Tab 2	**CS/SB 112** by **HP, Harrell (CO-INTRODUCERS) Wright**; (Similar to H 00183) Step-therapy Protocols

Tab 3	**CS/SB 210** by **CF, Harrell**; (Similar to CS/H 00295) Substance Abuse Services

Tab 4	**SB 452** by **Harrell**; (Similar to H 00391) Home Health Aides for Medically Fragile Children

619948	A	S	RCS	AHS, Harrell	Delete L.225 - 232:	03/09 10:18 AM
767644	A	S	RCS	AHS, Harrell	btw L.393 - 394:	03/09 10:18 AM

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

APPROPRIATIONS COMMITTEE ON HEALTH AND HUMAN SERVICES

Senator Harrell, Chair
Senator Garcia, Vice Chair

MEETING DATE: Wednesday, March 8, 2023
TIME: 8:30—10:30 a.m.
PLACE: *Pat Thomas Committee Room,* 412 Knott Building

MEMBERS: Senator Harrell, Chair; Senator Garcia, Vice Chair; Senators Avila, Baxley, Book, Bradley, Brodeur, Burgess, Burton, Calatayud, Davis, Gruters, Martin, Osgood, Rouson, and Simon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	Update on the Agency for Persons with Disabilities		Presented
2	**CS/SB 112** Health Policy / Harrell (Similar H 183)	Step-therapy Protocols; Defining the term “serious mental illness”; requiring the Agency for Health Care Administration to approve drug products for Medicaid recipients for the treatment of serious mental illness without step-therapy prior authorization under certain circumstances, etc. HP 02/20/2023 Fav/CS AHS 03/08/2023 Favorable FP	Favorable Yeas 16 Nays 0
3	**CS/SB 210** Children, Families, and Elder Affairs / Harrell (Similar CS/H 295)	Substance Abuse Services; Revising application requirements for licensure as a substance abuse service provider; requiring the Department of Children and Families to establish, by a specified date, a mechanism to impose and collect fines for certain violations of law; revising credentialing requirements for recovery residences; prohibiting service providers from referring patients to, or accepting referrals from, specified recovery residences, etc. CF 02/14/2023 Fav/CS AHS 03/08/2023 Favorable FP	Favorable Yeas 15 Nays 1
4	**SB 452** Harrell (Similar H 391)	Home Health Aides for Medically Fragile Children; Requiring home health agencies to ensure that any tasks delegated to home health aides for medically fragile children meet specified requirements; establishing the home health aides for medically fragile children program for specified purposes; requiring the Agency for Health Care Administration, in consultation with the Board of Nursing, to approve training programs for home health aides for medically fragile children; authorizing home health aides for medically fragile children to administer certain medications under certain circumstances, etc. HP 02/20/2023 Favorable AHS 03/08/2023 Fav/CS FP	Fav/CS Yeas 16 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
	Other Related Meeting Documents		

agency for persons with disabilities
State of Florida

Agency for Persons with Disabilities

Senate Appropriations Committee on Health and Human Services

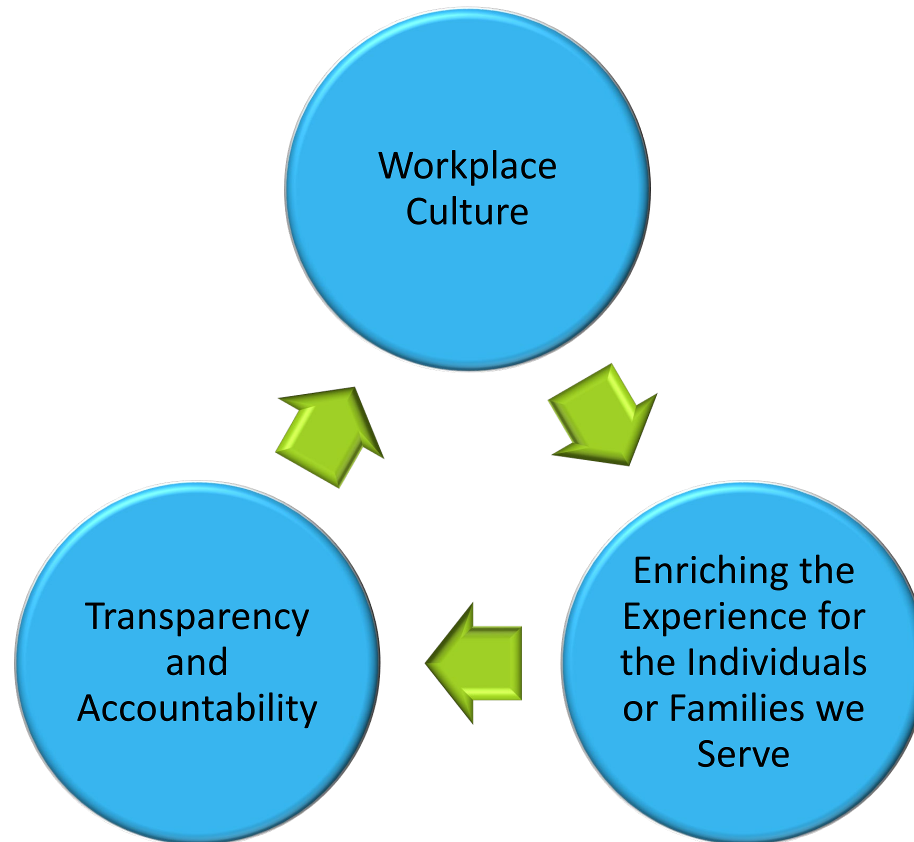
March 8, 2023

Taylor N. Hatch
Director

Agency for Persons with Disabilities

The Agency for Persons with Disabilities (APD) works in partnership with local organizations to support people with developmental disabilities in living, learning, and working in their communities. APD provides critical services and supports for individuals with developmental disabilities so they can reach their full potential.

Agency Focus

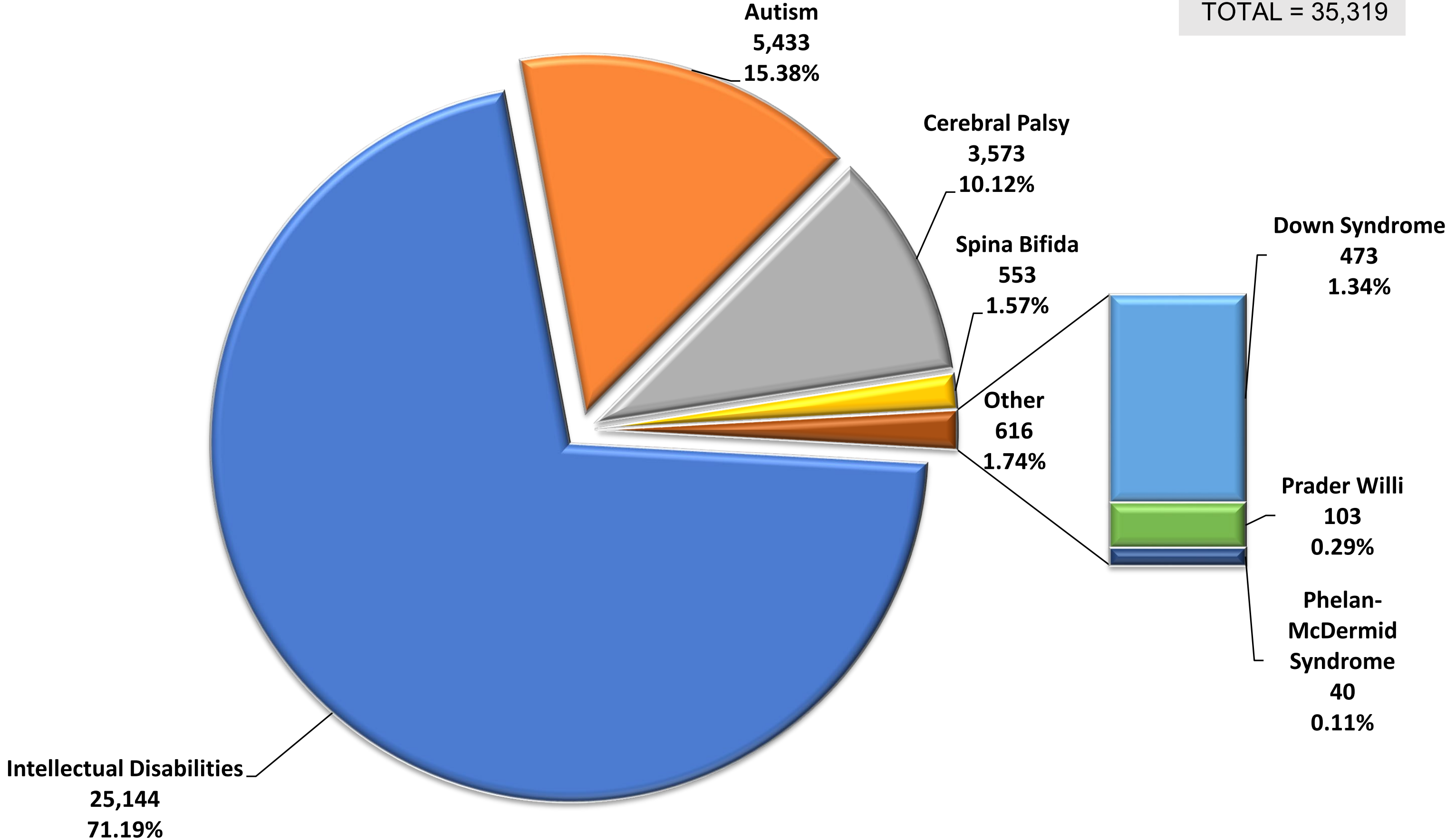


Who Do We Serve?

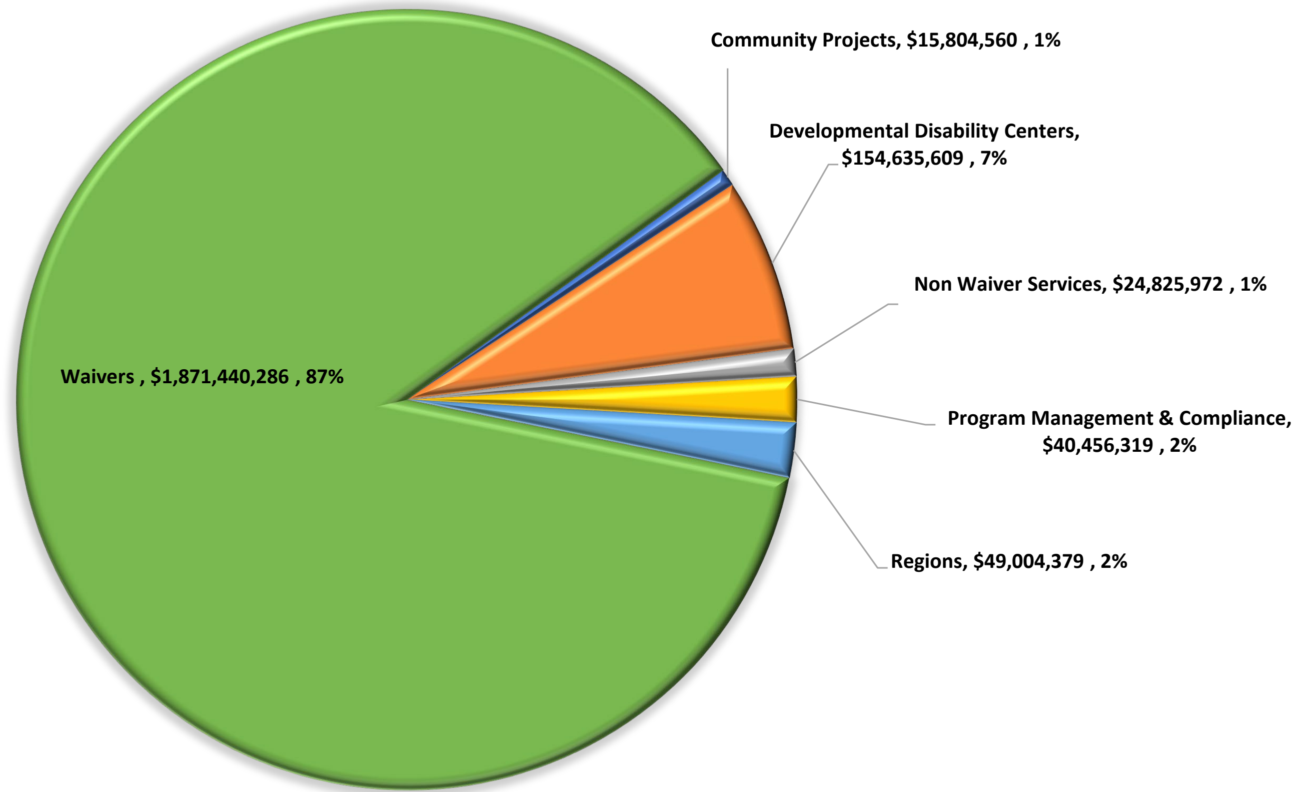
A person must live in Florida, be at least 3 years old, and have a diagnosed developmental disability that occurred before the age of 18 to be eligible for APD services.

As of February 1, 2023, APD serves approximately 61,530 individuals with developmental disabilities. Per Chapter 393 F.S., APD serves individuals with the following developmental disabilities:

- Severe forms of Autism
- Cerebral palsy
- Down syndrome
- Intellectual disability
- Phelan-McDermid syndrome
- Prader-Willi syndrome
- Spina bifida


All Individuals with Home and Community-Based Waivers
by Disability
February 1, 2023
TOTAL = 35,319
Autism
5,433
15.38%
Cerebral Palsy
3,573
10.12%
Spina Bifida
553
1.57%
Other
616
1.74%
Down Syndrome
473
1.34%
Prader Willi
103
0.29%
Phelan-McDermid Syndrome
40
0.11%
Intellectual Disabilities
25,144
71.19%

AGENCY FOR PERSONS WITH DISABILITIES
FY 2022-23 APPROPRIATIONS BY MAJOR PROGRAM AREA
(TOTAL APPROPRIATION $2,156,167,125)



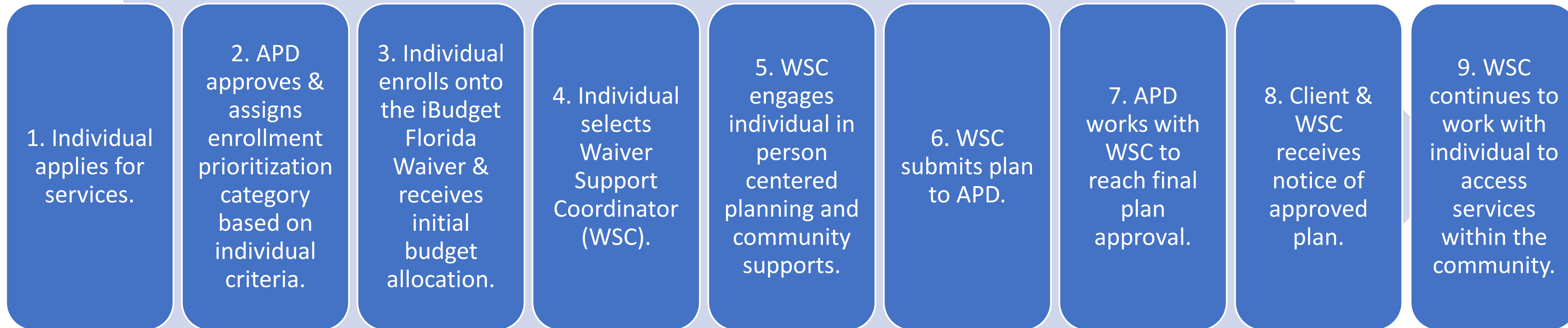
Florida's Home and Community-Based Waiver: iBudget

- iBudget Florida is a Home and Community-Based Medicaid waiver that provides services to assist individuals with developmental disabilities that would otherwise be eligible for services in an Intermediate Care Facility.
- Currently over 35,000 Floridians are enrolled in iBudget Florida waiver program.
- A subset of the iBudget Florida waiver includes the Consumer Directed Care Plus (CDC+) program which allows for additional provider flexibilities.
- Services for individuals enrolled are customized to the individual and include a wide array of supports to assist with living, learning, and working in the community.

Consumer-Directed Care Plus (CDC+)

- CDC+ is Florida's long-term care alternative to the Medicaid Home and Community-Based Services (HCBS) Medicaid waiver.
- CDC+ participants exchange their current approved Medicaid waiver cost plan budget for a reduced budget with greater flexibility.
- The program allows the participant to make decisions regarding services and has greater provider flexibility.
- As of last month, there are 4,249 individuals participating in the CDC+ program.

Application and Enrollment Process



Waiver Support Coordinators (WSCs)

Private sector Medicaid vendors which provide case management services.

All individuals enrolled on the iBudget Waiver have access to WSC services.

WSCs monitor and ensure individual health, safety, and well-being.

WSCs assist individuals in accessing services and supports through all available resources.

WSCs support individual self-direction to plan and implement supports and services that address needs and goals.

Waiver Support Coordinators (WSCs)

- In July 2020, changes were made to Florida Statute that require all WSCs to be employees of Qualified Organizations (QOs).
- The law also outlined that all QOs must:
  - Employ 4 or more WSCs.
  - Maintain a professional code of ethics and disciplinary process.
  - Comply with cost containment initiatives.
  - Require WSCs to comply with rule requirements.
  - Prohibit dual employment if it adversely impacts the WSC ability to serve individuals.
  - Educate individuals and families about abuse, neglect, and exploitation and mandatory reporting.
  - Implement mentoring programs for WSCs who have worked for less than 1 year.
  - Ensure individual budgets are linked to levels of need.

Waiver Enrollment Prioritization - Chapter 393.065

Priority
Category 1: Crisis situations
Category 2: Child welfare system at the time of permanency or turning 18
Category 3: Intensive needs
Category 4: Caregiver is 70 years of age or older
Category 5: Transitioning from school
Category 6: Individuals 21 years of age or older who do not meet other prioritization criteria
Category 7: Individuals under 21 years of age who do not meet other prioritization criteria

Some individuals listed in the prioritization categories are receiving services through other sources such as:

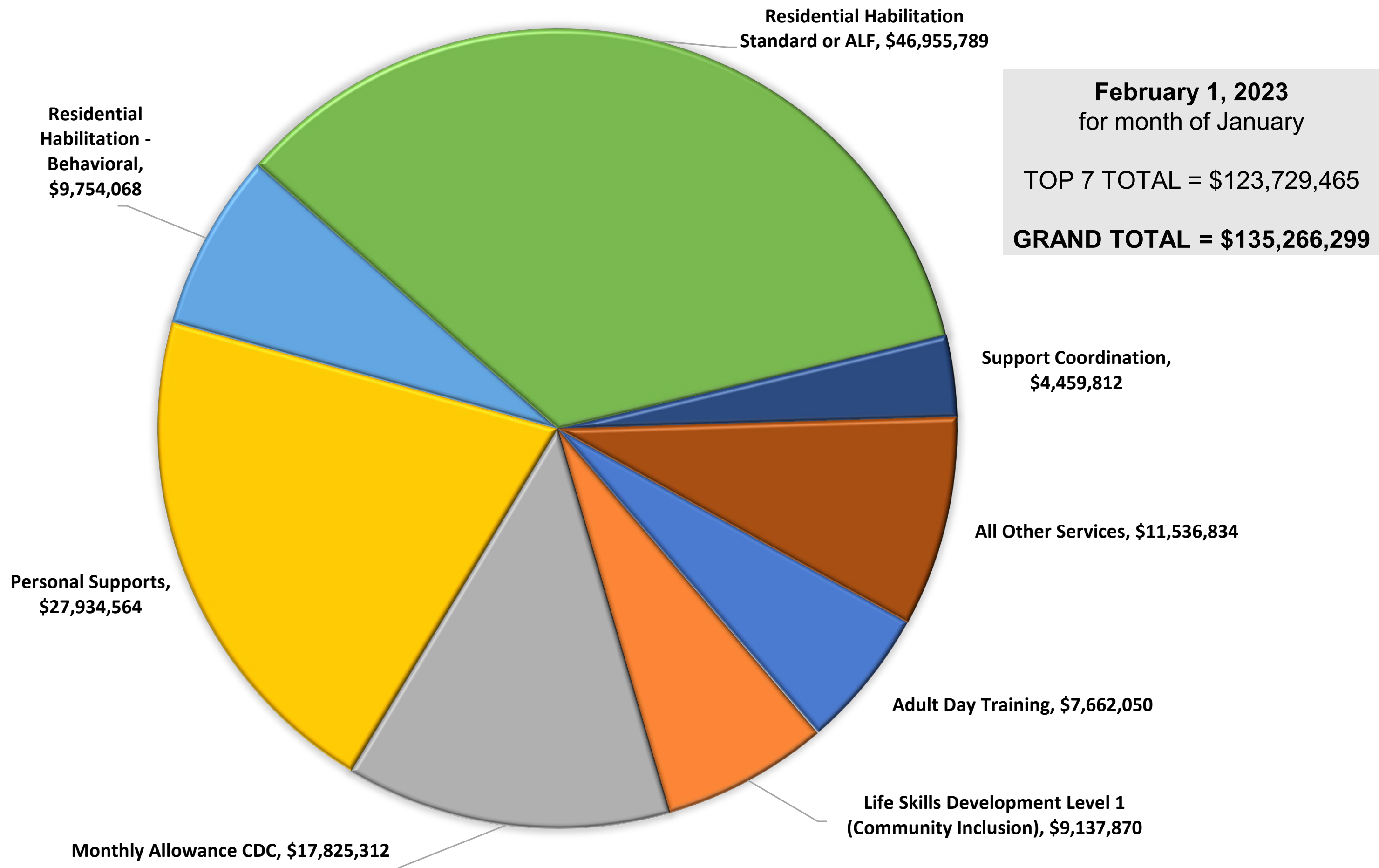
- Medicaid State Plan provides robust services to individuals under 21 who have full Medicaid benefits
- Intermediate Care Facilities
- Nursing homes
- Forensic services
- Public schools
- Natural supports and families

iBudget Waiver Service Families Categories

The iBudget Florida waiver offers 26 services that are grouped into the following 8 service family categories:

