the terms of this act may use the words "occupational therapist," "licensed occupational therapist," or "occupational therapist registered," or ~~he or she~~ may use the letters "O.T.," "L.O.T.," or "O.T.R.," in connection with his or her name or place of business to denote his or her registration hereunder.

(b) Any person who is issued a license as an occupational therapist under the terms of this act and holds a doctorate degree in occupational therapy may also use the words "occupational therapist doctorate" and the letters "O.T.D." in connection with his or her name or place of business to denote his or her registration hereunder.

Section 4. Section 468.223, Florida Statutes, is amended to read:

468.223 Prohibitions; penalties.—

(1) A person may not:

(a) Practice occupational therapy unless such person is licensed pursuant to ss. 468.201-468.225;

(b) Use, in connection with his or her name or place of business, the words "occupational therapist," "licensed occupational therapist," "occupational therapist doctorate," "occupational therapist registered," "occupational therapy assistant," "licensed occupational therapy assistant," "certified occupational therapy assistant"; the letters "O.T.," "L.O.T.," "O.T.D.," "O.T.R.," "O.T.A.," "L.O.T.A.," or

"C.O.T.A."; or any other words, letters, abbreviations, or insignia indicating or implying that he or she is an occupational therapist or an occupational therapy assistant or, in any way, orally or in writing, in print or by sign, directly or by implication, to represent himself or herself as an occupational therapist or an occupational therapy assistant unless the person is a holder of a valid license issued pursuant to ss. 468.201-468.225;

(c) Present as his or her own the license of another;

(d) Knowingly give false or forged evidence to the board or a member thereof;

(e) Use or attempt to use a license that ~~which~~ has been suspended, revoked, or placed on inactive or delinquent status;

(f) Employ unlicensed persons to engage in the practice of occupational therapy; or

(g) Conceal information relative to any violation of ss. 468.201-468.225.

(2) Any person who violates any provision of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 5. Subsection (2) of section 468.225, Florida Statutes, is amended, and paragraph (e) is added to subsection (1) of that section, to read:

468.225 Exemptions.—

(1) Nothing in this act shall be construed as preventing or restricting the practice, services, or activities of:

(e) Any person fulfilling an occupational therapy doctoral capstone experience that involves clinical practice or projects. To benefit from an exemption under this paragraph, a person must

register with the department in a manner determined by department rule before commencing the capstone experience.

(2) No provision of this act shall be construed to prohibit physicians, physician assistants, nurses, physical therapists, osteopathic physicians or surgeons, clinical psychologists, clinical social workers, marriage and family therapists, mental health counselors, speech-language pathologists, or audiologists from using occupational therapy as a part of or incidental to their profession, when they practice their profession under the statutes applicable to their profession.

Section 6. Paragraph (b) of subsection (1) of section 490.014, Florida Statutes, is amended to read:

490.014 Exemptions.—

(1)

(b) No provision of this chapter shall be construed to limit the practice of nursing, clinical social work, marriage and family therapy, mental health counseling, occupational therapy, or other recognized businesses or professions, or to prevent qualified members of other professions from doing work of a nature consistent with their training, so long as they do not hold themselves out to the public as psychologists or use a title or description protected by this chapter. Nothing in this subsection shall be construed to exempt any person from the provisions of s. 490.012.

Section 7. Subsection (2) of section 491.014, Florida Statutes, is amended to read:

491.014 Exemptions.—

(2) No provision of this chapter shall be construed to limit the practice of nursing, school psychology, ~~or~~ psychology,

or occupational therapy, or to prevent qualified members of other professions from doing work of a nature consistent with their training and licensure, so long as they do not hold themselves out to the public as possessing a license, provisional license, registration, or certificate issued pursuant to this chapter or use a title protected by this chapter.

Section 8. For the purpose of incorporating the amendment made by this act to section 490.014, Florida Statutes, in a reference thereto, paragraph (c) of subsection (1) of section 490.012, Florida Statutes, is reenacted to read:

490.012 Violations; penalties; injunction.—

(1)

(c) No person shall hold herself or himself out by any title or description incorporating the words, or permutations of them, "psychology," "psychological," or "psychodiagnostic," or describe any test or report as psychological, unless such person holds a valid, active license under this chapter or is exempt from the provisions of this chapter.

Section 9. Paragraph (b) of subsection (4) of section 1002.394, Florida Statutes, is amended to read:

1002.394 The Family Empowerment Scholarship Program.—

(4) AUTHORIZED USES OF PROGRAM FUNDS.—

(b) Program funds awarded to a student with a disability determined eligible pursuant to paragraph (3)(b) may be used for the following purposes:

1. Instructional materials, including digital devices, digital periphery devices, and assistive technology devices that allow a student to access instruction or instructional content

and training on the use of and maintenance agreements for these devices.