- Life Skills Development
- Supplies and Equipment
- Personal Supports
- Residential Services
- Support Coordination
- Therapeutic Supports and Wellness
- Transportation
- Dental

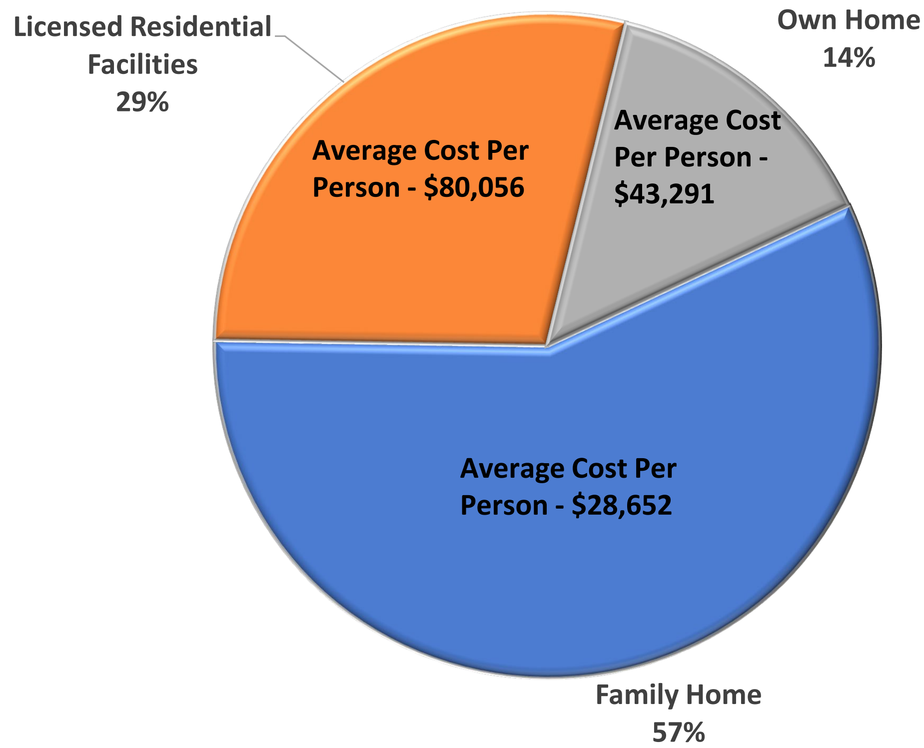
ALL HOME AND COMMUNITY-BASED SERVICES (HCBS) IBUDGET WAIVER EXPENDITURES BY SERVICE



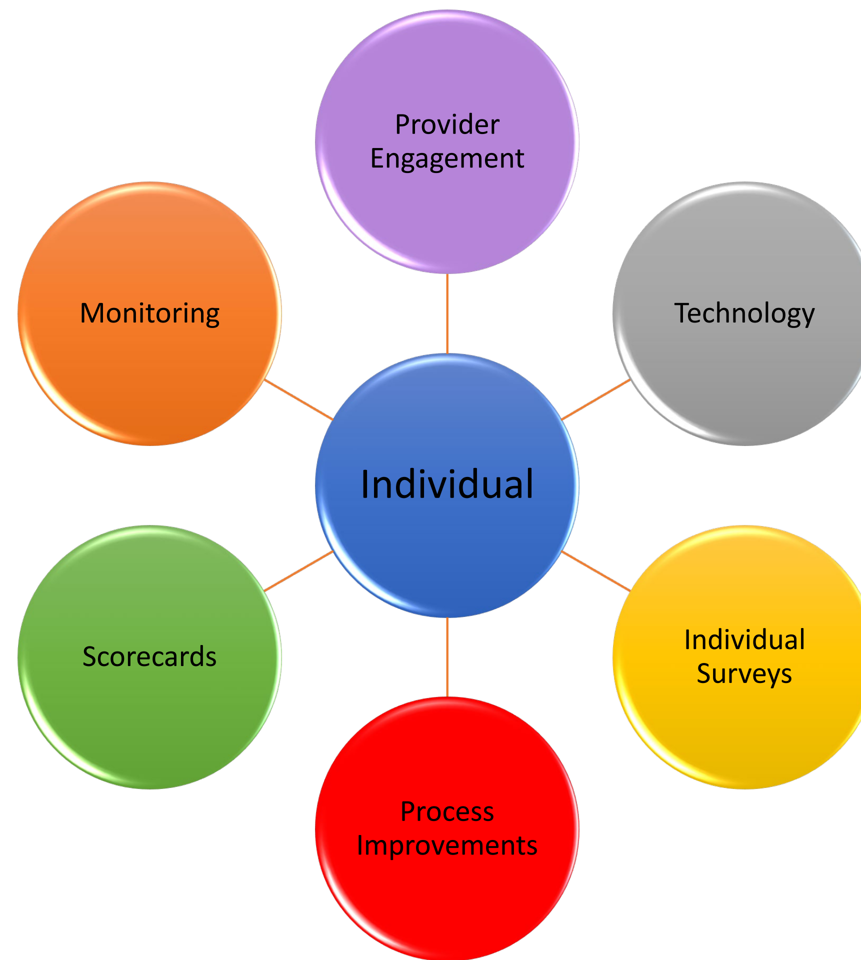
February 1, 2023
for month of January

TOP 7 TOTAL = $123,729,465

GRAND TOTAL = $135,266,299


Living Settings
Individuals with iBudget Florida Waiver
Licensed Residential Facilities 29%
Average Cost Per Person - $80,056
Own Home 14%
Average Cost Per Person - $43,291
Average Cost Per Person - $28,652
Family Home 57%

Transparency and Accountability



- Workplace Culture
- Enriching the Experience for Individuals and Families we Serve
- Transparency and Accountability

agency for persons with disabilities
State of Florida

Thank You

For more information please contact:
JP Bell
JP.Bell@apdcares.org
www.apdcares.org

The Florida Senate

APPEARANCE RECORD

3/8/2023
Meeting Date

Senate Subcommittee on H & HS Appropriations
Committee

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

Waiver Support Coordinator
Bill Number or Topic

Amendment Barcode (if applicable)

Name: Melissa Mazaeda
Phone: 941 809 3134

Address: 7930 Century Oak Dr.
Street
Email: mmazaeda@jandumsc.com

Sarasota, FL 34241
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.

The Florida Senate

APPEARANCE RECORD

03/08/2023
Meeting Date

Agency for Persons with Disabilities
Bill Number or Topic

Appropriations Committee Health & Human Services
Committee

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

Amendment Barcode (if applicable)

Name: Laura Mohesky

Phone: 321-794-3328

Address: 205 Sutton St
Street

Rockledge, Fl 32955
City, State, Zip

Email: Lmohesky@CFL.RR.COM

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

PLEASE CHECK ONE OF THE FOLLOWING:

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

S-001 (08/10/2021)

3-8-23
Meeting Date

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
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APD Presentation
Bill Number or Topic

Amendment Barcode (if applicable)

Appropriations Committee on Health and Human Services
Committee

Name Taylor Hatch (Director)

Phone

Address 4030 Esplanade Way
Street

Email Taylor.Hatch@APDcares.org

Tallahassee FL 32399
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

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3-8-23
Meeting Date

The Florida Senate
APPEARANCE RECORD

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

APD
Bill Number or Topic

Amendment Barcode (if applicable)

ACHHS
Committee

Name Lorena Fulcher

Phone

Address 4030 Esplanade Way
Street

Email lorena.fulcher@APDcares.org

Tallahassee FL 32399
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

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S-001 (08/10/2021)

3-8-23
Meeting Date

ACH HS
Committee

The Florida Senate
APPEARANCE RECORD

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

APD
Bill Number or Topic

Amendment Barcode (if applicable)

Name Rose Salinas Phone

Address 4030 Esplanade Way Email Rose.Salinas@APDCares.org
Street

Tallahassee FL 32398
City State Zip

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

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☐ 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)

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 Committee on Health and Human Services

BILL: CS/SB 112

INTRODUCER: Health Policy Committee and Senator Harrell and others

SUBJECT: Step-therapy Protocols

DATE: March 7, 2023 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Brown	HP	**Fav/CS**
2.	McKnight	Money	AHS	**Favorable**
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 112 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 a serious mental illness, as that term is defined in the bill, 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 directs the Agency for Health Care Administration (AHCA) to include the bill's rate impact on new managed care plan payment rates within Statewide Medicaid Managed Care that take effect October 1, 2023.

The bill has a significant negative fiscal impact on the Florida Medicaid program. *See* Section V of this analysis.

The bill takes effect on October 1, 2023.

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.

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] In 2020, the Legislature extended the allowable term of the SMMC contracts from five to six years.[5] As a result, the AHCA's current contracts will end in December 2024. The AHCA is currently conducting its next procurement for implementation in the 2025 plan year.

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.[6] The committee must meet quarterly and must review all drug classes included in the PDL at least every 12 months.[7] The committee may recommend additions to and deletions from the PDL, such that the PDL provides for medically appropriate drug

[1] Section 20.42, F.S.
[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 Feb. 20, 2023).
[5] Chapter 2020-156, s. 44, Laws of Florida
[6] Section 409.91195(1), F.S.
[7] Section 409.91195(3), F.S.

therapies for Medicaid patients which achieve cost savings contained in the General Appropriations Act.[8]

The committee considers the amount of rebates drug manufacturers are offering if their drug is placed on the PDL.[9] 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.[10] Florida currently collects over $2 billion per year in federal and supplemental rebates for drugs dispensed to Medicaid recipients.[11] These funds are used to offset the cost of Medicaid services.[12]

Medicaid managed care plans are required by the AHCA to provide all prescription drugs listed on the AHCA's PDL.[13] 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.[14] Florida Medicaid covers all Food and Drug Administration (FDA) approved prescription medications.[15] Those not included on the PDL must be prior-approved by Medicaid or the health plans.[16]

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.[17]

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.[18] 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.[19] Medicaid managed care plans are contractually required to respond to prior authorization requests for prescribed drugs within 24 hours of receipt of the request.

[8] Section 409.91195(4), F.S.
[9] Section 409.91195(7), F.S.
[10] Agency for Health Care Administration, *Senate Bill 534 Analysis* (Nov. 11, 2021) (on file with Senate Committee on Health Policy).
[11] *Id.*
[12] *Id.*
[13] *Id.*
[14] Section 409.967(2)(c)2, F.S.
[15] *Supra* note 10.
[16] *Id.*
[17] *Id.*
[18] Riley, Hannah, Gistia Healthcare, *Making Sense of Prior Authorization, What is it?* (Apr. 21, 2020) *available at* https://f.hubspotusercontent00.net/hubfs/6718559/downloadables/Making%20Sense%20of%20Prior%20Authorization%20What%20is%20it%20_Gistia%20Healthcare.pdf (last visited Feb. 20, 2023).
[19] Section 409.912(5)(a)1.a., F.S.

Section 409.912(5)(a)14., F.S. requires the AHCA to implement a step-therapy[20] 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;
- 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
- 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.[21]

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.[22] 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.[23]

Coverage of Prescription Drugs for Serious Mental Illnesses

Drugs treating serious mental illness accounted for over $131 million in paid claims in the Medicaid program during 2022. Antidepressants compose one of the largest drug classes and are responsible for over $30 million in paid claims per year.[24]

Tricyclic Antidepressants

As of March 2022, 99.9 percent of the paid claims in this class were for preferred drugs. The net cost of non-preferred drugs can be 10 times greater than the net cost of preferred drugs with the same mechanism of action.[25]

---

[20] 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 Feb. 20, 2023).
[21] Section 409.912(5)(a)14., F.S.
[22] Agency for Health Care Administration, *Senate Bill 534 Analysis* (Nov. 11, 2021) (on file with Senate Committee on Health Policy)..
[23] Section 409.967(2)(c)2, F.S.
[24] Agency for Health Care Administration, *2023 Agency Legislative Bill Analysis: SB 112,* Feb. 17, 2023 (on file with the Senate Committee on Health Policy).
[25] *Id.*

Selective Serotonin Reuptake Inhibitors (SSRI) Antidepressants:

As of June 2022, 99.3 percent of the paid claims in this class were for preferred drugs. The cost of non-preferred drugs can be 22 times greater than the cost of preferred drugs within the same therapeutic class.[26]

Other Antidepressants

As of June 2022, 99.9 percent of the paid claims in this class were for preferred drugs. This class contains oral and injectable antidepressant drugs. The cost of oral non-preferred drugs can be 17 times greater than the cost of preferred drugs within the review class, which includes all oral antidepressants that are not tricyclic or SSRIs.[27]

Antipsychotics

As of September 2022, 98.3 percent of the paid claims in this class were for preferred drugs. PDL compliance results in significant savings annually in the antipsychotic class.[28]

The Medicaid PDL includes numerous generic and brand name drugs for the treatment of serious mental illness.[29] If a drug is not on the PDL, the prescriber must obtain prior authorization before dispensing the medication. The AHCA and Medicaid managed care plans are required to respond to prior authorization requests within 24 hours of receipt. Prior authorization requests for mental health medications are reviewed using the Psychotherapeutic Medication Guidelines established by the University of South Florida.[30]

The AHCA maintains prior authorization criteria and automated edits.[31]

Prescription Drugs Used in the Treatment of Schizophrenia for Medicaid Recipients

In the 2022 Regular Legislative Session, the Legislature enacted SB 534,[32] which amended s. 409.912, F.S., to create an exception from step-therapy prior authorization requirements within the Florida Medicaid program for a drug product if the prescribing physician provides the AHCA with written medical or clinical documentation that the product is medically necessary. Under SB 534, medical necessity is created when the drug product or a medication of a similar drug class is being prescribed for the treatment of schizophrenia or schizotypal or delusional disorders, prior authorization has previously been granted to the patient for the prescribed drug, and the medication had been dispensed to the patient during the previous 12 months.

After the step therapy requirement was mitigated by the enactment of SB 534 in 2022 for the schizophrenia-related medications, the PDL compliance decreased 0.1 percent in the

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[26] *Id.*
[27] *Id.*
[28] *Id.*
[29] See the PDL at https://ahca.myflorida.com/medicaid/Prescribed_Drug/preferred_drug.shtml (last visited Feb. 20, 2023).
[30] See the guidelines at https://floridabhcenter.org/ (last visited Feb. 20, 2023).
[31] See the criteria at https://ahca.myflorida.com/medicaid/Prescribed_Drug/drug_criteria.shtml (last visited Feb. 20, 2023).
[32] See Chapter 2022-27, Laws of Florida.

antipsychotic class. This decrease in compliance results in a reduction in collection of manufacturer rebates that offset the cost of Medicaid drug spending.[33]

III. Effect of Proposed Changes:

Section 1 amends s. 409.901, F.S., to create a definition of the term "serious mental illness" pertaining to the Florida Medicaid program. The bill defines that term to mean any of the following psychiatric disorders as defined by the American Psychiatric Association in the *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition*:[34]

- Bipolar disorders, including hypomanic, manic, depressive, and mixed-feature episodes.
- Depression in childhood or adolescence.
- Major depressive disorders, including single and recurrent depressive episodes.
- Obsessive-compulsive disorders.
- Paranoid personality disorder or other psychotic disorders.
- Schizoaffective disorders, including bipolar or depressive symptoms.
- Schizophrenia.

Section 2 amends s. 409.912(5)(a), 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 a serious mental illness 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 requires that in cases involving drugs for the treatment of a serious mental illness, the exception must be approved, as opposed to the Agency for Health Care Administration (AHCA) being authorized to approve the exception as in current law.

Section 3 amends s. 409.910(20)(a), F.S., to make a conforming change.

Section 4 directs the AHCA to include the bill's rate impact on new managed care plan payment rates within Statewide Medicaid Managed Care that take effect October 1, 2023.

Section 5 provides an effective date of October 1, 2023.

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[33] Agency for Health Care Administration, *2023 Agency Legislative Bill Analysis: SB 112,* Feb. 17, 2023 (on file with the Senate Committee on Health Policy).

[34] According to the American Psychiatric Association, *The Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision (DSM-5-TR),* not the original Fifth Edition, is the Association's latest version of the manual. The Association indicates that "*DSM-5-TR* features the most current text updates based on scientific literature with contributions from more than 200 subject matter experts. The revised version includes a new diagnosis (prolonged grief disorder), clarifying modifications to the criteria sets for more than 70 disorders, addition of *International Classification of Diseases, Tenth Revision, Clinical Modification (ICD-10-CM)* symptom codes for suicidal behavior and nonsuicidal self-injury, and updates to descriptive text for most disorders based on extensive review of the literature. In addition, *DSM-5-TR* includes a comprehensive review of the impact of racism and discrimination on the diagnosis and manifestations of mental disorders. The manual will help clinicians and researchers define and classify mental disorders, which can improve diagnoses, treatment, and research." See https://www.psychiatry.org/psychiatrists/practice/dsm (last visited Feb. 21, 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:

The Agency for Health Care Administration (AHCA) reports that:[35]

- CS/SB 112 will have an operational impact on both the Florida Medicaid fee-for-service delivery system and Statewide Medicaid Managed Care due to changes that will need to be made to all coding related to drugs used to treat serious mental illness.
- In addition to the operational impact, the bill could have adverse impact on the state Medicaid budget. The Florida Medicaid Prescribed Drug List (PDL) includes many effective generic and brand-name medications with robust federal rebates and additional supplemental rebates offered by drug manufacturers, resulting in reduced cost to the Florida Medicaid program. If numerous prescribing physicians elect to prescribe drugs that are not on the PDL under the bill, it may lead to an increase in net drug cost in therapeutic classes related to serious mental illness.

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[35] Agency for Health Care Administration, *2023 Agency Legislative Bill Analysis: SB 112,* Feb. 17, 2023 (on file with the Senate Committee on Health Policy).

- After the enactment of SB 534 on July 1, 2022, the Florida Medicaid program observed a relative decrease in the amount of rebates collected for the treatment of schizophrenia. A substantial decrease in rebates relative to the large number of drugs used to treat serious mental illness could be expected if CS/SB 112 takes effect as written. Antipsychotics alone are projected to result in the collection of over $13 million in rebates in the current fiscal year, with a total spend of more than $70 million. The loss of rebates for a class this size could increase the overall cost of pharmacy spending in the Florida Medicaid program.

In terms of numbers, the AHCA indicates that the fiscal impact of the bill is indeterminate, with the caveat that, according to the fiscal year 2020-2021 data, the Florida Medicaid program spent over $117 million on medications for the treatment of serious mental illness. If numerous prescribing physicians elect to prescribe drugs that are not on the PDL, and the bill's provisions are applied, it may lead to an increase in drug cost in therapeutic classes related to serious mental illness due to the loss of the AHCA's bargaining power in terms of negotiating rebates. Every one-percent loss in the rate of PDL compliance could generate a $1.1 million increase in Florida Medicaid program expenses. The extent of such noncompliance under the bill is unknown.[36]

The bill could also mitigate costs to the Florida Medicaid program or other state expenditures in indirect ways. For example, if Medicaid recipients needing certain drugs for serious mental illness experience a delay in access to those drugs due to the step-therapy protocol, such delay could lead to the need for other costly treatments, such as the costs of involuntary evaluation during a mental health crisis.[37] Such impact is also indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill's list of psychiatric disorders as defined by the American Psychiatric Association in the *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition,* includes "paranoid personality disorder or other psychotic disorders." The *DSM-5* categorizes the following disorders under Schizophrenia and "other psychotic disorders":[38]

- Schizotypal (Personality) Disorder;
- Delusional Disorder;
- Brief Psychotic Disorder;
- Schizophreniform Disorder;
- Schizophrenia;
- Schizoaffective Disorder;

[36] Agency for Health Care Administration, *2023 Agency Legislative Bill Analysis: SB 112,* Feb. 17, 2023 (on file with the Senate Committee on Health Policy)..

[37] See s. 394.463, F.S., within the Florida Mental Health Act.

[38] Wiregrass Georgia Technical College, *DSM-5: Schizophrenia Spectrum and Other Psychotic Disorders,* available at: https://wiregrass.libguides.com/c.php?g=1044445&p=7583272 (last visited Feb. 21, 2023).

- Substance/Medication-Induced Psychotic Disorder;
- Psychotic Disorder Due to Another Medical Condition;
- Catatonia;
- Other Specified Schizophrenia Spectrum and Other Psychotic Disorder; and
- Unspecified Schizophrenia Spectrum and Other Psychotic Disorder.

With the exception of schizophrenia and schizoaffective disorder, the bill includes these disorders by reference to the *DSM-5* as "other psychotic disorders" but does not list them by name. The *DSM-5* might classify other disorders as psychotic disorders that do not appear in this list.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 409.901, 409.912, and 409.910.

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 February 20, 2023
The CS changes the effective date from July 1, to October 1, 2023, and directs the Agency for Health Care Administration to consider the bill's impact when setting capitation rates for Medicaid managed care plans for the upcoming contract year that also begins October 1, 2023.

B. Amendments:

None.

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

By the Committee on Health Policy; and Senators Harrell and Wright

A bill to be entitled

An act relating to step-therapy protocols; amending s. 409.901, F.S.; defining the term "serious mental illness"; amending s. 409.912, F.S.; requiring the Agency for Health Care Administration to approve drug products for Medicaid recipients for the treatment of serious mental illness without step-therapy prior authorization under certain circumstances; amending s. 409.910, F.S.; conforming a cross-reference; directing the agency to include rate impacts resulting from the act in certain rates that become effective on a specified date; providing an effective date.

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

Section 1. Present subsections (27) and (28) of section 409.901, Florida Statutes, are redesignated as subsections (28) and (29), respectively, and a new subsection (27) is added to that section, to read:

409.901 Definitions; ss. 409.901-409.920.—As used in ss. 409.901-409.920, except as otherwise specifically provided, the term:

(27) "Serious mental illness" means any of the following psychiatric disorders as defined by the American Psychiatric Association in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition:

(a) Bipolar disorders, including hypomanic, manic, depressive, and mixed-feature episodes.

(b) Depression in childhood or adolescence.

(c) Major depressive disorders, including single and recurrent depressive episodes.

(d) Obsessive-compulsive disorders.

(e) Paranoid personality disorder or other psychotic disorders.

(f) Schizoaffective disorders, including bipolar or depressive symptoms.

(g) Schizophrenia.

Section 2. 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, 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

59 inappropriate or unnecessary use of high-cost services. The
60 agency shall contract with a vendor to monitor and evaluate the
61 clinical practice patterns of providers in order to identify
62 trends that are outside the normal practice patterns of a
63 provider's professional peers or the national guidelines of a
64 provider's professional association. The vendor must be able to
65 provide information and counseling to a provider whose practice
66 patterns are outside the norms, in consultation with the agency,
67 to improve patient care and reduce inappropriate utilization.
68 The agency may mandate prior authorization, drug therapy
69 management, or disease management participation for certain
70 populations of Medicaid beneficiaries, certain drug classes, or
71 particular drugs to prevent fraud, abuse, overuse, and possible
72 dangerous drug interactions. The Pharmaceutical and Therapeutics
73 Committee shall make recommendations to the agency on drugs for
74 which prior authorization is required. The agency shall inform
75 the Pharmaceutical and Therapeutics Committee of its decisions
76 regarding drugs subject to prior authorization. The agency is
77 authorized to limit the entities it contracts with or enrolls as
78 Medicaid providers by developing a provider network through
79 provider credentialing. The agency may competitively bid single-
80 source-provider contracts if procurement of goods or services
81 results in demonstrated cost savings to the state without
82 limiting access to care. The agency may limit its network based
83 on the assessment of beneficiary access to care, provider
84 availability, provider quality standards, time and distance
85 standards for access to care, the cultural competence of the
86 provider network, demographic characteristics of Medicaid
87 beneficiaries, practice and provider-to-beneficiary standards,

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88 appointment wait times, beneficiary use of services, provider
89 turnover, provider profiling, provider licensure history,
90 previous program integrity investigations and findings, peer
91 review, provider Medicaid policy and billing compliance records,
92 clinical and medical record audits, and other factors. Providers
93 are not entitled to enrollment in the Medicaid provider network.
94 The agency shall determine instances in which allowing Medicaid
95 beneficiaries to purchase durable medical equipment and other
96 goods is less expensive to the Medicaid program than long-term
97 rental of the equipment or goods. The agency may establish rules
98 to facilitate purchases in lieu of long-term rentals in order to
99 protect against fraud and abuse in the Medicaid program as
100 defined in s. 409.913. The agency may seek federal waivers
101 necessary to administer these policies.
102 (5)(a) The agency shall implement a Medicaid prescribed-
103 drug spending-control program that includes the following
104 components:
105 1. A Medicaid preferred drug list, which shall be a listing
106 of cost-effective therapeutic options recommended by the
107 Medicaid Pharmacy and Therapeutics Committee established
108 pursuant to s. 409.91195 and adopted by the agency for each
109 therapeutic class on the preferred drug list. At the discretion
110 of the committee, and when feasible, the preferred drug list
111 should include at least two products in a therapeutic class. The
112 agency may post the preferred drug list and updates to the list
113 on an Internet website without following the rulemaking
114 procedures of chapter 120. Antiretroviral agents are excluded
115 from the preferred drug list. The agency shall also limit the
116 amount of a prescribed drug dispensed to no more than a 34-day

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117 supply unless the drug products’ smallest marketed package is
118 greater than a 34-day supply, or the drug is determined by the
119 agency to be a maintenance drug in which case a 100-day maximum
120 supply may be authorized. The agency may seek any federal
121 waivers necessary to implement these cost-control programs and
122 to continue participation in the federal Medicaid rebate
123 program, or alternatively to negotiate state-only manufacturer
124 rebates. The agency may adopt rules to administer this
125 subparagraph. The agency shall continue to provide unlimited
126 contraceptive drugs and items. The agency must establish
127 procedures to ensure that:
128 a. There is a response to a request for prior authorization
129 by telephone or other telecommunication device within 24 hours
130 after receipt of a request for prior authorization; and
131 b. A 72-hour supply of the drug prescribed is provided in
132 an emergency or when the agency does not provide a response
133 within 24 hours as required by sub-subparagraph a.
134 2. A provider of prescribed drugs is reimbursed in an
135 amount not to exceed the lesser of the actual acquisition cost
136 based on the Centers for Medicare and Medicaid Services National
137 Average Drug Acquisition Cost pricing files plus a professional
138 dispensing fee, the wholesale acquisition cost plus a
139 professional dispensing fee, the state maximum allowable cost
140 plus a professional dispensing fee, or the usual and customary
141 charge billed by the provider.
142 3. The agency shall develop and implement a process for
143 managing the drug therapies of Medicaid recipients who are using
144 significant numbers of prescribed drugs each month. The
145 management process may include, but is not limited to,

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146 comprehensive, physician-directed medical-record reviews, claims
147 analyses, and case evaluations to determine the medical
148 necessity and appropriateness of a patient’s treatment plan and
149 drug therapies. The agency may contract with a private
150 organization to provide drug-program-management services. The
151 Medicaid drug benefit management program shall include
152 initiatives to manage drug therapies for HIV/AIDS patients,
153 patients using 20 or more unique prescriptions in a 180-day
154 period, and the top 1,000 patients in annual spending. The
155 agency shall enroll any Medicaid recipient in the drug benefit
156 management program if he or she meets the specifications of this
157 provision and is not enrolled in a Medicaid health maintenance
158 organization.
159 4. The agency may limit the size of its pharmacy network
160 based on need, competitive bidding, price negotiations,
161 credentialing, or similar criteria. The agency shall give
162 special consideration to rural areas in determining the size and
163 location of pharmacies included in the Medicaid pharmacy
164 network. A pharmacy credentialing process may include criteria
165 such as a pharmacy’s full-service status, location, size,
166 patient educational programs, patient consultation, disease
167 management services, and other characteristics. The agency may
168 impose a moratorium on Medicaid pharmacy enrollment if it is
169 determined that it has a sufficient number of Medicaid-
170 participating providers. The agency must allow dispensing
171 practitioners to participate as a part of the Medicaid pharmacy
172 network regardless of the practitioner’s proximity to any other
173 entity that is dispensing prescription drugs under the Medicaid
174 program. A dispensing practitioner must meet all credentialing

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175 requirements applicable to his or her practice, as determined by
176 the agency.
177 5. The agency shall develop and implement a program that
178 requires Medicaid practitioners who issue written prescriptions
179 for medicinal drugs to use a counterfeit-proof prescription pad
180 for Medicaid prescriptions. The agency shall require the use of
181 standardized counterfeit-proof prescription pads by prescribers
182 who issue written prescriptions for Medicaid recipients. The
183 agency may implement the program in targeted geographic areas or
184 statewide.
185 6. The agency may enter into arrangements that require
186 manufacturers of generic drugs prescribed to Medicaid recipients
187 to provide rebates of at least 15.1 percent of the average
188 manufacturer price for the manufacturer's generic products.
189 These arrangements must ~~shall~~ require that if a generic-drug
190 manufacturer pays federal rebates for Medicaid-reimbursed drugs
191 at a level below 15.1 percent, the manufacturer must provide a
192 supplemental rebate to the state in an amount necessary to
193 achieve a 15.1-percent rebate level.
194 7. The agency may establish a preferred drug list as
195 described in this subsection, and, pursuant to the establishment
196 of such preferred drug list, negotiate supplemental rebates from
197 manufacturers that are in addition to those required by Title
198 XIX of the Social Security Act and at no less than 14 percent of
199 the average manufacturer price as defined in 42 U.S.C. s. 1936
200 on the last day of a quarter unless the federal or supplemental
201 rebate, or both, equals or exceeds 29 percent. There is no upper
202 limit on the supplemental rebates the agency may negotiate. The
203 agency may determine that specific products, brand-name or

204 generic, are competitive at lower rebate percentages. Agreement
205 to pay the minimum supplemental rebate percentage guarantees a
206 manufacturer that the Medicaid Pharmaceutical and Therapeutics
207 Committee will consider a product for inclusion on the preferred
208 drug list. However, a pharmaceutical manufacturer is not
209 guaranteed placement on the preferred drug list by simply paying
210 the minimum supplemental rebate. Agency decisions will be made
211 on the clinical efficacy of a drug and recommendations of the
212 Medicaid Pharmaceutical and Therapeutics Committee, as well as
213 the price of competing products minus federal and state rebates.
214 The agency may contract with an outside agency or contractor to
215 conduct negotiations for supplemental rebates. For the purposes
216 of this section, the term "supplemental rebates" means cash
217 rebates. Value-added programs as a substitution for supplemental
218 rebates are prohibited. The agency may seek any federal waivers
219 to implement this initiative.
220 8.a. The agency may implement a Medicaid behavioral drug
221 management system. The agency may contract with a vendor that
222 has experience in operating behavioral drug management systems
223 to implement this program. The agency may seek federal waivers
224 to implement this program.
225 b. The agency, in conjunction with the Department of
226 Children and Families, may implement the Medicaid behavioral
227 drug management system that is designed to improve the quality
228 of care and behavioral health prescribing practices based on
229 best practice guidelines, improve patient adherence to
230 medication plans, reduce clinical risk, and lower prescribed
231 drug costs and the rate of inappropriate spending on Medicaid
232 behavioral drugs. The program may include the following

233 elements:
234 (I) Provide for the development and adoption of best
235 practice guidelines for behavioral health-related drugs such as
236 antipsychotics, antidepressants, and medications for treating
237 bipolar disorders and other behavioral conditions; translate
238 them into practice; review behavioral health prescribers and
239 compare their prescribing patterns to a number of indicators
240 that are based on national standards; and determine deviations
241 from best practice guidelines.
242 (II) Implement processes for providing feedback to and
243 educating prescribers using best practice educational materials
244 and peer-to-peer consultation.
245 (III) Assess Medicaid beneficiaries who are outliers in
246 their use of behavioral health drugs with regard to the numbers
247 and types of drugs taken, drug dosages, combination drug
248 therapies, and other indicators of improper use of behavioral
249 health drugs.
250 (IV) Alert prescribers to patients who fail to refill
251 prescriptions in a timely fashion, are prescribed multiple same-
252 class behavioral health drugs, and may have other potential
253 medication problems.
254 (V) Track spending trends for behavioral health drugs and
255 deviation from best practice guidelines.
256 (VI) Use educational and technological approaches to
257 promote best practices, educate consumers, and train prescribers
258 in the use of practice guidelines.
259 (VII) Disseminate electronic and published materials.
260 (VIII) Hold statewide and regional conferences.
261 (IX) Implement a disease management program with a model

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262 quality-based medication component for severely mentally ill
263 individuals and emotionally disturbed children who are high
264 users of care.
265 9. The agency shall implement a Medicaid prescription drug
266 management system.
267 a. The agency may contract with a vendor that has
268 experience in operating prescription drug management systems in
269 order to implement this system. Any management system that is
270 implemented in accordance with this subparagraph must rely on
271 cooperation between physicians and pharmacists to determine
272 appropriate practice patterns and clinical guidelines to improve
273 the prescribing, dispensing, and use of drugs in the Medicaid
274 program. The agency may seek federal waivers to implement this
275 program.
276 b. The drug management system must be designed to improve
277 the quality of care and prescribing practices based on best
278 practice guidelines, improve patient adherence to medication
279 plans, reduce clinical risk, and lower prescribed drug costs and
280 the rate of inappropriate spending on Medicaid prescription
281 drugs. The program must:
282 (I) Provide for the adoption of best practice guidelines
283 for the prescribing and use of drugs in the Medicaid program,
284 including translating best practice guidelines into practice;
285 reviewing prescriber patterns and comparing them to indicators
286 that are based on national standards and practice patterns of
287 clinical peers in their community, statewide, and nationally;
288 and determine deviations from best practice guidelines.
289 (II) Implement processes for providing feedback to and
290 educating prescribers using best practice educational materials

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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 must ~~shall~~ be developed in accordance

349 with the committee as stated in s. 409.91195(7) and (8). A drug
350 product may be approved or, in the case of a drug product for
351 the treatment of a serious mental illness, must be approved
352 without meeting the step-therapy prior authorization criteria if
353 the prescribing physician provides the agency with additional
354 written medical or clinical documentation that the product is
355 medically necessary because:
356 a. There is not a drug on the preferred drug list to treat
357 the disease or medical condition which is an acceptable clinical
358 alternative;
359 b. The alternatives have been ineffective in the treatment
360 of the beneficiary's disease;
361 c. The drug product or medication of a similar drug class
362 is prescribed for the treatment of a serious mental illness
363 ~~schizophrenia or schizotypal or delusional disorders~~; prior
364 authorization has been granted previously for the prescribed
365 drug; and the medication was dispensed to the patient during the
366 previous 12 months; or
367 d. Based on historical evidence and known characteristics
368 of the patient and the drug, the drug is likely to be
369 ineffective, or the number of doses have been ineffective.
370
371 The agency shall work with the physician to determine the best
372 alternative for the patient. The agency may adopt rules waiving
373 the requirements for written clinical documentation for specific
374 drugs in limited clinical situations.
375 15. The agency shall implement a return and reuse program
376 for drugs dispensed by pharmacies to institutional recipients,
377 which includes payment of a $5 restocking fee for the

378 implementation and operation of the program. The return and
379 reuse program shall be implemented electronically and in a
380 manner that promotes efficiency. The program must permit a
381 pharmacy to exclude drugs from the program if it is not
382 practical or cost-effective for the drug to be included and must
383 provide for the return to inventory of drugs that cannot be
384 credited or returned in a cost-effective manner. The agency
385 shall determine if the program has reduced the amount of
386 Medicaid prescription drugs which are destroyed on an annual
387 basis and if there are additional ways to ensure more
388 prescription drugs are not destroyed which could safely be
389 reused.
390 Section 3. Paragraph (a) of subsection (20) of section
391 409.910, Florida Statutes, is amended to read:
392 409.910 Responsibility for payments on behalf of Medicaid-
393 eligible persons when other parties are liable.—
394 (20)(a) Entities providing health insurance as defined in
395 s. 624.603, health maintenance organizations and prepaid health
396 clinics as defined in chapter 641, and, on behalf of their
397 clients, third-party administrators, pharmacy benefits managers,
398 and any other third parties, as defined in s. 409.901(28) ~~s.~~
399 ~~409.901(27)~~, which are legally responsible for payment of a
400 claim for a health care item or service as a condition of doing
401 business in this ~~the~~ state or providing coverage to residents of
402 this state, shall provide such records and information as are
403 necessary to accomplish the purpose of this section, unless such
404 requirement results in an unreasonable burden.
405 Section 4. The Agency for Health Care Administration is
406 directed to include the rate impact of this act in the Medicaid

407 managed medical assistance program and long-term care managed
408 care program rates that become effective on October 1, 2023.
409 Section 5. This act shall take effect October 1, 2023.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Committee on Health and Human Services, *Chair*
Environment and Natural Resources, *Vice Chair*
Appropriations
Appropriations Committee on Education
Education Postsecondary
Health Policy
Judiciary

SELECT COMMITTEE:
Select Committee on Resiliency

SENATOR GAYLE HARRELL
31st District

February 21, 2023

Senator Gayle Harrell
414 Senate Building
404 South Monroe Street
Tallahassee, FL 32399

Chair Harrell,

I respectfully request that SB 112 – Mental Health Step Therapy be placed on the next available agenda for the Health and Human Services Appropriations Committee.

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

Thank you,

Gayle

Senator Gayle Harrell
Senate District 31

Cc: Tanya Money, 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
❒ 414 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5031

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

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

The Florida Senate

APPEARANCE RECORD

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

March 8, 2023
Meeting Date

Approps HHS
Committee

112
Bill Number or Topic

Amendment Barcode (if applicable)

Name: Barney Bishop III

Phone: 850-510-9922

Address: 1454 Vieux Carre Drive
Street

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Tallahassee | FL | 32308
City | State | Zip

Speaking: [x] For [ ] Against [ ] Information **OR** Waive Speaking: [ ] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing:

Small Business Pharmacy

[ ] 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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2/8/23

Meeting Date

The Florida Senate
APPEARANCE RECORD

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SB112

Bill Number or Topic

Amendment Barcode (if applicable)

Health + Human Services Appropriation

Committee

Name Julio Fuentes, FL State Hispanic Chamber Phone 561-889-6655

Address 3970 RCA Blvd Email julio@fshcc.com

Street

Palm Beach Gardens FL 33410

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:

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S-001 (08/10/2021)

3/8/23

Meeting Date

The Florida Senate

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SB 112

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Informed Families of FLA

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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:

☐ 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)

3/8
Meeting Date

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SB 0112
Bill Number or Topic

HHS Approp
Committee

Amendment Barcode (if applicable)

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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 Assn

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S-001 (08/10/2021)

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SB112
Bill Number or Topic

HHS Appropriations
Committee

Amendment Barcode (if applicable)

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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:

Alliance for Patient Access

☐ 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)

3-8-23
Meeting Date

The Florida Senate
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SB 0112
Bill Number or Topic

HHS Approp
Committee

Amendment Barcode (if applicable)

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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 Council for Behavioral Healthcare

☐ 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)

3/8/23
Meeting Date

Appropriations Committee
Committee

The Florida Senate

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SB 112 (step therapy)
Bill Number or Topic

Amendment Barcode (if applicable)

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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:

Florida Osteopathic Medical 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)

3-8-23

Meeting Date

The Florida Senate

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SB 112

Bill Number or Topic

Approp Committee on HHS

Committee

Amendment Barcode (if applicable)

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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 Medical 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)

03/08/2023
Meeting Date

Appropiations Health & Human Services
Committee

The Florida Senate

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CS/ SB 112
Bill Number or Topic

Amendment Barcode (if applicable)

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Doral FI 33178
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:
AARP

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

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3-8-2023
Meeting Date

Appropriations Committee on Health and Human Services
Committee

The Florida Senate

APPEARANCE RECORD

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112
Bill Number or Topic

step therapy protocols
Amendment Barcode (if applicable)

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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 Psychiatric Society

☐ 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)

3-8-2023
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Committee

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112
Bill Number or Topic

step therapy
Amendment Barcode (if applicable)

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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:

American College of Ob-Gyns, District XII

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

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3-8-2023

Meeting Date

Appropriations Committee on Health and Human Services

Committee

The Florida Senate

APPEARANCE RECORD

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112

Bill Number or Topic

step therapy protocols

Amendment Barcode (if applicable)

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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 Chapter - American Academy of Pediatrics (FCAAP)

☐ 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 Committee on Health and Human Services

BILL: CS/SB 210

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

SUBJECT: Substance Abuse Services

DATE: March 7, 2023 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Delia	Cox	CF	**Fav/CS**
2.	Sneed	Money	AHS	**Favorable**
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 210 modifies requirements for licensed substance abuse service providers offering treatment to individuals living in recovery residences. The bill prohibits the following substances from being used on the premises of a provider licensed by the Department of Children and Families (the DCF):

- Alcohol;
- Marijuana, including marijuana certified by a qualified physician for medical use;
- Illegal drugs; and
- Prescription drugs when used by persons other than for whom the medication is prescribed.

The bill also prohibits referrals from licensed service providers to recovery residences which allow the use of such substances on the premises, and it requires service providers to provide proof of a prohibition on the use of such substances in applications for licensure with the DCF. Additionally, the bill provides that referrals to a recovery residence include placement into the licensed housing component of a service provider's day or night treatment program, regardless of whether the housing component is affiliated with the service provider. This will ensure that all patients referred to a recovery residence are also referred into licensed community housing as part of treatment.