2. Curriculum as defined in subsection (2).

3. Specialized services by approved providers or by a hospital in this state which are selected by the parent. These specialized services may include, but are not limited to:

a. Applied behavior analysis services as provided in ss. 627.6686 and 641.31098.

b. Services provided by speech-language pathologists as defined in s. 468.1125(8).

c. Occupational therapy ~~services~~ as defined in s. 468.203.

d. Services provided by physical therapists as defined in s. 486.021(8).

e. Services provided by listening and spoken language specialists and an appropriate acoustical environment for a child who has a hearing impairment, including deafness, and who has received an implant or assistive hearing device.

4. Tuition or fees associated with full-time or part-time enrollment in a home education program, an eligible private school, an eligible postsecondary educational institution or a program offered by the postsecondary educational institution, a private tutoring program authorized under s. 1002.43, a virtual program offered by a department-approved private online provider that meets the provider qualifications specified in s. 1002.45(2)(a), the Florida Virtual School as a private paying student, or an approved online course offered pursuant to s. 1003.499 or s. 1004.0961.

5. Fees for nationally standardized, norm-referenced achievement tests, Advanced Placement Examinations, industry

certification examinations, assessments related to postsecondary education, or other assessments.

6. Contributions to the Stanley G. Tate Florida Prepaid College Program pursuant to s. 1009.98 or the Florida College Savings Program pursuant to s. 1009.981 for the benefit of the eligible student.

7. Contracted services provided by a public school or school district, including classes. A student who receives services under a contract under this paragraph is not considered enrolled in a public school for eligibility purposes as specified in subsection (6).

8. Tuition and fees for part-time tutoring services provided by a person who holds a valid Florida educator's certificate pursuant to s. 1012.56, a person who holds an adjunct teaching certificate pursuant to s. 1012.57, a person who has a bachelor's degree or a graduate degree in the subject area in which instruction is given, a person who has demonstrated a mastery of subject area knowledge pursuant to s. 1012.56(5), or a person certified by a nationally or internationally recognized research-based training program as approved by the department. As used in this paragraph, the term "part-time tutoring services" does not qualify as regular school attendance as defined in s. 1003.01(13)(e).

9. Fees for specialized summer education programs.

10. Fees for specialized after-school education programs.

11. Transition services provided by job coaches.

12. Fees for an annual evaluation of educational progress by a state-certified teacher under s. 1002.41(1)(f), if this option is chosen for a home education student.

13. Tuition and fees associated with programs offered by Voluntary Prekindergarten Education Program providers approved pursuant to s. 1002.55 and school readiness providers approved pursuant to s. 1002.88.

14. Fees for services provided at a center that is a member of the Professional Association of Therapeutic Horsemanship International.

15. Fees for services provided by a therapist who is certified by the Certification Board for Music Therapists or credentialed by the Art Therapy Credentials Board, Inc.

Section 10. For the purpose of incorporating the amendment made by this act to section 468.203, Florida Statutes, in a reference thereto, paragraph (c) of subsection (2) of section 1002.66, Florida Statutes, is reenacted to read:

1002.66 Specialized instructional services for children with disabilities.—

(2) The parent of a child who is eligible for the prekindergarten program for children with disabilities may select one or more specialized instructional services that are consistent with the child's individual educational plan. These specialized instructional services may include, but are not limited to:

(c) Occupational therapy as defined in s. 468.203.

Section 11. This act shall take effect July 1, 2022.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Community Affairs, *Chair*
Agriculture, *Vice Chair*
Appropriations Subcommittee on Agriculture, Environment, and General Government
Education
Ethics and Elections
Judiciary
Reapportionment

SELECT SUBCOMMITTEE:
Select Subcommittee on Congressional Reapportionment, *Chair*

JOINT COMMITTEES:
Joint Legislative Auditing Committee
Joint Select Committee on Collective Bargaining

SENATOR JENNIFER BRADLEY
5th District

December 7, 2021

Senator Aaron Bean, Chairman
Appropriations Subcommittee on Health and Human Services
404 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Bean:

I respectfully request that Senate Bill 632 be placed on the committee's agenda at your earliest convenience. This bill relates to occupational therapy.

Thank you for your consideration.

Sincerely,

Jennifer Bradley

Jennifer Bradley

cc: Tonya Money, Staff Director
Robin Jackson, Administrative Assistant

REPLY TO:
❒ 1279 Kingsley Avenue, Kingsley Center, Suite 117, Orange Park, Florida 32073 (904) 278-2085
❒ 324 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5005

Senate's Website: *www.flsenate.gov*

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

01/19/22
Meeting Date

632
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Debora Oliveira

Phone 850-273-1000

Address 3788 Overlook Drive
Street

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Tallahassee FL 32311
City State Zip

Speaking: ☑ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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

S-001 (08/10/2021)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Subcommittee on Health and Human Services

BILL:	CS/SB 632
INTRODUCER:	Health Policy Committee and Senator Bradley
SUBJECT:	Occupational Therapy
DATE:	January 18, 2022 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Brown	HP	**Fav/CS**
2.	Howard	Money	AHS	**Favorable**
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 632 significantly expands the scope of practice of the occupational therapist and the occupational therapy assistant.

The bill replaces the current definition of "occupational therapy" with a new definition that introduces the concepts of the therapeutic use of occupations with individuals, groups, or populations, along with their families or organizations, to support participation, performance, and function in the home, school, workplace, community, and other settings for clients who have, or are at risk of developing, an illness, injury, disease, disorder, condition, impairment, disability, activity limitation, or participation restriction.

The bill creates new terms and definitions for occupational therapy.

The bill deletes a list of "occupational therapy services" from current law, makes reference to "the practice of occupational therapy" instead of "occupational therapy," and adds the following services to the practice of occupational therapy:

- The assessment, treatment, and education of or consultation with individuals, groups, and populations whose abilities to participate safely in occupations, including activities of daily living, instrumental activities of daily living, rest and sleep, education, work, play, leisure, and social participation, are impaired or have been identified as being at risk for impairment due to issues related to, but not limited to, developmental deficiencies, the aging process,

learning disabilities, physical environment and sociocultural context, physical injury or disease, cognitive impairments, or psychological and social disabilities;
- Methods or approaches to determine abilities and limitations related to performance of occupations, including, but not limited to, the identification of physical, sensory, cognitive, emotional, or social deficiencies; and
- Specific occupational therapy techniques used for treatment which include, but are not limited to, training in activities of daily living; environmental modification; assessment of the need for the use of interventions such as the design, fabrication, and application of orthotics or orthotic devices; selecting, applying, and training in the use of assistive technology and adaptive devices; sensory, motor, and cognitive activities.

The bill exempts clinical social workers, marriage and family therapists, and mental health counselors from the application of the Occupational Therapy Practice Act and exempts occupational therapists and occupational therapy assistants from the application of the Psychological Services Act in ch. 490, F.S., and the Clinical, Counseling, and Psychotherapy Act in ch. 491, F.S.

The bill also exempts any person fulfilling an occupational therapy doctoral capstone experience that involves clinical practice or projects, from the requirements of the Occupational Therapy Practice Act if he or she registers with the Department of Health (department) before commencing the capstone experience.

The bill authorizes a licensed occupational therapist to use the title *"*occupational therapist doctorate" or "O.T.D." if the occupational therapist has earned a doctoral degree.

The bill is projected to have an insignificant negative fiscal impact on the department; however, the agency can absorb this impact within existing resources. See section V of this analysis.

The bill provides an effective date of July 1, 2022.

II. Present Situation:

The Department of Health

The Legislature created the Department of Health (department) to protect and promote the health of all residents and visitors in the state.[1] The department is charged with the regulation of health practitioners for the preservation of the health, safety, and welfare of the public. The Division of Medical Quality Assurance (MQA) is responsible for the boards[2] and professions within the department.[3]

[1] Section 20.43, F.S.
[2] Under s. 456.001(1), F.S., "board" is defined as any board, commission, or other statutorily created entity, to the extent such entity is authorized to exercise regulatory or rulemaking functions within the department or, in some cases, within the MQA.
[3] Section 20.43, F.S.

Occupational Therapy

Current law defines occupational therapy as "the use of purposeful activity or interventions to achieve functional outcomes."[4]

Occupational therapy is performed by licensed occupational therapists (OTs), licensed occupational therapy assistants (OTAs) who work under the responsible supervision and control[5] of a licensed OT, and occupational therapy aides who are not licensed but assist in the practice of occupational therapy under the direct supervision of a licensed OT or licensed OTA.[6] However, physicians, physician assistants, nurses, physical therapists, osteopathic physicians or surgeons, clinical psychologists, speech-language pathologists, and audiologists are permitted to use occupational therapy skills and techniques as part of their professions when they practice their profession under their own practice acts.[7]

Occupational therapy services include, but are not limited to:
- The assessment,[8] treatment, and education of, or consultation with, the individual, family, or other persons;
- Interventions directed toward developing daily living skills, work readiness or work performance, play skills or leisure capacities, or enhancing educational performance skills; and
- Providing for the development of: sensory-motor, perceptual, or neuromuscular functioning; range of motion; or emotional, motivational, cognitive, or psychosocial components of performance.[9]

These services may require an assessment to determine the need for the use of the following interventions:
- The design, development, adaptation, application, or training needed to use the assistive devices;
- The design, fabrication, or application of rehabilitative technology such as selected orthotic devices;
- Training in the use of assistive technology;
- Orthotic or prosthetic devices;
- The application of physical modalities as an adjunct to or in preparation for activity;
- The use of ergonomic principles;
- The adaptation of environments and processes to enhance functional performance; or