The bill makes it a second degree misdemeanor for any person discharged from a recovery residence to willfully refuse to depart after being warned by an owner or authorized employee of the residence.

The bill requires the DCF to establish a mechanism for the imposition and collection of fines arising from failed inspections of recovery residences and improper referrals made by licensed service providers.

The bill may have a negative fiscal impact to private substance abuse service providers and state government. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2023.

II. Present Situation:

Substance abuse is the harmful or hazardous use of psychoactive substances, including alcohol and illicit drugs.[1] According to the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5), a diagnosis of substance use disorder (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 2021, approximately 46.3 million people aged 12 or older had a SUD related to corresponding use of alcohol or illicit drugs within the previous year.[6] The most common substance abuse disorders in the United States are from the use of alcohol, tobacco, cannabis, opioids, hallucinogens, and stimulants.[7] Provisional data from the CDC's National Center for Health Statistics indicate there were an estimated 107,622 drug overdose deaths in the United States

[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; (last visited February 8, 2023); 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 February 8, 2023).

[2] The National Association of Addiction Treatment Providers, *Substance Use Disorder*, available at https://www.naatp.org/resources/clinical/substance-use-disorder (last visited February 8, 2023).

[3] The Substance Abuse and Mental Health Services Administration (The SAMHSA), *Substance Use Disorders,* http://www.samhsa.gov/disorders/substance-use (last visited February 8, 2023).

[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 February 8, 2023).

[5] *Id.*

[6] The SAMHSA, *Highlights for the 2021 National Survey on Drug Use and Health*, p. 2, available at https://www.samhsa.gov/data/sites/default/files/2022-12/2021NSDUHFFRHighlights092722.pdf (last visited February 8, 2023).

[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 February 8, 2023).

during 2021 (the last year for which there is complete data), an increase of nearly 15% from the 93,655 deaths estimated in 2020.[8]

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.[9] 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.[10] Each of these laws governed different aspects of addiction, and thus had different rules promulgated by the state to fully implement the respective pieces of legislation.[11] 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.[12] 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).[13]

The Marchman Act encourages individuals to seek services on a voluntary basis within the existing financial and space capacities of a service provider.[14] However, denial of addiction is a prevalent symptom of SUD, creating a barrier to timely intervention and effective treatment.[15] As a result, treatment typically must stem from a third party providing the intervention needed for SUD treatment.[16]

The DCF administers a statewide system of safety-net services for substance abuse and mental health (SAMH) prevention, treatment, and recovery for children and adults who are otherwise unable to obtain these services. Services are provided based upon state and federally-established priority populations.[17] The DCF provides treatment for SUD through a community-based provider system offering detoxification, treatment, and recovery support for individuals affected by substance misuse, abuse, or dependence.[18]

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[8] The Center for Disease Control and Prevention, National Center for Health Statistics, *U.S. Overdose Deaths In 2021 Increased Half as Much as in 2020 – But Are Still Up 15%*, available at https://www.cdc.gov/nchs/pressroom/nchs_press_releases/2022/202205.htm (last visited February 8, 2023).

[9] The DCF, *Baker Act and Marchman Act Project Team Report for Fiscal Year 2016-2017*, p. 4-5. (on file with the Senate Committee on Children, Families, and Elder Affairs).

[10] *Id.*

[11] *Id.*

[12] *Id.*

[13] Chapter 93-39, s. 2, L.O.F., which codified current ch. 397, F.S.

[14] *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.

[15] 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 February 8, 2023) (hereinafter cited as "Fundamentals of the Marchman Act").

[16] *Id.*

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

[18] The DCF, *Treatment for Substance Abuse*, available at https://www.myflfamilies.com/service-programs/samh/substance-abuse.shtml (last visited February 8, 2023).

- **Detoxification Services:** Detoxification services use medical and clinical procedures to assist individuals and adults as they withdraw from the physiological and psychological effects of substance abuse.[19]
- **Treatment Services:** Treatment services[20] include a wide array of assessment, counseling, case management, and support that are designed to help individuals who have lost their ability to control their substance use on their own and require formal, structured intervention and support.[21]
- **Recovery Support:** 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.[22]

Licensure of Substance Abuse Service Providers

The DCF regulates substance use disorder treatment by licensing individual treatment components under ch. 397, F.S., and Rule 65D-30, F.A.C. Licensed service components include a continuum of substance abuse prevention,[23] intervention,[24] and clinical treatment services.[25]

Clinical treatment is a professionally directed, deliberate, and planned regimen of services and interventions that are designed to reduce or eliminate the misuse of drugs and alcohol and promote a healthy, drug-free lifestyle.[26] "Clinical treatment services" include, but are not limited to, the following licensable service components:

- Addictions receiving facility.
- Day or night treatment.
- Day or night treatment with community housing.
- Detoxification.
- Intensive inpatient treatment.
- Intensive outpatient treatment.
- Medication-assisted treatment for opiate addiction.

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[19] *Id*.
[20] *Id*. Research indicates that persons who successfully complete substance abuse treatment have better post-treatment outcomes related to future abstinence, reduced use, less involvement in the criminal justice system, reduced involvement in the child-protective system, employment, increased earnings, and better health.
[21] *Id*.
[22] *Id*.
[23] Section 397.311(26)(c), F.S. "Prevention" is defined as "a process involving strategies that are aimed at the individual, family, community, or substance and that preclude, forestall, or impede the development of substance use problems and promote responsible lifestyles". Substance abuse prevention is achieved through the use of ongoing strategies such as increasing public awareness and education, community-based processes and evidence-based practices. These prevention programs are focused primarily on youth, and, in recent years, have shifted to the local level, giving individual communities the opportunity to identify their own unique prevention needs and develop action plans in response. This community focus allows prevention strategies to have a greater impact on behavioral change by shifting social, cultural and community environments. *See also,* The DCF, *Substance Abuse: Prevention,* available at https://www.myflfamilies.com/service-programs/samh/prevention/index.shtml (last visited February 8, 2023).
[24] Section 397.311(26)(b), F.S. "Intervention" is defined as "structured services directed toward individuals or groups at risk of substance abuse and focused on reducing or impeding those factors associated with the onset or the early stages of substance abuse and related problems."
[25] Section 397.311(26), F.S.
[26] Section 397.311(26)(a), F.S.

- Outpatient treatment.
- Residential treatment.[27]

Florida does not license recovery residences. Instead, in 2015 the Legislature enacted ss. 397.487 through 397.4872, F.S., which establish voluntary certification programs for recovery residences and recovery residence administrators, implemented by private credentialing entities.[28]

Day or Night Treatment with Community Housing

The DCF licenses "Day or Night Treatment" facilities both with and without community housing components. Day or night treatment programs provide substance use treatment as a service in a nonresidential environment, with a structured schedule of treatment and rehabilitative services.[29] Day or night treatment programs with community housing are intended for individuals who can benefit from living independently in peer community housing while participating in treatment services for a minimum of 5 hours a day or 25 hours per week.[30]

Day or night treatment with community housing is appropriate for individuals who do not require structured, 24-hours-a-day, 7-days-a-week residential treatment.[31] The housing must be provided and managed by the licensed service provider, including room and board and any ancillary services such as supervision, transportation, and meals. Activities for day or night treatment with community housing programs emphasize rehabilitation and treatment services using multidisciplinary teams to provide integration of therapeutic and family services.[32] This component allows individuals to live in a supportive, community housing location while participating in treatment. Treatment must not take place in the housing where the individuals live, and the housing must be utilized solely for the purpose of assisting individuals in making a transition to independent living.[33] Individuals who are considered appropriate for this level of care:

- Would not have active suicidal or homicidal ideation or present a danger to self or others;
- Are able to demonstrate motivation to work toward independence;
- Are able to demonstrate a willingness to live in supportive community housing;
- Are able to demonstrate commitment to comply with rules established by the provider;
- Are not in need of detoxification or residential treatment; and
- Typically need ancillary services such as transportation, assistance with shopping, or assistance with medical referrals and may need to attend and participate in certain social and recovery oriented activities in addition to other required clinical services.[34]

Services provided by such programs may include:

- Individual counseling;
- Group counseling;

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[27] *Id.*
[28] Chapter 2015-100, L.O.F.
[29] Section 397.311(26)(a)2., F.S.
[30] Section 397.311(26)(a)3., F.S.
[31] Rule 65D-30.0081(1), F.A.C.
[32] *Id.*
[33] *Id.*
[34] *Id.*

- Counseling with families or support system;
- Substance-related and recovery-focused education, such as strategies for avoiding substance use or relapse, information regarding health problems related to substance use, motivational enhancement, and strategies for achieving a substance-free lifestyle;
- Life skills training such as anger management, communication skills, employability skills, problem solving, relapse prevention, recovery management, decision-making, relationship skills, symptom management, and food purchase and preparation;
- Expressive therapies, such as recreation therapy, art therapy, music therapy, or dance (movement) therapy to provide the individual with alternative means of self-expression and problem resolution;
- Training or provision of information regarding health and medical issues;
- Employment or educational support services to assist individuals in becoming financially independent;
- Nutrition education; and
- Mental health services for the purpose of:
  - Managing individuals with disorders who are stabilized,
  - Evaluating individuals' needs for in-depth mental health assessment,
  - Training individuals to manage symptoms; and
  - If the provider is not staffed to address primary mental health problems that may arise during treatment, the provider shall initiate a timely referral to an appropriate provider for mental health crises or for the emergence of a primary mental health disorder in accordance with the provider's policies and procedures.[35]

Each enrolled individual must receive a minimum of 25 hours of service per week, including:
- Counseling;
- Group counseling; or
- Counseling with families or support systems.[36]

Each provider is required to arrange for or provide transportation services, if needed and as appropriate, to clients who reside in community housing.[37] Each provider must have an awake, paid employee on the premises at all times at the treatment location when one or more individuals are present.[38] For adults, the provider must have a paid employee on call during the time when individuals are at the community housing location.[39] In addition, the provider must have an awake, paid employee at the community housing location at all times if individuals under the age of 18 are present.[40] No primary counselor may have a caseload that exceeds 15 individuals.[41] For individuals in treatment who are granted privilege to self-administer their own medications, provider staff are not required to be present for the self-administration.[42]

[35] Rule 65D-30.0081(2), F.A.C.
[36] Rule 65D-30.0081(4), F.A.C.
[37] Rule 65D-30.0081(5), F.A.C.
[38] Rule 65D-30.0081(6), F.A.C.
[39] *Id.*
[40] *Id.*
[41] Rule 65D-30.0081(7), F.A.C.
[42] Rule 65D-30.0081(8), F.A.C.

Application for Licensure

Individuals applying for licensure as substance abuse service providers must submit applications on specified forms provided, and in accordance with rules adopted by the DCF.[43] Applications must include, at a minimum:

- Information establishing the name and address of the applicant service provider and its director, and also of each member, owner, officer, and shareholder, if any.
- Information establishing the competency and ability of the applicant service provider and its director to carry out the requirements of ch. 397, F.S.
- Proof satisfactory to the DCF of the applicant service provider's financial ability and organizational capability to operate in accordance with ch. 397, F.S.
- Proof of liability insurance coverage in amounts set by the DCF by rule.
- Sufficient information to conduct background screening for all owners, directors, chief financial officers, and clinical supervisors as provided in s. 397.4073, F.S.
- Proof of satisfactory fire, safety, and health inspections, and compliance with local zoning ordinances.[44]
- A comprehensive outline of the proposed services, including sufficient detail to evaluate compliance with clinical and treatment best practices, for:
  - Any new applicant; or
  - Any licensed service provider adding a new licensable service component.
- Proof of the ability to provide services in accordance with the DCF rules.
- Any other information that the DCF finds necessary to determine the applicant's ability to carry out its duties under this chapter and applicable rules.
- The names and locations of any recovery residences to which the applicant service provider plans to refer patients or from which the applicant service provider plans to accept patients.[45]

Inspections and Classifications of Violations

The DCF has the right to enter and inspect a licensed provider at any time to determine statutory and regulatory compliance and may inspect suspected unlicensed providers.[46] The DCF is required to accept, in lieu of its own inspections for licensure, the survey or inspection of an accrediting organization, if the provider is accredited and the DCF receives the report of the accrediting organization.[47] A designated and authorized agent of the DCF may access the records of the individuals served by licensed service providers, but only for purposes of licensing, monitoring, and investigation.[48] The DCF's authorized agents may schedule periodic inspections of licensed service providers in order to minimize costs and the disruption of services, however they may inspect the facilities of any licensed service provider at any time.[49]

[43] Section 397.403(1), F.S.
[44] Service providers operating under a regular annual license shall have 18 months from the expiration date of their regular license within which to meet local zoning requirements. Applicants for a new license must demonstrate proof of compliance with zoning requirements prior to the department issuing a probationary license. Section 397.403(1)(f), F.S.
[45] Section 397.403(1), F.S.
[46] Section 397.411(1)(a), F.S.
[47] Section 397.411(2), F.S.
[48] Section 397.411(3), F.S.
[49] Section 397.411(4), F.S.

In an effort to coordinate inspections among agencies, the DCF is required to notify applicable state agencies of any scheduled licensure inspections of service providers jointly funded by the agencies.[50] The DCF is required to maintain as public information, available to any person upon request and upon payment of a reasonable charge for copying, copies of licensure reports of licensed providers.[51]

Rule violations are classified according to the nature of the violation and the gravity of its probable effect on an individual receiving substance abuse treatment.[52] Violations are classified on written notices as follows:

- Class "I" violations are those conditions or occurrences related to the operation and maintenance of a service component or to the treatment of an individual which the DCF determines present an imminent danger or a substantial probability of death or serious physical or emotional harm. The condition or practice constituting a class I violation must be abated or eliminated within 24 hours, unless a fixed period, as determined by the DCF, is required for correction. The DCF is required to impose an administrative fine for a cited class I violation. Fines are levied notwithstanding the correction of the violation.[53]
- Class "II" violations are those conditions or occurrences related to the operation and maintenance of a service component or to the treatment of an individual which the DCF determines directly threaten the physical or emotional health, safety, or security of the individual, other than class I violations. The DCF is required to impose an administrative fine for a cited class II violation. Fines are levied notwithstanding the correction of the violation.[54]
- Class "III" violations are those conditions or occurrences related to the operation and maintenance of a service component or to the treatment of an individual which the DCF determines indirectly or potentially threaten the physical or emotional health, safety, or security of the individual, other than class I or class II violations. The DCF is required to impose an administrative fine for a cited class III violation. A citation for a class III violation must specify the time within which the violation is required to be corrected. If a class III violation is corrected within the time specified, the DCF may not impose a fine.[55]
- Class "IV" violations are conditions or occurrences related to the operation and maintenance of a service component or to required reports, forms, or documents that do not have the potential of negatively affecting an individual. These violations are of a type that the DCF determines do not threaten the health, safety, or security of an individual. The DCF is required to impose an administrative fine for a cited class IV violation. A citation for a class IV violation must specify the time within which the violation is required to be corrected. If a class IV violation is corrected within the time specified, the DCF may not impose a fine.[56]

[50] Section 397.411(5), F.S.
[51] Section 397.411(6), F.S.
[52] Section 397.411(7), F.S.
[53] Section 397.411(7)(a), F.S.
[54] Section 397.411(7)(b), F.S.
[55] Section 397.411(7)(c), F.S.
[56] Section 397.411(7)(d), F.S.

Recovery Residences

Recovery residences (also known as "sober homes" or "sober living homes") are alcohol- and drug-free living environments for individuals in recovery who are attempting to maintain abstinence from alcohol and drugs.[57] These residences offer no formal treatment and are, in some cases, self-funded through resident fees.[58]

A recovery residence is defined as "a residential dwelling unit, the community housing component of a licensed day or night treatment facility with community housing, or other form of group housing, which is offered or advertised through any means, including oral, written, electronic, or printed means, by any person or entity as a residence that provides a peer-supported, alcohol-free, and drug-free living environment."[59]

Voluntary Certification of Recovery Residences and Administrators in Florida

Florida utilizes voluntary certification programs for recovery residences and recovery residence administrators, implemented by private credentialing entities.[60] Under the voluntary certification program, the DCF has approved two credentialing entities to design the certification programs and issue certificates: the Florida Association of Recovery Residences certifies the recovery residences and the Florida Certification Board (the FCB) certifies recovery residence administrators.[61]

Credentialing entities must require prospective recovery residences to submit the following documents with a completed application and fee:

- A policy and procedures manual containing:
  - Job descriptions for all staff positions;
  - Drug-testing procedures and requirements;
  - A prohibition on the premises against alcohol, illegal drugs, and the use of prescribed medications by an individual other than the individual for whom the medication is prescribed;
  - Policies to support a resident's recovery efforts; and
  - A good neighbor policy to address neighborhood concerns and complaints.
- Rules for residents;
- Copies of all forms provided to residents;
- Intake procedures;
- Sexual predator and sexual offender registry compliance policy;
- Relapse policy;
- Fee schedule;

[57] The SAMSHA, *Recovery Housing: Best Practices and Suggested Guidelines*, p. 2, available at https://www.samhsa.gov/sites/default/files/housing-best-practices-100819.pdf (last visited February 8, 2023).

[58] However, these homes may mandate or strongly encourage attendance at 12-step groups. The Society for Community Research and Action, *Statement on Recovery Residences: The Role of Recovery Residences in Promoting Long-term Addiction Recovery*, available at https://www.scra27.org/what-we-do/policy/policy-position-statements/statement-recovery-residences-addiction/ (last visited February 8, 2023).

[59] Section 397.311(38), F.S.

[60] Sections 397.487–397.4872, F.S.

[61] The DCF, *Recovery Residence Administrators and Recovery Residences,* available at https://www.myflfamilies.com/service-programs/samh/recovery-residence/ (last visited February 8, 2023).

- Refund policy;
- Eviction procedures and policy;
- Code of ethics;
- Proof of insurance;
- Proof of background screening; and
- Proof of satisfactory fire, safety, and health inspections.[62]

Patient Referrals

While certification is voluntary, Florida law incentivizes certification. Since 2016, Florida has prohibited licensed substance abuse service providers from referring patients to a recovery residence unless the recovery residence holds a valid certificate of compliance and is actively managed by a certified recovery residence administrator (CRRA).[63] There are certain exceptions that allow referrals to or from uncertified recovery residences, including any of the following:

- A licensed service provider under contract with a behavioral health managing entity.
- Referrals by a recovery residence to a licensed service provider when the recovery residence or its owners, directors, operators, or employees do not benefit, directly or indirectly, from the referral.
- Referrals made before July 1, 2018, by a licensed service provider to that licensed service provider's wholly owned subsidiary.
- Referrals to, or accepted referrals from, a recovery residence with no direct or indirect financial or other referral relationship with the licensed service provider, and that is democratically operated by its residents pursuant to a charter from an entity recognized or sanctioned by Congress, and where the residence or any resident of the residence does not receive a benefit, directly or indirectly, for the referral.[64]

Service providers are required to record the name and location of each recovery residence that the provider has referred patients to or received referrals from in the DCF's Provider Licensure and Designations System.[65] Prospective service providers must also include the names and locations of any recovery residences which they plan to refer patients to, or accept patients from, on their application for licensure.[66]

III. Effect of Proposed Changes:

Substance Use Prohibition

The bill requires applicants for licensure as substance abuse service providers with the DCF to provide proof of a prohibition on the premises against the following substances:

- Alcohol;
- Marijuana, including marijuana certified by a qualified physician for medical use;[67]

[62] Section 397.487(3), F.S.
[63] Section 397.4873(1), F.S.
[64] Section 397.4873(2)(a)-(d), F.S.
[65] Section 397.4104(1), F.S.
[66] Section 397.403(1)(j), F.S.
[67] In Florida, a recommendation for medical marijuana from a physician is not considered to be a prescription because marijuana is a Schedule I controlled substance and, under federal law, "has no currently accepted medical use in treatment in

- Illegal drugs; and
- Prescription drugs used by persons other than for whom the medication is prescribed.

The bill also requires the DCF to include a prohibition on any of these substances on the premises as a licensing requirement for substance abuse service providers. This provision aligns the licensed service providers with the prohibited substances policy with which the certified recovery residences must comply.

The bill prohibits licensed substance abuse service providers from making referrals of prospective, current, or discharged patients to, or accepting referrals from, recovery residences which allow the use of any of the aforementioned substances on its premises.

The bill also adds marijuana to the list of substances a credentialing entity must require that a recovery residence list as prohibited in its policy and procedures manual when submitting an application for certification.

Mechanism for Imposing and Collecting Fines

As mentioned above, the DCF has authority to inspect and issue violations to providers who are out of compliance with rule or providers that are suspected of operating while unlicensed. However, the bill requires the DCF to establish a mechanism for the imposition and collection of fines for violations related to inspections of licensed substance abuse service providers to improve the DCF's administrative oversight.

Criminal Penalty for Trespassing

The bill makes it a second degree misdemeanor[68] for any person discharged from a recovery residence to willfully refuse to depart after being warned by the owner or an authorized employee of the recovery residence.