[4] Section 468.203(4), F.S.
[5] Section 468.203(8), F.S. Responsible supervision and control by the licensed OT includes providing both the initial direction in developing a plan of treatment and periodic inspection of the actual implementation of the plan. The plan of treatment must not be changed by the supervised individual without prior consultation and approval of the supervising OT. The supervising OT is not always required to be physically present or on the premises when the occupational therapy assistant is performing services; but, supervision requires the availability of the supervising occupational therapist for consultation with and direction of the supervised individual.
[6] Section 468.203, F.S.
[7] Section 468.225, F.S.
[8] Section 468.203(4)a.2., F.S., defines "assessment" to mean the use of skilled observation or the administration and interpretation of standardized or non-standardized tests and measurements to identify areas for occupational therapy services.
[9] Section 468.203(4), F.S.; Fla. Admin. Code R. 64B11-4.001 (2021).

- The promotion of health and wellness.[10]

Occupational Therapists and Occupational Therapy Assistants

Education

There are four levels of educational programs available to individuals desiring to enter the profession of occupational therapy in an institution accredited by the Accreditation Council for Occupational Therapy Education (ACOTE), which is the certifying arm of the American Occupational Therapy Association (AOTA), as follows:

- The Doctoral-Degree-Level Occupational Therapist (Ph.D.);[11]
- Master's-Degree-Level Occupational Therapist (OTR);
- Baccalaureate-Degree-Level Occupational Therapy Assistant (certified occupational therapy assistant or COTA); and
- Associate-Degree-Level Occupational Therapy Assistant (also a COTA).[12]

The ACOTE requirements for accreditation for occupational therapy curriculum vary by degree levels, but all levels must include theory, basic tenets of occupational therapy, and supervised educational fieldwork for accreditation. Examples of some required theory and basic tenets for occupational therapy accreditation include:

- Theory:
  - Preparation to Practice as a Generalist;
  - Preparation and Application of In-depth Knowledge;
  - Human Body, Development, and Behavior;
  - Sociocultural, Socioeconomic, Diversity Factors, and Lifestyle Choices; and
  - Social Determinants of Health.
- Basic Tenets:
  - Therapeutic Use of Self;
  - Clinical Reasoning;
  - Behavioral Health and Social Factors;
  - Remediation and Compensation;[13]
  - Orthoses and Prosthetic Devices;[14]

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[10] *Id.*

[11] National Board of Certification in Occupational Therapy (NBCOT), 2018 Accreditation Council for Occupational Therapy Education (ACOTE®) *Standards and Interpretive Guide (effective July 31, 2020) August 2020 Interpretive Guide Version,*, at pp. 20 and 49, *available at* https://acoteonline.org/wp-content/uploads/2020/10/2018-ACOTE-Standards.pdf (last visited Nov. 15, 2021). The Ph.D. in occupational therapy requires a minimum of six years of full time academic education and a Doctorial Capstone which is an in-depth exposure to a concentrated area, which is an integral part of the program's curriculum design. This in-depth exposure may be in one or more of the following areas: clinical practice skills, research skills, scholarship, administration, leadership, program and policy development, advocacy, education, and theory development. The doctoral capstone consists of two parts: the capstone experience and the capstone project.

[12] *Id.*at p. 1.

[13] *Supra* note 11, p. 29. *Remediation and Compensation* includes the design and implement intervention strategies to remediate and/or compensate for functional cognitive deficits, visual deficits, and psychosocial and behavioral health deficits that affect occupational performance.

[14] *Supra* note 11, p. 30. *Orthoses and Prosthetic Devices* requires the assessment of the need for orthotics, and design, fabricate, apply, fit, and train in orthoses and devices used to enhance occupational performance and participation.

- Functional Mobility;[15]
- Community Mobility;[16]
- Technology in Practice;[17]
- Dysphagia[18] and Feeding Disorders;
- Superficial Thermal, Deep Thermal, and Electrotherapeutic Agents and Mechanical Devices; and
- Effective Communication.

Fieldwork education required for ACOTE accreditation must include traditional and non-traditional subject matter, as well as emerging settings to strengthen the ties between didactic and fieldwork education, and at two levels:

- Level I Fieldwork: required for Ph.D., OTR, and COTA candidates, could be met through one or more of the following instructional methods:
  - Simulated environments;
  - Standardized patients;
  - Faculty practice;
  - Faculty-led site visits; and
  - Supervision by a fieldworker instructor.
- Level II Fieldwork:
  - Ph.D. and Masters Candidates - require a minimum of 24 weeks of full-time Level II fieldwork. Level II fieldwork can be completed in one setting if reflective of more than one practice area, or in a maximum of four different settings.
  - Bachelors and Associates Candidates - require a minimum of 16 weeks full-time Level II fieldwork. Level II fieldwork may be completed in one setting if reflective of more than one practice area, or in a maximum of three different settings.[19]