Community Housing Referrals

The bill provides that any referral made by a licensed substance abuse service provider or a recovery residence must include placing the referred patient into the licensed community housing component of the provider's day or night treatment program, regardless of whether the community housing component is affiliated with the service provider.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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the United States." The Florida Department of Law Enforcement, *Criminal Justice Standards and Training Commission Technical Memorandum 2019-03*, available at https://www.fdle.state.fl.us/CJSTC/Publications/Publications/Technical-Memoranda/Documents/2019/TM-2019-03-MedicalMarijuanaUpdates-final3-signedPk.aspx at p. 6. *See also* Section 381.986(1)(k), F.S., which defines "physician certification" to mean "a qualified physician's authorization for a qualified patient to receive marijuana and a marijuana delivery device from a medical marijuana treatment center."

[68] A second degree misdemeanor is punishable by a term of imprisonment not to exceed 60 days and a fine not to exceed $500. Sections 775.083(1)(e) and 775.082(4)(b), F.S.

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:

There may be an indeterminate negative fiscal impact to licensed substance abuse service providers, as these providers will need to ensure prohibited substances are not used on the premises. Enforcement of this requirement may require hiring additional staff.

C. Government Sector Impact:

The DCF has stated that the Provider Licensure and Designations System (PLADS) will need to be modified to include monitoring of proof of a provider's prohibition of alcohol, marijuana, illegal drugs, and the use of prescribed medications by any individual other than the individual from whom the medication is prescribed.[69] The DCF has provided an estimate of $20,000 for the modifications, and believes the cost can be absorbed by the existing budget for PLADS enhancements.[70]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

[69] The DCF, *Agency Analysis of SB 210* (2023), p. 6 (on file with the Senate Committee on Children, Families, and Elder Affairs).
[70] *Id*.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statues: 397.403, 397.410, 397.411, 397.487, and 397.4873.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Children, Families, and Elder Affairs on February 14, 2023:
The Committee Substitute clarifies that the bill's added prohibitions against marijuana on the premises of licensed service providers also apply to marijuana certified by a qualified physician for medical use in accordance with s. 381.986, F.S.

B. Amendments:

None.

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

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

586-02085-23 2023210c1

A bill to be entitled

An act relating to substance abuse services; amending s. 397.403, F.S.; revising application requirements for licensure as a substance abuse service provider; defining the term “marijuana”; amending s. 397.410, F.S.; revising licensure requirements for substance abuse providers; defining the term “marijuana”; amending s. 397.411, F.S.; requiring the Department of Children and Families to establish, by a specified date, a mechanism to impose and collect fines for certain violations of law; amending s. 397.487, F.S.; revising credentialing requirements for recovery residences; defining the term “marijuana”; prohibiting persons discharged from a recovery residence from willfully refusing to depart after being warned by specified persons; providing criminal penalties; amending s. 397.4873, F.S.; prohibiting service providers from referring patients to, or accepting referrals from, specified recovery residences; revising requirements regarding patient referrals for substance abuse service providers and recovery residences; defining the term “marijuana”; requiring the department to establish, by a specified date, a mechanism to impose and collect fines for certain violations of law; providing an effective date.

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

Section 1. Paragraph (k) is added to subsection (1) of

586-02085-23 2023210c1

section 397.403, Florida Statutes, to read:

397.403 License application.—

(1) Applicants for a license under this chapter must apply to the department on forms provided by the department and in accordance with rules adopted by the department. Applications must include at a minimum:

(k) Proof of a prohibition on the premises against alcohol, marijuana, illegal drugs, and the use of prescribed medications by an individual other than the individual for whom the medication is prescribed. For the purposes of this paragraph, “marijuana” includes marijuana that has been certified by a qualified physician for medical use in accordance with s. 381.986.

Section 2. Paragraph (f) is added to subsection (1) of section 397.410, Florida Statutes, to read:

397.410 Licensure requirements; minimum standards; rules.—

(1) The department shall establish minimum requirements for licensure of each service component, as defined in s. 397.311(26), including, but not limited to:

(f) A prohibition on the premises against alcohol, marijuana, illegal drugs, and the use of prescribed medications by an individual other than the individual for whom the medication is prescribed. For the purposes of this paragraph, “marijuana” includes marijuana that has been certified by a qualified physician for medical use in accordance with s. 381.986.

Section 3. Subsection (8) is added to section 397.411, Florida Statutes, to read:

397.411 Inspection; right of entry; classification of

violations; records.—

(8) The department shall establish a mechanism for the imposition and collection of fines for violations under this section no later than January 1, 2024.

Section 4. Paragraph (a) of subsection (3) of section 397.487, Florida Statutes, is amended, and subsection (12) is added to that section, to read:

397.487 Voluntary certification of recovery residences.—

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

(a) A policy and procedures manual containing:

1. Job descriptions for all staff positions.

2. Drug-testing procedures and requirements.

3. A prohibition on the premises against alcohol, marijuana, illegal drugs, and the use of prescribed medications by an individual other than the individual for whom the medication is prescribed. For the purposes of this subsection, “marijuana” includes marijuana that has been certified by a qualified physician for medical use in accordance with s. 381.986.

4. Policies to support a resident’s recovery efforts.

5. A good neighbor policy to address neighborhood concerns and complaints.

(12) Any person discharged from a recovery residence under subsection (11) who willfully refuses to depart after being warned by the owner or an authorized employee of the recovery residence commits the offense of trespass in a recovery residence, a misdemeanor of the second degree, punishable as

provided in s. 775.082 or s. 775.083.

Section 5. Present subsections (3) through (7) of section 397.4873, Florida Statutes, are redesignated as subsections (4) through (8), respectively, a new subsection (3) is added to that section, and present subsections (3) and (6) of that section are amended, to read:

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

(3) Notwithstanding subsection (2), a service provider licensed under this part may not make a referral of a prospective, current, or discharged patient to, or accept a referral of such patient from, a recovery residence that allows on its premises the use of alcohol, marijuana, or illegal drugs or the use of prescribed medications by an individual other than the individual for whom the medication is prescribed. For the purposes of this subsection, “marijuana” includes marijuana that has been certified by a qualified physician for medical use in accordance with s. 381.986.

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

(b) A referral shall also include the placement of a patient by a licensed service provider into the housing component of the provider’s day or night treatment, which has a community housing license, regardless of whether the community

117 housing component is affiliated with the licensed service
118 provider.
119 (7) ~~(6)~~ A licensed service provider that violates this
120 section is subject to an administrative fine of $1,000 per
121 occurrence. If such fine is imposed by final order of the
122 department and is not subject to further appeal, the service
123 provider shall pay the fine plus interest at the rate specified
124 in s. 55.03 for each day beyond the date set by the department
125 for payment of the fine. If the service provider does not pay
126 the fine plus any applicable interest within 60 days after the
127 date set by the department, the department shall immediately
128 suspend the service provider’s license. Repeat violations of
129 this section may subject a provider to license suspension or
130 revocation pursuant to s. 397.415. The department shall
131 establish a mechanism no later than January 1, 2024, for the
132 imposition and collection of fines for violations under this
133 section.
134 Section 6. This act shall take effect July 1, 2023.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Committee on Health and Human Services, *Chair*
Environment and Natural Resources, *Vice Chair*
Appropriations
Appropriations Committee on Education
Education Postsecondary
Health Policy
Judiciary

SELECT COMMITTEE:
Select Committee on Resiliency

SENATOR GAYLE HARRELL
31st District

February 16, 2023

Senator Gayle Harrell
414 Senate Building
404 South Monroe Street
Tallahassee, FL 32399

Chair Harrell,

I respectfully request that SB 210 – Substance Abuse Services be placed on the next available agenda for the Health & Human Services Appropriations Committee Meeting.

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

Thank you,

Gayle

Senator Gayle Harrell
Senate District 31

Cc: Tanya Money, 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
❒ 414 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5031

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

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

The Florida Senate

APPEARANCE RECORD

March 8, 2023
Meeting Date

Approps HHS
Committee

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

210
Bill Number or Topic

Amendment Barcode (if applicable)

Name: Barney Bishop III

Phone: 850-510-9922

Address: 1454 Vieux Carre Drive
Street

Email: Barney@BarneyBishop.com

Tallahassee | FL | 32308
City | State | Zip

Speaking: [x] For [ ] Against [ ] Information **OR** Waive Speaking: [ ] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing:

Small Business Pharmacy

[ ] 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)

3.8.23
Meeting Date

The Florida Senate
APPEARANCE RECORD

210
Bill Number or Topic

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HHS Appropriations
Committee

Amendment Barcode (if applicable)

Name Albert Balido

Phone 850 251 3440

Address 27 W Park Ave
Street

Email Albert@antfieldflorida.com

Tall 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 Certification Board

☐ 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)

03/08/2023
Meeting Date

Senate appropriations Committee on HHS
Committee

The Florida Senate
APPEARANCE RECORD

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SB210
Bill Number or Topic

Amendment Barcode (if applicable)

Name Alan Johnson

Phone 561 355 7265

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West Palm Beach FL 33401
City State Zip

Email ajohnson@sa15.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:

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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3/8/23
Meeting Date

Appro - Health + Hum Services
Committee

The Florida Senate
APPEARANCE RECORD

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SB 210
Bill Number or Topic

Amendment Barcode (if applicable)

Name Stephen WINN

Phone 850-251-0792

Address 1424 Ox Bottom Rd.
Street

Tall. Fla. 32312
City State Zip

Email WINNSK@Earthlink.net

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:

Gadsden County Sheriff Office

☐ 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 Committee on Health and Human Services

BILL: CS/SB 452

INTRODUCER: Appropriations Committee on Health and Human Services and Senator Harrell

SUBJECT: Home Health Aides for Medically Fragile Children

DATE: March 9, 2023 REVISED:

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 452 creates the Home Health Aides for Medically Fragile Children program to help ameliorate the impact of the shortage of health care workers on medically fragile children. The bill requires the Agency for Health Care Administration (AHCA), in consultation with the Board of Nursing (BON), to approve any training program created by a Home Health Agency (HHA) that meets the federal standards[1] for a nurse aide training program and which is meant to train family caregivers as home health aides for medically fragile children (aide).

The bill requires that such a program consist of at least 85 hours of training in specified topics and allows a HHA to employ a family caregiver as an aide if he or she has completed the training program and met other specified criteria, including background screening. The bill also requires an aide to complete HIV/AIDS and Cardiopulmonary Resuscitation (CPR) training and requires the employing HHA to ensure that the aide has 12 hours of in-service training every 12 months. The bill grants civil immunity to a HHA that terminates or denies employment to an aide who fails to maintain the requirements of the section or whose name appears on a criminal screening report.

The bill allows the AHCA, in consultation with the BON, to adopt rules to implement the bill and requires the AHCA to assess the program annually and to modify the Medicaid state plan and implement any federal waivers necessary to implement the program.

[1] 42 C.F.R. 483.151-483.154 and 484.80

The bill authorizes four full-time equivalent (FTE) positions with associated salary rate of 186,483, and $353,589 in recurring funds and $118,728 in nonrecurring funds from the Health Care Trust Fund in Fiscal Year 2023-2024 to the AHCA to implement provisions of the bill.

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

The bill takes effect upon becoming law.

II. Present Situation:

Home Health Agencies

A "home health agency" (HHA) is an organization that provides home health services.[2] Home health services comprise health and medical services and supplies furnished to an individual in the individual's home or place of residence.[3]

Home health aides[4] and certified nursing assistants[5] (CNAs) are unlicensed health care workers employed by a HHA to provide personal care[6] to patients and assist them with the following activities of daily living:

- Ambulation;
- Bathing;
- Dressing;
- Eating;
- Personal hygiene;
- Toileting;
- Physical transferring;
- Assistance with self-administered medication; and
- Administering medications.[7]

[2] s. 400.462(12), F.S.

[3] s. 400.462(15), F.S., home health services include the following: nursing care; physical, occupational, respiratory, or speech therapy; home health aide services; dietetics and nutrition practice and nutrition counseling; and medical supplies, restricted to drugs and biologics prescribed by a physician.

[4] s. 400.462(14), F.S., a home health aide is a person who is trained or qualified, as provided by rule, and who provides hands-on personal care, performs simple procedures as an extension of therapy or nursing services, assists in ambulation or exercises, assists in administering medications as permitted in rule and for which the person has received training established by the agency, or performs tasks delegated to him or her under ch. 464, F.S.

[5] s. 464.201(3), F.S., a CNA is a person who meets the qualifications of part II of ch. 464, F.S., and who is certified by the Board of Nursing as a certified nursing assistant.

[6] s. 400.462(23), F.S., defines "personal care" as assistance to a patient in the activities of daily living, such as dressing, bathing, eating, or personal hygiene, and assistance in physical transfer, ambulation, and in administering medications as permitted by rule.

[7] Rule 59A-8.002(3), F.A.C.

Florida's Medicaid Model Waiver

Florida's Model Waiver is an existing waiver designed to delay or prevent institutionalization and allow recipients to maintain stable health while living at home or in their community. The waiver's purpose is to provide medically necessary services to eligible children under 21 years of age who have degenerative spinocerebellar disease and are living at home or in their community or who are medically fragile and have resided in a skilled nursing facility for at least 60 consecutive days prior to entrance on the waiver. For the purposes of the waiver, "Medically Fragile" is defined as an individual who is medically complex and technologically dependent on medical apparatus or procedures to sustain life, or is dependent on a heightened level of medical supervision to sustain life, and without such services is likely to expire without warning.

The Model Waiver provides the following services to eligible recipients:
- Respite care;
- Environmental accessibility adaptations; and
- Transition Case Management.

The Model Waiver has a maximum capacity of 20 recipients and a reserved capacity for 15 children transitioning into the community from a skilled nursing facility.[8]

Private Duty Nursing Services

Currently, federal law allows Medicaid to reimburse for private duty nursing (PDN) services. 42 C.F.R. 440.80 defines PDN services as nursing services for beneficiaries who require more individual and continuous care than is available from a visiting nurse or routinely provided by the nursing staff of the hospital or skilled nursing facility. These services are provided:
- By a registered nurse or a licensed practical nurse;
- Under the direction of the beneficiary's physician; and
- To a beneficiary in one or more of the following locations at the option of the state:
  - His or her own home;
  - A hospital; or
  - A skilled nursing facility

Florida Medicaid allows PDN to be provided to recipients under the age of 21 years who require such services, and PDN can be provided by a HHA, a licensed practical nurse (LPN), or a registered nurse (RN).[9, 10] If the PDN is provided by a parent or legal guardian of the recipient, Medicaid will reimburse for up to 40 hours per week, per recipient, so long as the parent or guardian has a valid LPN or RN license and is employed by a HHA.[11] However, other than those mentioned above, services furnished by relatives as defined in s. 429.02(18), F.S., household

[8] Application for a §1915(c) Home and Community Based Services Waiver, Florida Agency for Health Care Administration, Jul. 1, 2020, available at https://ahca.myflorida.com/medicaid/hcbs_waivers/docs/Model_Waiver_Document_2020.pdf (last visited Feb. 16, 2023).
[9] 59G-4.261, F.A.C.
[10] Florida Medicaid, Private Duty Nursing Services Coverage Policy, Agency for Health Care Administration, Nov. 2016 available at https://ahca.myflorida.com/medicaid/review/Specific/59G-4-261_Private_Duty_Nursing_Services_Coverage_Policy.pdf (last visited Feb. 16, 2023).
[11] Id.

members, or any person with custodial or legal responsibility for the recipient are specifically not covered under the PDN policy.[12]

Family Caregiver Programs in Other States

Currently, five states have family caregiver programs: Arizona, Colorado, New Hampshire, Pennsylvania, and Indiana.[13] Although each state has different specific criteria, the criteria are all similar in that the eligible relative must be under 21 years of age, qualify for the state's Medicaid program, and be medically fragile or medically complex. Each state also requires the caregiver to be trained and/or licensed as a CNA or that state's equivalent. Once the caregiver has achieved his or her training or licensure, he or she is required to obtain employment with a HHA and, at that point, is eligible to be compensated by the state's Medicaid program for services they render to their family member.[14]

III. Effect of Proposed Changes:

Section 1 creates s. 400.4765, F.S., to establish the Home Health Aides for Medically Fragile Children program. The bill amends s. 400.462, F.S., to define the following terms:

- "Approved Training Program" to mean "a course of training approved by the Agency for Health Care Administration (AHCA), in consultation with the Board of Nursing (BON), under s. 400.4765, F.S., to train family caregivers as home health aides for medically fragile children."
- "Eligible Relative" to mean "with respect to the home health aide for medically fragile children program under s. 400.4765, F.S., a person 21 years of age or younger who is eligible to receive continuous skilled nursing or skilled nursing respite care services under the Medicaid program and is a relative of a home health aide for medically fragile children."
- "Family Caregiver" to mean "a person providing or intending to provide significant personal care and assistance to an eligible relative 21 years of age or younger who has an underlying physical or cognitive condition that prevents him or her from safely living independently."
- "Home Health Aide for Medically Fragile Children" to mean "a family caregiver who meets the qualifications specified in s. 400.4765, F.S.; performs tasks delegated to him or her under chapter 464, F.S., while caring for an eligible relative; and provides care and assistance to an eligible relative relating to:
  - Activities of daily living, such as those associated with personal care, maintaining mobility, nutrition and hydration, toileting and elimination, assistive devices, and safety and cleanliness.
  - Data gathering.
  - Reporting abnormal signs and symptoms.
  - Patient socialization and reality orientation.
  - Cardiopulmonary resuscitation and emergency care.
  - Residents' or patients' rights.
  - Documentation of services.

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[12] Id.

[13] Team Select Home Care, Program Locations, available at https://tshc.com/states-where-the-program-is-available/ (last visited Feb. 20, 2023).

[14] Team Select Home Care, Program Locations, available at https://tshc.com/states-where-the-program-is-available/ (last visited Feb. 20, 2023).3

  - End-of-life care.
  - Postmortem care."

Section 2 authorizes Home Health Aides for Medically Fragile Children (aides) to perform certain tasks delegated by a registered nurse, including medication administration, and requires licensed Home Health Agencies (HHAs) to ensure that aides providing such services are adequately trained to perform these tasks.

Section 3 requires HHAs to ensure that each aide employed by or under contract with the HHA is adequately trained to perform the tasks of a home health aide in the home setting and prohibits a HHA from requiring an aide to repay or reimburse the HHA for costs associated with the training program established under the bill.

Section 4 requires the AHCA, in consultation with the BON, to approve a training program created by a HHA that meets federal requirements[15] and that will train family caregivers as aides to provide trained nursing services to eligible relatives. The training program must require a family caregiver to complete 85 hours of training, including, but not limited to:

- A minimum of 40 hours of theoretical instruction, offered in various formats and times of day, in nursing, including, but not limited to, instruction on all of the following:
  - Person-centered care.
  - Communication and interpersonal skills.
  - Infection control.
  - Safety and emergency procedures.
  - Assistance with activities of daily living.
  - Mental health and social service needs.
  - Care of cognitively impaired individuals.
  - Basic restorative care and rehabilitation.
  - Patient rights and confidentiality of personal information and medical records.
  - Relevant legal and ethical issues.
- A minimum of 20 hours of skills training on basic nursing skills, including, but not limited to:
  - Hygiene, grooming, and toileting.
  - Skin care and pressure sore prevention.
  - Nutrition and hydration.
  - Measuring vital signs, height, and weight.
  - Safe lifting, positioning, and moving of patients.
  - Wound care.
  - Portable oxygen use and safety and other respiratory procedures.
  - Tracheostomy care.
  - Enteral care and therapy.
  - Peripheral intravenous assistive activities and alternative feeding methods.
  - Urinary catheterization and ostomy care.
- At least 16 hours of clinical training under direct supervision of a licensed registered nurse.

[15] 42 C.F.R. 483.151-483.154 and 484.80

The bill exempts family caregivers who have graduated from an accredited nursing school but have not yet taken the state licensure exam from the requirement to take the training.

In addition to the required training, a family caregiver must care for an eligible relative; demonstrate a minimum competency to read and write; pass a background screening pursuant to s. 400.512, F.S., except that the AHCA must waive this requirement if the family caregiver has passed a background screening pursuant to ss. 400.512 or 400.809, F.S., within the previous 90 days and the caregiver's results are not retained in the Care Provider Background Screening Clearinghouse.[16]

If a family caregiver allows 24 consecutive months to pass without performing any nursing-related services for an eligible relative, the family caregiver must recomplete the training program prior to serving as an aide.

After becoming an aide, he or she must complete an HIV/AIDS training course and maintain a certificate in cardiopulmonary resuscitation (CPR). Additionally, the HHA employing the aide must ensure that he or she completes 12 hours of in-service training during each 12-month period as a condition of employment. The bill specifies that the HIV/AIDS training may count toward the 12 hours of training and that the HHA must maintain documentation demonstrating compliance with this requirement.

The bill grants civil immunity to a HHA for terminating or denying employment to an aide who fails to maintain the requirements of the bill or whose name appears on a criminal screening report of the Florida Department of Law Enforcement. The bill also grants immunity from a cause of action and monetary liability to any licensed facility or the facility's governing board, medical staff, disciplinary board, agents, investigators, witnesses, employees, or any other person for any action taken in good faith to comply with the section.

The bill also specifies that a HHA, or its agent, may not use criminal records or juvenile records relating to vulnerable adults for any purpose other than determining if the person meets the requirements of the section and that the HHA must maintain the confidentiality of any such records or information it obtains that is confidential and exempt from public records laws.