The ACOTE also requires for accreditation that schools maintain an average passage rate of 80 percent or higher (regardless of the number of attempts) on the National Board for Certification in Occupational Therapy (NBCOT) examination, over the three most recent calendar years, for graduates attempting the national certification exam within 12 months of graduation from the program.[20]

The Doctoral Capstone for a Ph.D. in Occupational Therapy

According to the ACOTE standards, the doctoral capstone is a required element of an occupational therapy Ph.D. curriculum. The goal of the doctoral capstone is to provide an in-depth exposure to one or more of the following: clinical practice skills, research skills,

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[15] *Id. Functional Mobility*- provides recommendations and training in techniques to enhance functional mobility, including physical transfers, wheelchair management, and mobility devices.
[16] *Supra* note 11, p. 30. *Community Mobility* designs programs that enhance community mobility, and implement transportation transitions, including driver rehabilitation and community access.
[17] *Supra* note 11, p. 31. *Technology in Practice* requires the demonstration of knowledge of the use of technology in practice, which must include: Electronic documentation systems; virtual environments; and telehealth technology.
[18]Tabor's Cyclopedia Medical Dictionary, 17th Edition, pub. 1993, F.A. Davis and Co., *Dysphonia* is the inability to swallow or difficulty swallowing.
[19] *Supra* note 11, p. 41.
[20] *Supra* note 11.

administration, leadership, program and policy development, advocacy, education, and theory development.

The doctoral capstone consists of two parts:

- **Capstone project** is completed by the Ph.D. candidate who demonstrates his or her ability to relate theory to practice and to synthesize in-depth knowledge in a practice area that relates to the capstone experience.
- **Capstone experience** is a 14-week, full-time, in-depth exposure in a concentrated area that may include on-site and off-site activities that meets developed goals and objectives of the doctoral capstone.

The candidate begins his or her capstone experience after the completion of all coursework and Level II fieldwork and after the preparation of a complete literature review, needs assessment, goals/objectives, and an evaluation plan aligning with the curriculum design and sequence of the doctoral capstone experience.

The Ph.D. candidate's capstone project must demonstrate the synthesis and application of the knowledge he or she has gained. The doctoral capstone experience must be a minimum of 14 weeks (560 hours). It may be completed on a part-time basis but must be consistent with the individualized specific objectives of the capstone project. No more than 20 percent of the 560 hours may be completed off site from the mentored practice setting(s), to ensure a concentrated experience in the designated area of interest. Time spent off-site may include independent study activities such as research and writing. Prior fieldwork or work experience may not be substituted for this doctoral capstone experience.

Every doctorial capstone project must have a valid written memorandum of understanding, signed by all parties to the doctoral capstone experience which, at a minimum, includes individualized specific objectives, plans for supervision or mentoring, and responsibilities of all parties. The capstone project must provide for verification that the student is mentored by an individual with expertise consistent with the student's area of focus prior to the onset of the doctoral capstone experience. The mentor does not have to be an occupational therapist.[21]

Licensure

To be licensed as an occupational therapist, or occupational therapy assistant, an individual must:

- Apply to the department and pay appropriate fees;[22]
- Be of good moral character;
- Have graduated from an ACOTE/AOTA accredited occupational therapy program, or occupational therapy assistant program;
- Have completed a minimum of six months of supervised fieldwork experience for occupational therapists, and a minimum of two months for occupational therapy assistants, at a recognized educational institution or a training program approved by the education institution where you met the academic requirements; and

[21] See note 11, pp. 44-46.
[22] Section 468.219, F.S.

- Have passed an examination approved by the NBCOT[23] for occupational therapists.[24]

An additional path to licensure as an occupational therapist is also available to applicants who have practiced as a state-licensed or American Occupational Therapy Association-certified occupational therapy assistant for four years and who, prior to January 24, 1988, have completed a minimum of six months of supervised occupational-therapist-level fieldwork experience. Such individuals may take the examination approved by the NBCOT to be licensed as an occupational therapist without meeting the educational requirements for occupational therapists to have graduated from a program accredited by the ACOTE/AOTA.[25]

Endorsement is yet another path to licensure for an occupational therapist, or occupational therapist assistant, in which the Board may waive the examination requirement and grant a license to any person who presents proof of:

- A current certification as an occupational therapist or occupational therapy assistant by a national certifying organization, if the Board determines the requirements for such certification to be equivalent to the requirements for Florida licensure; or
- A current licensure as an occupational therapist or occupational therapy assistant in another state, the District of Columbia, or any territory or jurisdiction of the United States or foreign national jurisdiction which requires standards for licensure determined by the Board to be equivalent to the requirements for Florida licensure.[26]