Sections 5 and 6 amend several sections of law to include aides along with certified nursing assistants and home health aides in allowing tasks to be delegated to the aide, including the administration of medication, and requiring that a HHA ensure that any tasks delegated to the aide meet state law requirements and that the aide is properly trained.

Section 7 requires the AHCA to conduct an annual assessment of the program. The assessment must include caregiver satisfaction with the program, identify additional supports that may be needed by aides, and assess the rate and extent of hospitalization of children who are attended by aides compared to those in home health services without such an aide. The AHCA must report its findings to the Governor and the Legislature by January 1 of each year beginning in 2025.

[16] Created pursuant to s. 435.12, F.S.

Section 8 requires the AHCA to modify the Medicaid state plan and implement any federal waivers necessary to implement the program. The AHCA is required to establish a Medicaid fee schedule for HHAs employing aides at $25 per hour with no more than 8 hours per day.

Sections 9 and 10 make several cross-reference changes to conform to the changes made in the bill.

Section 11 authorizes four full-time equivalent (FTE) positions with associated salary rate of 186,483, and $353,589 in recurring funds and $118,728 in nonrecurring funds from the Health Care Trust Fund in Fiscal Year 2023-2024 to the AHCA to implement provisions of the bill.

Section 12 provides that the act is effective upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

CS/SB 452 may have an indeterminate, positive fiscal impact on family caregivers who are trained as Home Health Aides for Medically Fragile Children (aides) and reimbursed for time spent caring for a family member under the bill.

The bill prohibits a Home Health Agency (HHA) from requiring an aide to repay or reimburse the HHA for costs associated with the training program. Therefore, any costs associated with providing the required training under the bill will be absorbed by a HHA.

The cost for a level 2 background screening with five years of fingerprint retention within the Care Provider Background Screening Clearinghouse is $61.25.[17] The number of individuals impacted by this requirement is indeterminate.

C. Government Sector Impact:[18]

The bill may have a significant negative fiscal impact on the Florida Medicaid program in order to reimburse family caregivers who become trained as aides. The extent of the impact is indeterminate and will depend on the number of eligible family caregivers who qualify as an aide and provide services.

The bill requires the Agency for Health Care Administration (AHCA) to establish a Medicaid fee schedule for HHAs employing aides at $25 per hour with no more than eight hours per day per provider. Current Medicaid fee schedules for applicable services as specified in the AHCA's promulgated fee schedules are $18.04 per visit for skilled nursing services and $17.32 per hour for personal care services, which is approximately 44.34 percent less than the proposed reimbursement rate. As these services are provided on a "per visit" basis and not hourly, it is difficult to predict the exact impact of establishing a new rate methodology for services provided by aides. Further, although Florida Medicaid establishes fee schedules for home health services provided through the Fee-For-Service delivery system, health plans participating in Florida's Statewide Medicaid Manage Care Program do not have to pay the AHCA established rates and may negotiate mutually agreed-upon rates with HHA providers, unless specified in Federal and/or State law, or in their contract with the AHCA.

The bill does not address a limit on the number of hours per year, but rather sets a maximum of eight hours per day per provider. This could increase the total number of hours to 2,920. Currently there are 5,072 recipients that would fall into this population. The table below highlights the potential cost increase to the Florida Medicaid program based on a projected rate of participation for eligible relatives as outlined in the bill:

[17] Florida Department of Law Enforcement, SB 452 Bill Analysis (Feb. 17, 2023) (on file with the Senate Appropriations Committee on Health and Human Services).
[18] Agency for Health Care Administration, SB 452 Bill Analysis (Mar. 1, 2023) (on file with the Senate Appropriations Committee on Health and Human Services).

	Florida Medicaid Program Potential Fiscal Impact		
Rate of Participation	**2,080 hours or 40 hours per week**	**2,219 hours (number of hours claimed in FY21-22)**	**2,920 hours or 8 hours per day/ 365 days per year**
100%	$ 104,395,766	$ 122,039,870	$ 210,907,766
75%	$ 78,296,825	$ 91,529,903	$ 158,180,825
50%	$ 52,197,883	$ 61,019,935	$ 105,453,883
25%	$ 26,098,942	$ 30,509,968	$ 52,726,942
10%	$ 10,439,577	$ 12,203,987	$ 21,090,777
5%	$ 5,219,788	$ 6,101,994	$ 10,545,388
1%	$ 1,043,958	$ 1,220,399	$ 2,109,078

The AHCA has also identified the following fiscal impacts in order to meet the requirements outlined in the bill:

Training Program

- One (1) full-time equivalent (FTE) Senior Management Analyst Supervisor – Selected Exempt Service (SES) to implement and oversee reviews of training program submissions, manage stakeholder input, and develop rules.
- Two (2) FTE Registered Nurse Consultants to review training programs for compliance with state and federal requirements and manage provider inquiries.

Annual Assessment

- An estimated cost of $150,000 in contract services to develop a data collection tool or modify an existing AHCA system to collect the information and an additional recurring $50,000 for system maintenance and enhancement.
- One (1) FTE Medical Health Care Program Analyst to analyze the results of the data.

Direct Care Workforce Survey

- The bill amends the direct care workforce survey in section 408.822, F.S., to include aides and requires additional reporting requirements for these caregivers. The AHCA is already working on implementation of the survey and will leverage existing resources to address any changes needed.

Further, changes in the bill would require the AHCA to update rules, as well as the Florida Medicaid Management Information System (FLMMIS). The AHCA may also need to update the Medicaid state plan and/or its waivers to sure the State has proper federal authority to allow Medicaid reimbursement for family caregivers. These actions are part of the Florida Medicaid program's routine business practices and can be accomplished using existing resources.

The AHCA estimates that implementation of SB 452 will result in non-recurring expenditures of $ 472,317 in year 1, and recurring expenditures of $353,589 in years 2 and 3.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 400.462, 400.464, 400.476, 400.489, 400.490, 768.38, and 768.381.

This bill creates the following sections of the Florida Statutes: 400.4765 and 400.54.

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 Appropriations Committee on Health and Human Services on March 8, 2023:
The committee substitute:

- Makes a technical correction to the statutory cross-reference for background screenings.
- Authorizes positions and an appropriation.

B. Amendments:

None.

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

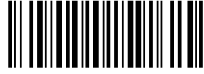
619948

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/09/2023	.	
	.	
	.	
	.	

The Appropriations Committee on Health and Human Services (Harrell) recommended the following:

1 **Senate Amendment**
2
3 Delete lines 225 - 232
4 and insert:
5 pursuant to s. 400.512. If the person has successfully passed
6 the required background screening pursuant to s. 400.512 or s.
7 408.809 within 90 days before applying for a certificate to
8 practice and the person's background screening results are not
9 retained in the clearinghouse created under s. 435.12, the
10 agency must waive the requirement that the applicant


619948

11 successfully pass an additional background screening pursuant to
12 s. 400.512.

767644

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/09/2023	.	
	.	
	.	
	.	

The Appropriations Committee on Health and Human Services (Harrell) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Between lines 393 and 394
4 insert:
5 Section 11. For the 2023-2024 fiscal year, four full-time
6 equivalent positions with associated salary rate of 186,483 are
7 authorized, and the sums of $353,589 in recurring funds and
8 $118,728 in nonrecurring funds are appropriated from the Health
9 Care Trust Fund to the Agency for Health Care Administration,
10 for the purpose of implementing this act.

767644

11
12 ================= T I T L E A M E N D M E N T ================
13 And the title is amended as follows:
14 Between lines 71 and 72
15 insert:
16 providing appropriations and authorizing positions;

By Senator Harrell

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1 A bill to be entitled
2 An act relating to home health aides for medically
3 fragile children; amending s. 400.462, F.S.; defining
4 terms; amending s. 400.464, F.S.; requiring home
5 health agencies to ensure that any tasks delegated to
6 home health aides for medically fragile children meet
7 specified requirements; amending s. 400.476, F.S.;
8 requiring home health agencies to ensure that home
9 health aides for medically fragile children employed
10 by or under contract with them are adequately trained
11 to perform the tasks they will be delegated; providing
12 certain individuals an exemption from costs associated
13 with specified training; creating s. 400.4765, F.S.;
14 establishing the home health aides for medically
15 fragile children program for specified purposes;
16 requiring the Agency for Health Care Administration,
17 in consultation with the Board of Nursing, to approve
18 training programs for home health aides for medically
19 fragile children; specifying minimum requirements for
20 the training programs; authorizing home health
21 agencies to employ certain persons as home health
22 aides for medically fragile children if they meet
23 specified criteria; requiring home health aides for
24 medically fragile children to complete an approved
25 training program again under certain circumstances;
26 requiring home health aides for medically fragile
27 children to complete additional training in HIV/AIDS
28 and maintain a certificate in cardiopulmonary
29 resuscitation; requiring home health agencies to

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30 ensure that home health aides for medically fragile
31 children whom they employ complete certain inservice
32 training during each 12-month period; requiring home
33 health agencies to maintain documentation
34 demonstrating compliance with such training
35 requirements; exempting home health agencies from
36 civil liability for terminating or denying employment
37 to a home health aide for medically fragile children
38 under certain circumstances; extending the exemption
39 to certain agents of the home health agencies;
40 prohibiting home health agencies and their agents from
41 using certain criminal records or juvenile records
42 other than for a specified purpose; requiring the
43 agency to maintain confidentiality of certain
44 confidential and exempt records; authorizing the
45 agency, in consultation with the board, to adopt
46 rules; amending s. 400.489, F.S.; authorizing home
47 health aides for medically fragile children to
48 administer certain medications under certain
49 circumstances; requiring such home health aides for
50 medically fragile children to complete additional
51 inservice training annually to continue administering
52 such medications; requiring the agency, in
53 consultation with the board, to establish certain
54 standards and procedures by rule for home health aides
55 for medically fragile children who administer
56 medications to patients; amending s. 400.490, F.S.;
57 authorizing home health aides for medically fragile
58 children to perform certain tasks delegated by a

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59 registered nurse; creating s. 400.54, F.S.; requiring
60 the agency to conduct an annual assessment related to
61 the home health aides for medically fragile children
62 program; specifying requirements for the assessment;
63 requiring the agency to submit a report to the
64 Governor and the Legislature by a specified date each
65 year, beginning on a specified date; directing the
66 agency to modify any state Medicaid plans and
67 implement any federal waivers necessary to implement
68 the act; directing the agency to establish a certain
69 Medicaid fee schedule at a specified rate and subject
70 to a specified utilization cap; amending ss. 768.38
71 and 768.381, F.S.; conforming cross-references;
72 providing an effective date.
73
74 Be It Enacted by the Legislature of the State of Florida:
75
76 Section 1. Present subsections (5) through (10), (11),
77 (12), (13), (14), and (15) through (29) of section 400.462,
78 Florida Statutes, are redesignated as subsections (6) through
79 (11), (13), (15), (16), (17), and (19) through (33),
80 respectively, new subsections (5), (12), (14), and (18) are
81 added to that section, and subsection (1) and present subsection
82 (10) of that section are amended, to read:
83 400.462 Definitions.—As used in this part, the term:
84 (1) "Administrator" means a direct employee, as defined in
85 subsection (10) ~~(9)~~, who is a licensed physician, physician
86 assistant, or registered nurse licensed to practice in this
87 state or an individual having at least 1 year of supervisory or

88 administrative experience in home health care or in a facility
89 licensed under chapter 395, under part II of this chapter, or
90 under part I of chapter 429.
91 (5) "Approved training program" means a course of training
92 approved by the agency, in consultation with the Board of
93 Nursing, under s. 400.4765 to train family caregivers as home
94 health aides for medically fragile children.
95 (11) ~~(10)~~ "Director of nursing" means a registered nurse who
96 is a direct employee, as defined in subsection (10) ~~(9)~~, of the
97 agency and who is a graduate of an approved school of nursing
98 and is licensed in this state; who has at least 1 year of
99 supervisory experience as a registered nurse; and who is
100 responsible for overseeing the professional nursing and home
101 health aid delivery of services of the agency.
102 (12) "Eligible relative" means, with respect to the home
103 health aide for medically fragile children program under s.
104 400.4765, a person 21 years of age or younger who is eligible to
105 receive continuous skilled nursing or skilled nursing respite
106 care services under the Medicaid program and is a relative of a
107 home health aide for medically fragile children.
108 (14) "Family caregiver" means a person providing or
109 intending to provide significant personal care and assistance to
110 an eligible relative 21 years of age or younger who has an
111 underlying physical or cognitive condition that prevents him or
112 her from safely living independently.
113 (18) "Home health aide for medically fragile children"
114 means a family caregiver who meets the qualifications specified
115 in s. 400.4765; performs tasks delegated to him or her under
116 chapter 464 while caring for an eligible relative; and provides

117 care and assistance to an eligible relative relating to:
118 (a) Activities of daily living, such as those associated
119 with personal care, maintaining mobility, nutrition and
120 hydration, toileting and elimination, assistive devices, and
121 safety and cleanliness.
122 (b) Data gathering.
123 (c) Reporting abnormal signs and symptoms.
124 (d) Patient socialization and reality orientation.
125 (e) Cardiopulmonary resuscitation and emergency care.
126 (f) Residents' or patients' rights.
127 (g) Documentation of services.
128 (h) End-of-life care.
129 (i) Postmortem care.
130 Section 2. Subsection (5) of section 400.464, Florida
131 Statutes, is amended to read:
132 400.464 Home health agencies to be licensed; expiration of
133 license; exemptions; unlawful acts; penalties.—
134 (5) If a licensed home health agency authorizes a
135 registered nurse to delegate tasks, including medication
136 administration, to a certified nursing assistant pursuant to
137 chapter 464 or to a home health aide or a home health aide for
138 medically fragile children pursuant to s. 400.490, the licensed
139 home health agency must ensure that such delegation meets the
140 requirements of this chapter and chapter 464 and the rules
141 adopted thereunder.
142 Section 3. Subsection (3) of section 400.476, Florida
143 Statutes, is amended to read:
144 400.476 Staffing requirements; notifications; limitations
145 on staffing services.—

146 (3) TRAINING.—A home health agency shall ensure that each
147 certified nursing assistant employed by or under contract with
148 the home health agency and each home health aide and home health
149 aide for medically fragile children employed by or under
150 contract with the home health agency is adequately trained to
151 perform the tasks of a home health aide in the home setting. A
152 parent, guardian, or family member who seeks the training
153 required under s. 464.4765 to become a home health aide for
154 medically fragile children may not be required to repay or
155 reimburse the home health agency for the costs associated with
156 the training program.
157 Section 4. Section 400.4765, Florida Statutes, is created
158 to read:
159 400.4765 Home health aides for medically fragile children
160 program.—The home health aides for medically fragile children
161 program is hereby established in response to the shortage of
162 health care workers in this state and the impact that the
163 shortage has on medically fragile children and their caregivers.
164 The program is designed to decrease hospitalization and
165 institutionalization of medically fragile children, reduce state
166 expenditures, and provide an opportunity for affected family
167 caregivers to receive training and gainful employment.
168 (1) The agency, in consultation with the Board of Nursing,
169 shall approve a training program created by a home health agency
170 in accordance with 42 C.F.R. ss. 483.151-483.154 and 484.80 to
171 train family caregivers as home health aides for medically
172 fragile children to increase the health care workforce in this
173 state and to authorize persons to provide trained nursing
174 services to eligible relatives. The program must consist of at

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175 least 85 hours of training, including, but not limited to, all
176 of the following:
177 (a) A minimum of 40 hours of theoretical instruction in
178 nursing, including, but not limited to, instruction on all of
179 the following:
180 1. Person-centered care.
181 2. Communication and interpersonal skills.
182 3. Infection control.
183 4. Safety and emergency procedures.
184 5. Assistance with activities of daily living.
185 6. Mental health and social service needs.
186 7. Care of cognitively impaired individuals.
187 8. Basic restorative care and rehabilitation.
188 9. Patient rights and confidentiality of personal
189 information and medical records.
190 10. Relevant legal and ethical issues.
191
192 Such instruction must be offered in various formats, and any
193 interactive instruction must be provided during various times of
194 the day.
195 (b) A minimum of 20 hours of skills training on basic
196 nursing skills, including, but not limited to:
197 1. Hygiene, grooming, and toileting.
198 2. Skin care and pressure sore prevention.
199 3. Nutrition and hydration.
200 4. Measuring vital signs, height, and weight.
201 5. Safe lifting, positioning, and moving of patients.
202 6. Wound care.
203 7. Portable oxygen use and safety and other respiratory

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204 procedures.
205 8. Tracheostomy care.
206 9. Enteral care and therapy.
207 10. Peripheral intravenous assistive activities and
208 alternative feeding methods.
209 11. Urinary catheterization and ostomy care.
210 (c) At least 16 hours of clinical training under direct
211 supervision of a licensed registered nurse.
212 (2) A home health agency may employ as a home health aide
213 for medically fragile children any person 18 years of age or
214 older who meets all of the following criteria:
215 (a) Is a family caregiver of an eligible relative who is 21
216 years of age or younger and is eligible to receive continuous
217 skilled nursing or skilled nursing respite care services under
218 the Medicaid program.
219 (b) Demonstrates a minimum competency to read and write.
220 (c) Completes a training program approved under this
221 section or has graduated from an accredited school of nursing
222 and has not yet taken the state exam for licensure in this
223 state.
224 (d) Successfully passes the required background screening
225 pursuant to s. 400.215. If the person has successfully passed
226 the required background screening pursuant to s. 400.215 or s.
227 408.809 within 90 days before applying for a certificate to
228 practice and the person's background screening results are not
229 retained in the clearinghouse created under s. 435.12, the
230 agency must waive the requirement that the applicant
231 successfully pass an additional background screening pursuant to
232 s. 400.215.

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233 (3) If a home health aide for medically fragile children
234 allows 24 consecutive months to pass without performing any
235 nursing-related services for an eligible relative, the family
236 caregiver must again complete an approved training program
237 before serving as a home health aide for medically fragile
238 children.
239 (4) All home health aides for medically fragile children
240 must complete an HIV/AIDS training course and are required to
241 obtain and maintain a current certificate in cardiopulmonary
242 resuscitation.
243 (5) A home health agency that employs a home health aide
244 for medically fragile children must ensure that the aide
245 completes 12 hours of inservice training during each 12-month
246 period as a condition of employment. The HIV/AIDS training and
247 cardiopulmonary training required under subsection (4) may count
248 toward meeting the 12 hours of inservice training. The home
249 health agency shall maintain documentation demonstrating
250 compliance with this subsection.
251 (6) If a home health agency terminates or denies employment
252 to a home health aide for medically fragile children who fails
253 to maintain the requirements of this section or whose name
254 appears on a criminal screening report of the Department of Law
255 Enforcement, the home health agency is not civilly liable for
256 such termination and a cause of action may not be brought
257 against the home health agency for damages. There may not be any
258 monetary liability on the part of, and a cause of action for
259 damages may not arise against, any licensed facility or its
260 governing board or members thereof, medical staff, disciplinary
261 board, agents, investigators, witnesses, employees, or any other

262 person for any action taken in good faith, without intentional
263 fraud, to comply with this section.
264 (7) A home health agency, or an agent thereof, may not use
265 criminal records or juvenile records relating to vulnerable
266 adults for any purpose other than determining if the person
267 meets the requirements of this section. The agency shall
268 maintain the confidentiality of any such records and information
269 it obtains which are confidential and exempt from s. 119.07(1)
270 and s. 24(a), Art. I of the State Constitution.
271 (8) The agency, in consultation with the Board of Nursing,
272 may adopt rules to implement this section.
273 Section 5. Section 400.489, Florida Statutes, is amended to
274 read:
275 400.489 Administration of medication by a home health aide
276 or home health aide for medically fragile children; staff
277 training requirements.—
278 (1) A home health aide or home health aide for medically
279 fragile children may administer oral, transdermal, ophthalmic,
280 otic, rectal, inhaled, enteral, or topical prescription
281 medications if the home health aide or home health aide for
282 medically fragile children has been delegated such task by a
283 registered nurse licensed under chapter 464, has satisfactorily
284 completed an initial 6-hour training course approved by the
285 agency, and has been found competent to administer medication to
286 a patient in a safe and sanitary manner. The training,
287 determination of competency, and initial and annual validations
288 required in this section shall be conducted by a registered
289 nurse licensed under chapter 464 or a physician licensed under
290 chapter 458 or chapter 459.

(2) ~~A~~ Home health aides and home health aides for medically fragile children ~~aide~~ must annually and satisfactorily complete a 2-hour inservice training course approved by the agency in medication administration and medication error prevention. The inservice training course is ~~shall be~~ in addition to the annual inservice training hours required by agency rules.

(3) The agency, in consultation with the Board of Nursing, shall establish by rule standards and procedures that a home health aide and home health aide for medically fragile children must follow when administering medication to a patient. Such rules must, at a minimum, address qualification requirements for trainers, requirements for labeling medication, documentation and recordkeeping, the storage and disposal of medication, instructions concerning the safe administration of medication, informed-consent requirements and records, and the training curriculum and validation procedures.

Section 6. Section 400.490, Florida Statutes, is amended to read:

400.490 Nurse-delegated tasks.—A certified nursing assistant, ~~or~~ home health aide, or home health aide for medically fragile children may perform any task delegated by a registered nurse as authorized in this part and in chapter 464, including, but not limited to, medication administration.