A person may not use the title, "occupational therapist," "licensed occupational therapist," "occupational therapist registered," "occupational therapy assistant," "licensed occupational therapy assistant," "certified occupational therapy assistant;" or the letters "O.T.," "L.O.T.," "O.T.R.," "O.T.A.," "L.O.T.A.," or "C.O.T.A.;" or any other words, letters, abbreviations, or insignia indicating or implying that he or she is an occupational therapist or an occupational therapy assistant, unless the person holds a valid license. Any person who does so commits a second degree misdemeanor.[27]

The MQA Annual Report and Long Range Plan for Fiscal Year 2020-2021 indicates that there are 9,298 active licensed occupational therapists and 6,247 active licensed occupational therapy assistants currently in Florida.[28]

[23] The examination is not offered by the Florida Board of Occupational Therapy Practice. Applicants must contact the NBCOT directly for the exam application and deadline information.
[24] Section 468.209(1), F.S.
[25] Section 468.209(2), F.S.
[26] Section 468.213, F.S.
[27] Sections 468.215 and 468.223, F.S.
[28] Department of Health, Division of Medical Quality Assurance, *Annual Report and Long Range Plan for 2020-2021*, p. 19, *available at* http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/2020-2021-annual-report.pdf (last visited Nov. 15, 2021).

III. Effect of Proposed Changes:

Scope of Practice of Occupational Therapy

The bill expands the scope of practice of the occupational therapist and the occupational therapy assistant. The bill replaces the current-law definition of occupational therapy, which is "the use of purposeful activity or interventions to achieve functional outcomes," with:

> [T]he therapeutic use of occupations through habilitation, rehabilitation, and the promotion of health and wellness with individuals, groups, or populations, along with their families or organizations, to support participation, performance, and function in the home, at school, in the workplace, in the community, and in other settings for clients who have, or are at risk of developing, an illness, an injury, a disease, a disorder, a condition, an impairment, a disability, an activity limitation, or a participation restriction.

The bill further expands the scope of practice for occupational therapy practitioners by defining the term "occupation" to include meaningful and purposeful everyday activities performed and engaged in by individuals, groups, populations, families, or communities which occur in contexts and over time, such as:

- Activities of daily living;
- Instrumental activities of daily living;
- Health management;
- Rest;
- Sleep;
- Education;
- Work;
- Play;
- Leisure; and
- Social participation.

The bill specifies that the term "activities of daily living" includes functions and tasks for self-care which are performed on a daily or routine basis, including functional mobility, bathing, dressing, eating, swallowing, personal hygiene and grooming, toileting, and other similar tasks.

The bill defines "instrumental activities of daily living" as daily or routine activities a person must perform to live independently within the home and community.

The bill describes "health management" as therapeutic services designed to develop, manage, and maintain health and wellness routines, including self-management, performed with the goal of improving or maintaining health to support participation in occupations.

Occupational Therapy Licensure

Section 468.209(2), F.S., provides that an occupational therapy license applicant who has practiced as a state-licensed or American Occupational Therapy Association-certified occupational therapy assistant for four years and who, prior to January 24, 1988, completed a

minimum of six months of supervised occupational-therapist-level fieldwork experience, may take the licensure examination without meeting the education requirements set out in s. 468.209(1)(b), F.S.

The bill reduces the minimum required weeks of supervised occupational-therapist-level fieldwork experience for applicants attempting to utilize this licensure path from six months (approximately 26 weeks) to 24 weeks.

Occupational Therapy Services

The bill replaces current law's list of services that may be included in occupational therapy with a provision specifying that the practice of occupational therapy includes, but is not limited to:

- Assessment, treatment, and education of or consultation with individuals, groups, and populations whose abilities to participate safely in occupations, including activities of daily living, instrumental activities of daily living, rest and sleep, education, work, play, leisure, and social participation, are impaired or have been identified as being at risk of impairment due to issues related to, but not limited to, developmental deficiencies, the aging process, learning disabilities, physical environment and sociocultural context, physical injury or disease, cognitive impairments, or psychological and social disabilities;
- Methods or approaches used to determine abilities and limitations related to performance of occupations, including, but not limited to, the identification of physical, sensory, cognitive, emotional, or social deficiencies; and
- Specific occupational therapy techniques used for treatment which include, but are not limited to, training in activities of daily living; environmental modification; assessment of the need for the use of interventions such as the design, fabrication, and application of orthotics or orthotic devices; selecting, applying, and training in the use of assistive technology and adaptive devices; sensory, motor, and cognitive activities; therapeutic exercises; manual techniques; physical agent modalities; and occupational therapy services in mental health.

Occupational Therapist Titles

Under current law, any person who is issued a license as an occupational therapist may use the titles "occupational therapist," "licensed occupational therapist," or "occupational therapist registered," or he or she may use the letters "O.T.," "L.O.T.," or "O.T.R.," in connection with his or her name or place of business to denote his or her registration.

There are four different educational levels for persons registered under Florida Law as occupational therapists: an associate degree, a bachelor degree, a master's degree, or a Ph.D. The bill would permit any licensed occupational therapist to use *"*occupational therapist doctorate" or "O.T.D." if the occupational therapist has earned a doctoral degree.