Section 7. Section 400.54, Florida Statutes, is created to read:

400.54 Annual assessment of home health aides for medically fragile children program.—The agency shall conduct an annual assessment of the home health aides for medically fragile children program established under s. 400.4765. The assessment

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

must report caregiver satisfaction with the program, identify additional supports that may be needed by home health aides for medically fragile children, and assess the rate and extent of hospitalization of children in home health services who are attended by a home health aide for medically fragile children compared to those in home health services without a home health aide for medically fragile children. By January 1 of each year, beginning January 1, 2025, the agency shall report its findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Section 8. The Agency for Health Care Administration shall modify any state Medicaid plans and implement any federal waivers necessary to implement this act. The agency shall establish a Medicaid fee schedule for home health agencies employing a home health aide for medically fragile children at $25 per hour with a utilization cap of no more than 8 hours per day.

Section 9. Paragraph (e) of subsection (2) of section 768.38, Florida Statutes, is amended to read:

768.38 Liability protections for COVID-19-related claims.—

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

(e) “Health care provider” means:

1. A provider as defined in s. 408.803.

2. A clinical laboratory providing services in this state or services to health care providers in this state, if the clinical laboratory is certified by the Centers for Medicare and Medicaid Services under the federal Clinical Laboratory Improvement Amendments and the federal rules adopted thereunder.

3. A federally qualified health center as defined in 42

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

349 U.S.C. s. 1396d(l)(2)(B), as that definition exists on the
350 effective date of this act.
351 4. Any site providing health care services which was
352 established for the purpose of responding to the COVID-19
353 pandemic pursuant to any federal or state order, declaration, or
354 waiver.
355 5. A health care practitioner as defined in s. 456.001.
356 6. A health care professional licensed under part IV of
357 chapter 468.
358 7. A home health aide as defined in s. 400.462 ~~s.~~
359 ~~400.462(15)~~.
360 8. A provider licensed under chapter 394 or chapter 397 and
361 its clinical and nonclinical staff providing inpatient or
362 outpatient services.
363 9. A continuing care facility licensed under chapter 651.
364 10. A pharmacy permitted under chapter 465.
365 Section 10. Paragraph (f) of subsection (1) of section
366 768.381, Florida Statutes, is amended to read:
367 768.381 COVID-19-related claims against health care
368 providers.—
369 (1) DEFINITIONS.—As used in this section, the term:
370 (f) “Health care provider” means any of the following:
371 1. A provider as defined in s. 408.803.
372 2. A clinical laboratory providing services in this state
373 or services to health care providers in this state, if the
374 clinical laboratory is certified by the Centers for Medicare and
375 Medicaid Services under the federal Clinical Laboratory
376 Improvement Amendments and the federal rules adopted thereunder.
377 3. A federally qualified health center as defined in 42

378 U.S.C. s. 1396d(l)(2)(B), as that definition existed on the
379 effective date of this act.
380 4. Any site providing health care services which was
381 established for the purpose of responding to the COVID-19
382 pandemic pursuant to any federal or state order, declaration, or
383 waiver.
384 5. A health care practitioner as defined in s. 456.001.
385 6. A health care professional licensed under part IV of
386 chapter 468.
387 7. A home health aide as defined in s. 400.462 ~~s.~~
388 ~~400.462(15)~~.
389 8. A provider licensed under chapter 394 or chapter 397 and
390 its clinical and nonclinical staff providing inpatient or
391 outpatient services.
392 9. A continuing care facility licensed under chapter 651.
393 10. A pharmacy permitted under chapter 465.
394 Section 11. This act shall take effect upon becoming a law.

2023 FDLE LEGISLATIVE BILL ANALYSIS

BILL INFORMATION	
BILL NUMBER:	SB 452
BILL TITLE:	Home Health Aides for Medically Fragile Children
BILL SPONSOR:	Senator Harrell
EFFECTIVE DATE:	Upon becoming a law

COMMITTEES OF REFERENCE
1) Health Policy
2) Appropriations Committee on Health and Human Services
3) Fiscal Policy
4)
5)

CURRENT COMMITTEE
Health Policy

SIMILAR BILLS	
BILL NUMBER:	HB 391
SPONSOR:	Rep. Tramont

IDENTICAL BILLS	
BILL NUMBER:	
SPONSOR:	

PREVIOUS LEGISLATION	
BILL NUMBER:	
SPONSOR:	
YEAR:	
LAST ACTION:	

Is this bill part of an agency package?
No

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	February 17, 2023
LEAD AGENCY ANALYST:	Lucy Saunders
ADDITIONAL ANALYST(S):	Ashley Black
LEGAL ANALYST:	Jim Martin, Jason Harrison
FISCAL ANALYST:	Elizabeth Martin

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

Home Health Aides for Medically Fragile Children; Requiring home health agencies to ensure that any tasks delegated to home health aides for medically fragile children meet specified requirements; establishing the home health aides for medically fragile children program for specified purposes; requiring the Agency for Health Care Administration, in consultation with the Board of Nursing, to approve training programs for home health aides for medically fragile children; authorizing home health aides for medically fragile children to administer certain medications under certain circumstances.

2. SUBSTANTIVE BILL ANALYSIS

1. **PRESENT SITUATION:** Chapter 400, F.S., provides requirements for the licensure of every home health agency and nurse registry to ensure the safe and adequate care of persons receiving health services in their own homes. Currently, a home health aide for medically fragile children is not a defined population within s. 400.462, F.S., and as such, is not subject to certain eligibility and training requirements imposed by the Agency for Health Care Administration (AHCA), including a background screening pursuant to s. 400.215, F.S.

2. **EFFECT OF THE BILL:** Creates s. 400.4765, F.S., which establishes eligibility requirements for a home health agency to employ a home health aide for medically fragile children, including that the person must successfully pass the required background screening pursuant to s. 400.215. If the person has successfully passed the required background screening pursuant to s. 400.215, F.S., or s. 408.809, F.S., within ninety (90) days before applying for a certificate to practice and the person's background screening results are not retained in the Clearinghouse created under s. 435.12, F.S., AHCA shall waive the requirement that the applicant successfully pass an additional background screening pursuant to s. 400.215, F.S.

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

If yes, explain:	
What is the expected impact to the agency's core mission?	
Rule(s) impacted (provide references to F.A.C., etc.):	

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

List any known proponents and opponents:	
Provide a summary of the proponents' and opponents' positions:	

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

If yes, provide a description:	
Date Due:	
Bill Section Number:	

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

Board:	

Board Purpose:	
Who Appointments:	
Appointee Term:	
Changes:	
Bill Section Number(s):	

FISCAL ANALYSIS

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

Revenues:	
Expenditures:	
Does the legislation increase local taxes or fees?	
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?	

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

Revenues:	The Florida Department of Law Enforcement (FDLE) has made inquiry with the Agency for Health Care Administration (AHCA) to obtain an estimate of the potential increase (if any) to the number of additional screenings which may be required if the bill should pass. The total fiscal revenue for the state portion of a state and national criminal history record check with five (5) years of fingerprint retention within the Care Provider Background Screening Clearinghouse (Clearinghouse) retention is $48. These fees will go into the FDLE's Operating Trust Fund. The cost for state-level criminal history record checks is $24. Since applicants screened pursuant to this bill appear to be required to enter the Clearinghouse, $24 for five (5) years of state fingerprint retention will be paid up front. There will be no fees required by the Federal Bureau of Investigation (FBI) for federal fingerprint retention.
Expenditures:	
Does the legislation contain a State Government appropriation?	
If yes, was this appropriated last year?	

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

Revenues:	
Expenditures:	The Florida Department of Law Enforcement (FDLE) has made inquiry with the Agency for Health Care Administration (AHCA) to obtain an estimate of the potential increase (if any) to the number of additional screenings which may be required if the bill should pass. The total fiscal impact to the private sector for state and national criminal history record checks with five (5) years of Clearinghouse retention is $61.25; of this total amount, the cost for a state and national criminal history record check is $37.25. The cost for the national portion of the criminal history record check is $13.25 and the cost for the state portion is $24, which goes into the FDLE's Operating Trust Fund. Since applicants screened pursuant to this bill appear to be required to enter the Clearinghouse, $24 for five (5) years of state fingerprint retention will be paid up front and will go into the FDLE's Operating Trust Fund. There will be no fees required by the Federal Bureau of Investigation (FBI) for federal fingerprint retention.
Other:	

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

Does the bill increase taxes, fees or fines?	
Does the bill decrease taxes, fees or fines?	
What is the impact of the increase or decrease?	
Bill Section Number:	

TECHNOLOGY IMPACT

1. DOES THE LEGISLATION 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.	

FEDERAL IMPACT

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

If yes, describe the anticipated impact including any fiscal impact.	

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments and recommended action:	• FDLE would recommend that if the bill is referring to the background screening on line 224 and that same background screening on line 254, that the naming of them is consistent throughout so that it is clear that this is not confused as to different background information.

ADDITIONAL COMMENTS

- Lines 212-232: The proposed bill codifies a Level 2 screening requirement for home health aides for medically fragile children; however, it should be noted that continued access to national criminal history record information is reliant upon the Federal Bureau of Investigation (FBI) Criminal Justice Information Law Unit (CJILU)'s approval of the legislative changes.

- Lines 251-263: It is unclear whether the "criminal screening report" of the FDLE refers to the results of an applicant's Level 2 background check (i.e., fingerprint-based, state and national criminal history record check) or is a separate report disseminated through another system or format (e.g., the Clearinghouse portal).

- The impact of this bill does not appear to necessitate additional FTE and other resources; however, this bill, in combination with additional criminal history record check bills, could rise to the level of requiring additional staffing and other resources.

2022 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Agency for Health Care Administration

BILL INFORMATION	
BILL NUMBER:	SB 452
BILL TITLE:	Home Health Aides for Medically Fragile Children
BILL SPONSOR:	Senator Harrell
EFFECTIVE DATE:	Upon becoming a law

COMMITTEES OF REFERENCE
1) Health Policy
2) Appropriations Committee on Health and Human Services
3) Fiscal Policy
4) N/A
5) N/A

CURRENT COMMITTEE
Health Policy 2/20/23

SIMILAR BILLS	
BILL NUMBER:	HB 391
SPONSOR:	Representative Tramont

PREVIOUS LEGISLATION	
BILL NUMBER:	N/A
SPONSOR:	N/A
YEAR:	N/A
LAST ACTION:	N/A

IDENTICAL BILLS	
BILL NUMBER:	N/A
SPONSOR:	N/A

Is this bill part of an agency package?
Y ___ N _X_

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	3/1/2023
LEAD AGENCY ANALYST:	N/A
ADDITIONAL ANALYST(S):	Ruby Grantham, Donah Heiberg
LEGAL ANALYST:	N/A
FISCAL ANALYST:	N/A

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The bill creates the home health aide for medically fragile children program to address the shortage of health care providers trained to provide services to the medically complex pediatric population eligible for Medicaid benefits. The bill provides legislative intent of the program to decrease the institutionalization of medically fragile children, reduce state Medicaid expenditures, and provide family caregivers the opportunity to train and qualify as home health aides who can be compensated for providing services to their Medicaid-eligible, medically fragile children.

The bill creates a definition for a "home health aide for medically fragile children", and establishes eligibility and training requirements for a parent, guardian or family member to qualify as a home health aide that can provide services to a medically fragile child.

The bill authorizes home health aides for medically fragile children to perform certain tasks delegated by a registered nurse and requires licensed home health agencies to ensure that home health aides providing such services are adequately trained to perform these tasks.

The bill requires AHCA to conduct an annual assessment of the home health aide for medically fragile children program and provides requirements for assessment. The bill requires AHCA to submit a report to the Governor and the Legislature by January 1 of each year, beginning in 2025.

The bill requires the Agency, in consultation with the Florida Department of Health Board of Nursing, to approve a home health aide for medically fragile children training program and provides the requirements for the program.

The bill revises the term "direct care worker" in s. 408.822 to include home health aides for medically fragile children.

The bill requires the agency to adopt a minimum rate of $25 per hour for a maximum of 8 hours per day for parents or caregivers who qualify as home health aides for medically fragile children. Additionally, the Agency shall modify the state Medicaid plan and implement any federal waivers necessary to implement the provisions of the bill.

The bill poses an operational impact to Florida Medicaid. The changes in this Bill would require the Agency's Medicaid Program to update its rules, as well as the Florida Medicaid Management Information System (FLMMIS). The Agency's Medicaid Program may also need to update the Medicaid State Plan and/or its waivers to ensure the State has proper federal authority to allow Medicaid reimbursement for family caregivers. These actions are part of the Medicaid Program's routine business practices and can be accomplished using existing resources.

The bill poses a fiscal impact to Florida Medicaid as it requires the Agency to adopt a minimum rate of $25 per hour for a maximum of 8 hours per day for parents or caregivers who qualify as home health aides for medically fragile children. This rate is higher than those established for the applicable services as specified in the Agency's promulgated fee schedules.

The Agency may adopt rules to implement this section.

The bill takes effect upon becoming a law.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

The Agency for Health Care Administration (Agency) is the single state agency responsible for the administration of the Florida Medicaid program, authorized under Title XIX of the Social Security Act (SSA). This authority includes establishing and maintaining a Medicaid state plan approved by the Centers for Medicare and Medicaid Services (CMS) and maintaining any Medicaid waivers needed to operate the Florida Medicaid program as directed by the Florida Legislature.

A Medicaid state plan is an agreement between a state and the federal government describing how that state administers its Medicaid programs; it establishes groups of individuals covered under the Medicaid program, services that are provided, payment methodologies, and other administrative and organizational requirements. State Medicaid programs may request a formal waiver of the requirements codified in the SSA. Federal waivers give states flexibility not afforded through their Medicaid state plan.

In Florida, most Medicaid recipients receive their services through a managed care plan (Plan) contracted with the Agency under the Statewide Medicaid Managed Care (SMMC) program. The SMMC program has three components: Managed Medical Assistance (MMA), Long-Term Care (LTC), and Dental. Florida's SMMC program benefits are authorized through federal waivers and are specifically required by the Florida Legislature in s. 409.973 and 409.98, F.S.

Medical Necessity Requirements

Florida Medicaid covers services that are medically necessary, as defined in the Medicaid State Plan and codified in Rule 59G-1.010, F.A.C. As part of its routine work, the Agency's Medicaid Program reviews new health services, products, and supplies for potential coverage under Florida Medicaid and bases its determinations on whether a service meets medical necessity criteria. This includes ensuring that the service is consistent with generally accepted professional medical standards (GAPMS), therefore it cannot be experimental or investigational.
Under federal law, a state's Medicaid program must have a process in place to pay for services that are medically necessary but are not covered for recipients under the age of 21. This is often referred to as the federal Early and Periodic Screening, Diagnosis and Treatment (EPSDT) guidelines (see Title 42 Code of Federal Regulations Section 441.5). Health plans participating in the SMMC program must also adhere to EPSDT guidelines.

Home Health Services

Florida Medicaid defines home health services as medically necessary services that can be safely provided to the recipient in their home or in the community that include home health visits (skilled nursing and home health aide services), private duty nursing (PDN), and personal care services.

Home Health Visits

Florida Medicaid home health visits provide medically necessary skilled nursing and home health aide services to recipients whose medical condition, illness, or injury requires the care to be delivered in their home or in the community. These services must be rendered by an HHA licensed in accordance with s. 408.810, F.S., and Rule Chapter (Ch.) 59A-8, F.A.C., or a licensed practical nurse (LPN) or registered nurse (RN) licensed in accordance with Ch. 464, F.S.

Florida Medicaid reimburses for up to four intermittent home health visits, per day, for recipients under the age of 21 years and pregnant recipients aged 21 years and older, and up to three intermittent home health visits, per day, for non-pregnant recipients aged 21 years and older. Recipients under the care of a physician, that have a physician's order for home health services, and that require services that can be safely provided in their home or in the community, may receive any combination of skilled nursing or home health aide visit services up to the coverage limits specified in the Home Health Visits Coverage Policy, incorporated by reference in Rule 59G-4.130, F.A.C.

Florida Medicaid reimburses for home health aide visits for recipients under the age of 21 years who have a medical condition or disability that substantially limits their ability to perform activities of daily living (ADLs) or instrumental activities of daily living (IADLs), as defined in Rule 59G-1.010, F.A.C. These visits are rendered to recipients whose parent or legal guardian is not able to provide ADL or IADL care, and to supplement care provided by parents and legal guardians. Parents and legal guardians must participate in providing care to the fullest extent possible. Providers must offer training to enable parents and legal guardians to provide care they can safely render without jeopardizing the health or safety of the recipient when needed.

Private Duty Nursing (PDN)

Florida Medicaid PDN services provide medically necessary skilled nursing to recipients whose medical condition, illness, or injury requires the care to be delivered in their home or in the community. These services must be rendered by an HHA licensed in accordance with s. 408.810, F.S., and Rule Ch. 59A-8, F.A.C., or an LPN or RN licensed in accordance with Ch. 464, F.S.

Florida Medicaid reimburses for up to 24 hours of PDN services per day, per recipient, when the recipient is under the care of a physician, has a physician's order for PDN services, requires more extensive and continual care than can be provided through a home health visit (two or more hours of PDN services per day), and requires services that can be safely provided in their home or the community. These services are rendered up to the coverage limits specified in the Private Duty Nursing Services Coverage Policy, incorporated by reference in Rule 59G-4.261, F.A.C.

Florida Medicaid may reimburse an enrolled HHA provider for up to 40 hours per week, per recipient, for PDN services rendered by a parent or legal guardian who has a valid RN or LPN license in the state of Florida, and who is employed by the HHA. The initial assessment, and all subsequent plan of care (POC) recertification assessments, must be completed by an RN who is employed by the HHA provider and who is not a relative or member of the recipient's household. Any other authorized service hours must be provided by a non-relative RN or LPN.

Personal Care

Florida Medicaid personal care services provide medically necessary assistance, in the home or in the community, with ADL and age appropriate IADL, to enable recipients to accomplish tasks they would normally be able to do for themselves if they did not have a medical condition or disability. These services must be rendered by an HHA licensed in accordance with s. 408.810, F.S., and Rule Ch. 59A-8, F.A.C., or an independent personal care provider.

Florida Medicaid reimburses for up to 24 hours of personal care services per day, per recipient, in order to provide assistance when the recipient has a medical condition or disability that substantially limits their ability to perform ADLs or IADLs, does not have a parent or legal guardian able to provide the required care, is under the care of a physician, has a physician's order for personal care services, requires more extensive or continual care than can be provided through a home health visit (two or more hours of personal care services per day), and requires services that can be safely provided in their home or the community. These services are rendered up to the coverage limits specified in the Personal Care Services Coverage Policy, incorporated by reference in Rule 59G-4.215, F.A.C.

Personal care services provided by independent personal care providers must be supervised by the parent or legal guardian if provided by a non-HHA when the recipient is under the age of 18 years, or supervised by the recipient, or their authorized representative, if the services are provided by a non-HHA when the recipient is between the age of 18 and 21 years with no legal guardian.

Service Coverage by Relative, Household Member, or any Person with Custodial or Legal Responsibility for a Recipient

There are limitations on the allowance of family caregivers as providers as outlined in Section 42 of the Code of Federal Regulations (CFR). For many services, specific authority is needed to allow caregivers to be reimbursed by Medicaid. Currently, Florida Medicaid does not reimburse for home health services furnished by relatives, household members, or any person with custodial or legal responsibility for the recipient; except for in the following three circumstances:

- PDN services provided by a parent or legal guardian that meet specific requirements (as indicated previously);
- Personal assistance services provided by a relative through the Consumer-Directed Care Plus (CDC+) program; and the
- Participant Direction Option (PDO) of the LTC program.

CDC+ Program

The Agency is responsible for the administration of the 1915(j) Medicaid State Plan Amendment / CDC+ program as the designated single state agency for Medicaid administers the Developmental Disabilities (DD) Individual Budgeting (iBudget) Waiver. Through an interagency agreement, the Agency for Persons with Disabilities (APD) is the state agency responsible for the program operation of the iBudget Waiver and the CDC+ program.

The CDC+ program operates under the authority of section 1915(j) Medicaid State Plan Amendment of the SSA and governed by Title 42, Code of Federal Regulations (CFR) Part 441, Ch. 393, F.S., and s. 409.221, F.S. For the purpose of this program, recipients must be enrolled in the 1915(c) iBudget Waiver.

The purpose of the Medicaid iBudget Waiver is to provide home and community-based supports and services to eligible persons with developmental disabilities living at home or in a home-like setting, utilize an individual budgeting approach, and provide enhanced opportunities for self-determination. The iBudget Waiver is designed to promote and maintain the health of eligible individuals with developmental disabilities, to provide medically necessary supports and services to delay or prevent institutionalization, and to foster the principles and appreciation of self-determination.

To qualify for the iBudget Waiver the recipient must meet the enrollment requirements specified in the DD iBudget Waiver Services Coverage and Limitations Handbook, incorporated by reference in Rule 59G-13.070, F.A.C.

To qualify for the CDC+ program the recipient must:

- Be an iBudget Waiver recipient who has chosen to participate in the CDC+ program;
- Meet the enrollment requirements specified in the CDC+ Program Coverage, Limitations, and Reimbursement Handbook, incorporated by reference in Rule 59G-13.088, F.A.C.; and
- Receive an approved monthly budget allowance.