Licensure Exemptions

The bill exempts clinical social workers, marriage and family therapists, and mental health counselors from the application of the Occupational Therapy Practice Act and exempts occupational therapists and occupational therapy assistants from the application of the

Psychological Services Act in ch. 490, F.S., and the Clinical, Counseling, and Psychotherapy Act in ch. 491, F.S.

The bill also exempts any person fulfilling an occupational therapy doctoral capstone experience that involves clinical practice or projects, from the application of the Occupational Therapy Practice Act if he or she registers with the Department of Health (department) before commencing the capstone experience.

Other Provisions

The bill reenacts certain statutes relating to psychological services in ch. 490, F.S., and the Clinical, Counseling, and Psychotherapy Act in ch. 491, F.S., for the purpose of incorporating the bill's amendments.

The bill reenacts the Family Empowerment Scholarship Program and the Voluntary Prekindergarten Education Program for the purpose of incorporating the bill's amendments to s. 468.203. F.S., into those programs. Occupational therapy services are considered specialized services that may be provided under both programs.

The bill provides an effective date of July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Because CS/SB 632 provides that licensed occupational therapists may provide additional services, the bill might result in increased costs to private health insurers and health maintenance organizations that cover occupational therapy services.

C. Government Sector Impact:

The Department of Health's Division of Medical Quality Assurance may experience an increase in workload associated with additional complaints and non-recurring costs associated with updating the Licensing and Enforcement Information Database System, Online Service Portal, Cognitive Virtual Agent, and board website to update the licensing requirements for occupational therapists to reflect changes made to the statute; however, such costs may be absorbed within existing resources.

The bill might result in increased costs for occupational therapy services under state group health insurance, Medicaid, the Family Empowerment Scholarship Program, and the Voluntary Prekindergarten Education Program to the extent that occupational therapy is covered and provided under those respective benefit packages and programs. The fiscal impact is indeterminate at this time.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill expands the scope of practice of the occupational therapist and the occupational therapy assistant to include areas of practice that might be construed as overlapping with other licensed professions. This is not unusual, as many licensed health care practitioners have scopes of practice that often overlap, and many of the professions' practice acts have created exemptions to the application of their respective practice acts for other licensees whose scope of practice overlaps theirs.[29] The physical therapy practice act already exempts its application to occupational therapy,[30] and occupational therapy exempts physical therapy as well as medicine, nursing, osteopathy, clinical psychology, speech-language pathology, and audiology from the practice of occupational therapy.[31]

School speech and language providers[32]and orthotics, prosthetics, and pedorthics[33] use similar practice skills, techniques, and dynamics as set out in the bill's expanded scope of practice for occupational therapists and occupational therapy assistants, and those practitioners could be found to be practicing occupational therapy without a license under the bill.

[29] *See* ss. 460.402, 461.402, 464,022, 465.027, 467.207, 486.161, 468.812, 468.1115, 480.035, 486.161, 490.014, and 491.014, F.S.
[30] Section 486.161, F.S.
[31] Section 468.225, F.S.
[32] *See* s. 1012.44, F.S.
[33] *See* ch. 468, Part. XIV, F.S.

Similarly, the bill's expanded scope of practice for occupational therapists and occupational therapy assistants in providing occupation-based interventions and services into designing, fabricating, and application of orthotics or orthotic devices could expose occupational therapists to allegations of practicing orthotics, prosthetics, or pedorthics[34] without a license.

VIII. Statutes Affected:

The bill substantially amends the following sections of the Florida Statutes: 468.203, 468.209, 468.215, 468.223, 468.225, 490.014, and 491.014.

The bill reenacts portions of the following sections of the Florida Statutes: 490.012, 1002.394, and 1002.66.

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 December 2, 2021:
The CS:

- Clarifies that only occupational therapists with a doctorate degree can use the title "occupational therapy doctorate" or "O.T.D.;"
- Requires that, in order to qualify for an exemption from Florida's occupational therapy regulation and licensure requirements, a person fulfilling an occupational therapy doctoral capstone experience involving clinical practice or projects must first register with Department of Health;
- Exempts clinical social workers, marriage and family therapists, and mental health counselors from the application of the Occupational Therapy Practice Act;
- Exempts occupational therapists and occupational therapy assistants from the application of the Psychological Services Act and the Clinical, Counseling, and Psychotherapy Act; and
- Makes technical changes.

B. Amendments:

None.

[34] Section 468.812, F.S.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Agriculture, *Chair*
Appropriations
Appropriations Subcommittee on Health and Human Services
Banking and Insurance
Children, Families, and Elder Affairs
Judiciary
Reapportionment
Regulated Industries

SELECT SUBCOMMITTEE:
Select Subcommittee on Congressional Reapportionment

SENATOR DARRYL ERVIN ROUSON
19th District

January 18, 2022

Senator Aaron Bean
404 Senate Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chair Bean,

Please excuse my absence from the Senate Appropriations Subcommittee on Health and Human Services meeting on January 19th, 2022.

Thank you,

Darryl E. Rouson
State Senator, District 19

REPLY TO:
❒ 535 Central Avenue, Suite 302, St. Petersburg, Florida 33701 (727) 822-6828
❒ 212 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5019

Senate's Website: *www.flsenate.gov*

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

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Appropriations Subcommittee on Health and Human Services
Children, Families, and Elder Affairs
Community Affairs

JOINT COMMITTEE:
Joint Administrative Procedures Committee

SENATOR JASON BRODEUR
9th District

January 19, 2022

The Honorable Aaron Bean
Chair of the Appropriations Subcommittee on Health and Human Services
404 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Bean:

I respectfully request to be excused from the Appropriations Subcommittee on Health and Human Services meeting on January 19, 2022.

If you have any questions regarding this request, please do not hesitate to contact me directly or my office.

Thank you for your consideration.

Respectfully,

Jason Brodeur
The Florida Senate
District 09

CC: Tonya Money, Staff Director, Appropriations Subcommittee on Health and Human Services

REPLY TO:
❒ 922 Williston Park Point, Suite 1300, Lake Mary, Florida 32746 (407) 333-1802
❒ 311 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5009

Senate's Website: *www.flsenate.gov*

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

CourtSmart Tag Report

Room: KB 412 **Case No.:** - **Type:**
Caption: Senate Appropriations Subcommittee on Health & Human Services **Judge:**

Started: 1/19/2022 10:31:06 AM
Ends: 1/19/2022 11:13:22 AM **Length: 00:42:17**

10:31:06 AM Sen. Bean (Chair)
10:32:32 AM S544
10:32:45 AM Sen. Boyd
10:32:56 AM Am. 599944
10:33:08 AM Sen. Boyd
10:34:52 AM Barney Bishop III, Florida Smart Justice Alliance
10:35:05 AM David Mica, Jr., Florida Hospital Association (waives in support)
10:35:12 AM Phillip Suderman, Americans for Prosperity (waives in support)
10:35:32 AM Sen. Boyd
10:36:25 AM Sen. Bean
10:37:18 AM S292
10:37:26 AM Sen. Polsky
10:37:31 AM Am. 764450
10:37:50 AM Sen. Polsky
10:39:23 AM Am. 629500
10:39:32 AM Sen. Polsky
10:40:39 AM Doug Bell, Florida Chapter, American Academy of Pediatrics
10:41:21 AM Jared Wilson, Nemours Children's Hospital (waives in support)
10:41:28 AM David Mica, Jr., Florida Hospital Association (waives in support)
10:41:37 AM Jean Siebenaler (waives in support)
10:42:13 AM Kathleen Murphy, Florida PTA (waives in support)
10:42:20 AM Constance Albright (waives in support)
10:42:29 AM Theresa Bulger (waives in support)
10:43:03 AM Sen. Harrell
10:44:00 AM Sen. Polsky
10:45:09 AM Sen. Bean
10:45:48 AM S632
10:45:53 AM Sen. Bradley
10:47:04 AM Deborah Oliveira, President, Florida Occupational Therapy Association
10:48:19 AM S534
10:48:27 AM Sen. Harrell
10:50:15 AM Paul Lowell, Sunovion (waives in support)
10:50:23 AM Barney Bishop III, Florida Smart Justice Alliance (waives in support)
10:50:45 AM Sen. Book
10:51:21 AM Sen. Harrell
10:52:03 AM S282
10:52:50 AM Sen. Jones
10:54:38 AM Joe Dmitrovic
10:56:22 AM Robert Cooper
10:57:35 AM Natalie Kelly, Florida Association of Managing Entities (waives in support)
10:58:02 AM Dr. Stephen Viel, Hallifax Health
10:59:45 AM Gayle Giese, Florida Mental Health Advocacy Coalition and NAMI Florida (waives in support)
11:00:04 AM Jennifer Luciani, National Alliance for Mental Illness, Broward County (waives in support)
11:00:15 AM Barney Bishop III, Florida Smart Justice Alliance (waives in support)
11:00:22 AM David Mica, Jr., Florida Hospital Association (waives in support)
11:00:30 AM Sean Burnfin, State Courts System - Steering Committee on Problem-Solving Courts (waives in support)
11:00:51 AM Kathleen Murphy, Florida PTA (waives in support)
11:01:14 AM Howard Clayton Myers III
11:03:41 AM Debby Sweem
11:06:20 AM Sen. Harrell
11:08:15 AM Sen. Book
11:09:31 AM Sen. Rodrigues

11:10:26 AM Sen. Jones
11:12:35 AM Sen. Jones
11:12:57 AM Sen. Farmer