If the recipient has selected a Representative, it is understood that the Representative will fulfill any responsibilities addressed in this document on behalf of the recipient. Recipients shall be allowed to choose the providers of services, as well as when and how the services are provided. Providers may include a recipient's neighbor, friend, spouse, or relative [s. 409.221 (4)(f), F.S.].

To qualify as a Medicaid waiver provider, the service provider must have an executed agreement with APD and meet all Medicaid requirements. When a Medicaid waiver provider is hired by a recipient in the CDC+ program, that provider is responsible for keeping the same records required for recipients receiving services through the iBudget Waiver.

PDO

A service delivery option that enables LTC beneficiaries to exercise decision-making authority and control over allowable services and how those services are delivered, including the ability to hire and fire service providers. A beneficiary choosing participant direction accepts responsibility for taking a direct role in managing his/her care.

The Plan is responsible for implementing and managing the PDO and shall ensure the PDO is available to all enrollees who have one or more of the following services on their plan of care and who live in their own home or family home: adult companion care, attendant nursing care, homemaker services, intermittent and skilled nursing, or personal care.

Individuals of the beneficiary's choosing may provide PDO services so long as they meet the minimum provider qualifications and are age 18 years and older. PDO providers are also required to sign and date a Participant/Direct Service Worker Agreement and obtain a satisfactory Level II background screening. A PDO participant may choose a representative to assist with the employer responsibilities of the PDO. The representative cannot be either compensated for their services as a representative or be a direct service worker.

Home health aide qualifications. A Medicaid-certified, licensed HHA that provides home health aide services under Chapter 42 C.F.R. §484.80 must ensure that the HHA employees or contractors providing home health aide services meet the training and competency requirements in 42 C.F.R., §484.80 and §483.151-§483.154. The HHA must maintain documentation that demonstrates the qualifications have been met.

Classroom and supervised practical training. Home health aide training must include classroom and supervised practical training in which the trainee demonstrates knowledge while providing services to an individual under the direct supervision of a registered nurse (RN), or a licensed practical nurse (LPN) under the supervision of an RN. Classroom and supervised practical training must total at least 75 hours. A minimum of 16 hours of classroom training must precede a minimum of 16 hours of supervised practical training as part of the 75 hours.

To provide home health aide services to a Medicare or Medicaid recipient, a home health aide training program must address each of the following subject areas:

- Communication and interpersonal skills.
- Observation, reporting, and documentation of patient status and the care or service furnished.
- Reading and recording vitals.
- Basic infection prevention and control procedures.
- Basic elements of body functioning and changes in body function that must be reported to an aide's supervisor.
- Maintenance of a clean, safe, and healthy environment.
- Safety and emergency procedures.
- Hygiene, grooming, and toileting.
- Safe transfer techniques and ambulation, and normal range of motion and positioning.
- Adequate nutrition and fluid intake.
- Recognizing and reporting changes in skin condition and
- Any other task that the HHA may choose to have an aide perform as permitted under state law.

Classroom and supervised practical training must be performed by an RN who possesses a minimum of 2 years of nursing experience, at least 1 year of which must be in home health care, or by other individuals under the general supervision of the RN.

Competency evaluation.

An individual may furnish home health services on behalf of an HHA only after that individual has successfully completed a competency evaluation program. The competency evaluation must be performed by a registered nurse in consultation with other skilled professionals, as appropriate by observing an aide's performance of the task with a patient or pseudo-patient.

In-service training. A home health aide must receive at least 12 hours of in-service training during each 12-month period under the supervision of a registered nurse. The training may be offered by any organization and may occur while an aide is furnishing care to a patient.

If there has been a 24-month lapse in furnishing home health aide services for compensation, the individual must complete another training and/or competency evaluation program before providing services again.

Home health aides are not licensed or certified in Florida. A home health aide that is employed by or contracted with a licensed home health agency must provide documentation of 40 hours of training as specified in s. 59A-8.0095(5), Florida Administrative Code or demonstrate competency through a competency test administered by the home health agency. The competency test is a combination of a written exam and demonstration of skills through the performance of 14 tasks in the presence of an RN or an LPN under the supervision of an RN. To work for or contract with a Medicare or Medicaid certified home health agency, a home health aide must have 75 hours of training in accordance with 42 C.F.R. 484.80.

Home Health Agencies are currently required to keep information about patients confidential. Also

There are currently 2,341 licensed HHAs in Florida; 722 of those HHAs provide skilled services to children.

2. EFFECT OF THE BILL:

The bill amends sections (s.) 400.462, 400.464, 400.476, 408.822, and 464.0156, Florida Statutes (F.S.), creates s. 400.4765 and 400.54, F.S., and aligns subsections (ss.) 400.489 and 400.490, F.S., with the proposed changes.

House Bill 391 creates the home health aide for medically fragile children program. The bill creates definitions for "home health aide for medically fragile children", "eligible relative", and "family caregiver", and establishes eligibility and training requirements for a parent, guardian or family member to qualify as a home health aide that can provide services to a medically fragile child. The bill provides an exemption from the program training costs for a family caregiver who is caring for a Medicaid-eligible, medically fragile child.

The bill authorizes home health aides for medically fragile children to perform certain tasks delegated by a registered nurse, including medication administration, and requires licensed HHAs to ensure that home health aides for medically fragile children providing such services are adequately trained to perform these tasks.

The bill requires the Agency, in consultation with the Florida Department of Health, Board of Nursing, to approve home health aide for medically fragile children training programs developed by HHAs and provides the training program requirements. A home health aide for medically fragile children training program developed by a home health agency must be in accordance with 42 C.F.R. ss. 483.151-483.154 and 484.80.

The bill requires the Agency to approve the medication administration and medication error prevention training. This includes the six-hour initial courses and two-hour annual inservice training courses.

Related survey process changes will be required related to training and qualifications for the home health aides for medically fragile children.

Home health aide for medically fragile children qualifications.

The eligibility and training requirements for a person to qualify for employment as a home health aide for medically fragile children are set forth in section 400.4765, F.S.

Eligibility requirements.

The eligibility requirements are as follows:

- Be 18 years or older.
- Be a family caregiver of an eligible relative.
- Be able to read and write.
- Complete an approved training program.
- Successfully pass a background screening.

Training requirements.

Training must include classroom and supervised practical training in which the trainee demonstrates knowledge while providing services to an individual under the direct supervision of an RN, or an LPN under the supervision of an RN. Classroom and supervised practical training must be performed by an RN who possesses a minimum of 2 years nursing experience, at least 1 year of which must be in home health care, or by other individuals under the general supervision of the RN. Classroom and supervised practical training must total at least 85 hours.
Theoretical instruction – a minimum of 40 hours in nursing in the following:

- Person-centered care.
- Communication and interpersonal skills.
- Infection control.
- Safety and emergency procedures.
- Assistance with the activities of daily living.
- Mental health and social service needs.
- Care of cognitively impaired individuals.
- Basic restorative care and rehabilitation.
- Patient rights and confidentiality of personal information and medical records.
- Relevant legal and ethical issues.

Skills Training – a minimum of 20 hours on basic nursing skills in the following:

- Hygiene, grooming and toileting.

- Skin care and pressure sore prevention.
- Nutrition and hydration.
- Measuring vital signs, height, and weight.
- Safe lifting, positioning, and moving of patients.
- Wound care.
- Portable oxygen use and safety and other respiratory procedures.
- Tracheostomy care.
- Enteral care and therapy.
- Peripheral intravenous assistive activities and alternative feeding methods.
- Urinary catheterization and ostomy care.

Clinical Training – at least 16 hours of clinical training under the direct supervision of a registered nurse. The bill does not specify the areas that clinical training must cover.

Additional Training and Certification:

- Human immunodeficiency virus and acquired immunodeficiency syndrome (HIV/AIDS) training.
- Cardiopulmonary resuscitation (CPR) training and certification.

Competency evaluation.

§ 42 C.F.R. ss. 483.151-483.154 and 484.80 requires that a qualified home health aide successfully completes a training and competency evaluation program. Any training program created by a home health agency for a home health aide for a medically fragile child must include a competency evaluation program.
In-service training. A home health aide for medically fragile children employed with an HHA must complete 12 hours of inservice training during each 12-month period as a condition of employment. The HIV/AIDS and CPR training may count toward meeting the 12 hours of inservice training; however, the HIV/AIDS training must only be completed one time.

In addition to the 12 hours of inservice training, a home health aide for medically fragile children employed with an HHA must also complete an annual 2-hour inservice training course approved by the agency in medication administration and medication error prevention.

The HHA must maintain documentation that demonstrates that all training requirements have been met.

If there has been a 24-month lapse in furnishing home health aide services to a medically fragile child for compensation, the family caregiver must complete another training program before providing services again.

The bill creates section 400.54 requiring the Agency to conduct an annual assessment of the home health aide for medically fragile children program and provides requirements for assessment. The assessment must:

- Report caregiver satisfaction with the program;
- Identify additional support that may be needed by the home health aide for medically fragile children; and
- Assess the rate and extent of hospitalization of children in home health services who are attended by a home health aide for medically fragile children compared to those in home health services without a home health aide for medically fragile children

The Agency must submit a report of its findings to the Governor and the Legislature by January 1 of each year, beginning in 2025.

The bill revises the term "direct care worker" in s. 408.822 to include home health aides for medically fragile children as part of the direct care workforce survey.

The bill releases an HHA from civil liability for employment termination or denial of an individual who fails to meet the requirements for qualification as a home health aide for medically fragile children.

The bill prohibits a home health agency from using the criminal records or juvenile records relating to vulnerable adults for any purpose other than determining if they meet the criteria of this part.

The Agency may adopt rules to implement this section.

Creation of a Home Health Aide for Medically Fragile Children Program
The bill creates section 400.4765 and allows a home health agency to develop a training program for a home health aide for medically fragile children for the purposes of employing caregivers who want to provide services to eligible

relatives. The Agency is responsible for approving the home health aide for medically fragile children training programs submitted by home health agencies to ensure compliance with the requirements in s. 400.4765 and in 42 C.F.R. ss. 483.151-483.154 and 484.80.

The Agency will need:

One (1) full-time equivalent (FTE) Senior Management Analyst Supervisor – SES to implement and oversee reviews of training program submissions, manage stakeholder input, and develop rules.

Two (2) full-time equivalent (FTE) Registered Nurse Consultants to review training programs for compliance with state and federal requirements and manage provider inquiries.

Annual Assessment of the Home Health Aide for Medically Fragile Children Program
An estimated cost of $150,000 in contract services is forecasted to develop a data collection tool or modify an existing Agency system to collect the information and an additional recurring $50,000 for system maintenance and enhancement.

The Agency will need:

One (1) FTE Medical Health Care Program Analyst to analyze the results of the data.

Modification to Direct Care Workforce Survey
The bill amends the direct care workforce survey in section 408.822 to include home health aides for medically fragile children and requires additional reporting requirements for these caregivers. The Agency is already working on its' implementation and will leverage existing resources to address any changes needed.

Implementation of this bill will result in non-recurring expenditures of $ 472,317 in Year 1 and recurring expenditures of $353,589 in years 2 and 3.

Within s. 400.4765 and 464.0156, F.S., the Bill gives the Agency the authority to modify its state Medicaid plan, federal waivers, and/or rules for compliance with F.S. The bill also creates s. 400.4765, F.S., requiring the Agency to work in conjunction with the Board of Nursing to develop training programs for home health aides serving medically fragile children, outlining requirements these home health aides are expected to meet, and detailing business-related exemptions and records management requirements for HHAs and their agents. Within s. 400.54, F.S., the Bill requires the Agency to conduct an annual assessment of the training program(s) and submit a Legislative report.

These changes will allow parents or caregivers employed with an HHA, who complete the required training, to be compensated by Medicaid for providing applicable home health services. The Bill does not direct the Agency's Medicaid Program to add a new service or provider type. As such, the bill has an operational impact to Florida Medicaid. The changes in this Bill would require the Agency's Medicaid Program to update its rules to incorporate this program into the coverage information for applicable service benefits, as well as make system changes to FLMMIS to identify home health aides for medically fragile children and to provide data for the annual legislative report. The Medicaid Program will also need to update the State Plan and/or its waivers to ensure the State has proper federal authority, and that the waivers either reference the revised rules or indicate that a home health aide for medically fragile children may be a family caregiver who meets the qualifications specified in the Bill. These actions are part of the Agency's routine business practices and can be accomplished using existing resources.

As part of the implementation of the home health aides for medically fragile children program, the bill directs the Agency's Medicaid Program to adopt a minimum rate of $25 per hour for a maximum of 8 hours per day for home health agencies that employ parents or caregivers who qualify as home health aides for medically fragile children. As such, the bill could have a fiscal impact on the Florida Medicaid program. The current rate is $18.04 per visit for home health aide services. As these services are provided on a "per visit" basis and not hourly, it is difficult to predict the exact impact of establishing a new rate methodology for services provided by home health aides for medically fragile children. Personal care services are reimbursed at $17.32 per hour, which is approximately 44.34% less than the proposed reimbursement rate. Additionally, although Florida Medicaid establishes Fee Schedules for home health services provided through the Fee-For-Service delivery system, the plans do not have to pay the Agency established rates and may negotiate mutually agreed-upon rates with HHA providers, unless otherwise specified in Federal law, State law, or in their contract with the Agency.

Overall, the exact extent of the fiscal impact is indeterminate based on the specific criteria outlined in the Bill as the Agency does not currently have data identifying those Medicaid recipients with a family caregiver that would like to or currently meet the qualifications specified in the Bill. The bill takes effect upon becoming a law.

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

If yes, explain:	The Agency may adopt rules to implement section 400.4765 relating to the Home health aide for medically fragile children program.
Is the change consistent with the agency's core mission?	Y _X__ 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 _X__ N ___

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

6. ARE THERE ANY GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSION, ETC.? REQUIRED BY THIS BILL? Y ___ N _X__

Board:	N/A
Board Purpose:	N/A
Who Appointments:	N/A
Appointee Term:	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 _X__

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 _X__ N ___

<table>
<tr><td>Revenues:</td><td>None</td></tr>
<tr><td>Expenditures:</td><td>Implementation of this bill will result in non-recurring expenditures of $ 472,317 in Year 1 and recurring expenditures of $353,589 in years 2 and 3.

Additionally, the bill will have a fiscal impact on the Florida Medicaid Program but the extent of the impact is indeterminate. The fiscal impact cost has a selected rate of $25 per hour and a maximum of eight hours per day per provider. Current Medicaid fee schedules for applicable services as specified in the Agency’s promulgated fee schedules are $18.04 per visit for skilled nursing services and $17.32 per hour for a home health service provider. As mentioned in Section 2 above, “the exact extent of the fiscal impact is indeterminate based on the specific criteria outlined in the Bill as the Agency does not currently have data identifying those Medicaid recipients with a family caregiver that would like to or currently meet the qualifications specified in the Bill.” This bill does not address a limit on the number of hours per year, but rather sets a maximum of eight hours per day per provider. This could increase the total number of hours to 2,920. Currently there are 5,072 recipients that would fall into this population. The following chart highlights the potential increase in Medicaid spending based on the percent of eligibles that participate in this option as outlined in bill:
<table>
<tr><th>Participation %</th><th>Additional Cost at 2080 hours or 40 hours per week.</th><th>Additional Cost at Number of hours Claimed in SFY21-22 2219 hours</th><th>Additional Cost at 2920 hours or 8 hours per day/ 365 Days per year</th></tr>
<tr><td>100%</td><td>$ 104,395,766</td><td>$ 122,039,870</td><td>$ 210,907,766</td></tr>
<tr><td>75%</td><td>$ 78,296,825</td><td>$ 91,529,903</td><td>$ 158,180,825</td></tr>
<tr><td>50%</td><td>$ 52,197,883</td><td>$ 61,019,935</td><td>$ 105,453,883</td></tr>
<tr><td>25%</td><td>$ 26,098,942</td><td>$ 30,509,968</td><td>$ 52,726,942</td></tr>
<tr><td>10%</td><td>$ 10,439,577</td><td>$ 12,203,987</td><td>$ 21,090,777</td></tr>
<tr><td>5%</td><td>$ 5,219,788</td><td>$ 6,101,994</td><td>$ 10,545,388</td></tr>
<tr><td>1%</td><td>$ 1,043,958</td><td>$ 1,220,399</td><td>$ 2,109,078</td></tr>
</table></td></tr>
<tr><td>Does the legislation contain a State Government appropriation?</td><td>No.</td></tr>
<tr><td>If yes, was this appropriated last year?</td><td>N/A</td></tr>
</table>

FISCAL IMPACT:							**Year 1 (FY 2023-24)**	**Year 2 (FY 2024-25)**	**Year3 (FY 2025-26)**
Non-Recurring Impact:									
Expenditures:									
Expense (Agency Standard Expense Package)									
Professional Staff				4.00	@	$ 4,682	$ 18,728		
Support Staff				0.00	@	4,333	-		
Total Non-Recurring Expense				**4.00**			**$ 18,728**		
Operating Capital Outlay (Agency Standard Operating Capital Outlay Package)									
-				-	@	$ -	$ -		
Total Operating Capital Outlay							**$ -**		
Total Non-Recurring Expenditures							**$ 18,728**		
Recurring Impact:									
Revenues:									
-							$ -	$ -	$ -
Total Recurring Revenues							**$ -**	**$ -**	**$ -**
Expenditures:									
			Class		**Pay**				
Salaries			**Code**	**FTEs**	**Grade**	**Rate**			
Senior Management Analyst Supervisor-SES			2228	1.00	426	49,064	$ 72,813	$ 72,813	$ 72,813
Registered Nurse Consultant			5312	2.00	79	94,101	139,649	139,649	139,649
Medical Health Care Program Analyst			5875	1.00	24	43,317	64,284	64,284	64,284
-						-	-	-	-
Total Salary and Benefits				**4.00**		**186,483**	**$ 276,746**	**$ 276,746**	**$ 276,746**
OPS				**FTEs**					
-				0.00			$ -	$ -	$ -
Total OPS				**0.00**			**$ -**	**$ -**	**$ -**
Expenses									
Professional Staff				4.00	@	$ 6,369	$ 25,476	$ 25,476	$ 25,476

Support Staff			0.00	@	5,257	-	-	-
						-	-	-
Total Expenses						**$ 25,476**	**$ 25,476**	$ 25,476
Human Resources Services								
FTE Positions			4.00	@	$ 342	$ 1,366	$ 1,366	$ 1,366
OPS Positions			0.00	@	98	-	-	-
Total Human Resources Services						**$ 1,366**	**$ 1,366**	**$ 1,366**
Special Categories/Contracted Services								
100777 Contracted Services						$ 150,000	$ 50,000	$ 50,000
-						-	-	-
Total Special Categories/Contracted Services						**$ 150,000**	**$ 50,000**	**$ 50,000**
Total Recurring Expenditures						**$ 453,589**	**$ 353,589**	**$ 353,589**
Total Revenues and Expenditures:								
Sub-Total Recurring Revenues						$ -	$ -	$ -
Total Revenues						**$ -**	**$ -**	**$ -**
Sub-Total Non-Recurring Expenditures						$ 18,728	$ -	$ -
Sub-Total Recurring Expenditures						453,589	353,589	353,589
Total Expenditures						**$ 472,317**	**$ 353,589**	**$ 353,589**
Net Impact (Total Revenues minus Total Expenditures)						**$ (472,317)**	**$ (353,589)**	**$ (353,589)**

3. DOES THE BILL HAVE A THE FISCAL IMPACT TO THE PRIVATE SECTOR? Y ___ N _X__

Revenues:	N/A
Expenditures:	N/A
Other:	N/A

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? Y ___ N _X__

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.	N/A

FEDERAL IMPACT

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

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

ADDITIONAL COMMENTS

N/A

LEGAL – GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	N/A

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Committee on Health and Human Services, *Chair*
Environment and Natural Resources, *Vice Chair*
Appropriations
Appropriations Committee on Education
Education Postsecondary
Health Policy
Judiciary

SELECT COMMITTEE:
Select Committee on Resiliency

SENATOR GAYLE HARRELL
31st District

February 21, 2023

Senator Gayle Harrell
414 Senate Building
404 South Monroe Street
Tallahassee, FL 32399

Chair Harrell,

I respectfully request that SB 452 – Home Health Aides for Medically Fragile Children be placed on the next available agenda for the Health and Human Services Appropriations Committee.

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

Thank you,

Gayle

Senator Gayle Harrell
Senate District 31

Cc: Tanya Money, Staff Director
Robin Jackson, Committee Administrative Assistant

3-8-2023

The Florida Senate

APPEARANCE RECORD

SB 452

Meeting Date

Bill Number or Topic

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

Approp HealthHealth services

Committee

Amendment Barcode (if applicable)

Name Margaret S Hooper

Phone 850-294-0052

Address 123 Merritt Dr. #203

Street

Email MargaretD@FDDC.org

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: FL DD Council

☐ 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)

3/8/23
Meeting Date

Senate HHS Approps
Committee

The Florida Senate
APPEARANCE RECORD

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

SB 452
Bill Number or Topic

Amendment Barcode (if applicable)

Name Robert Beck Phone 850 766-1410

Address 110 E. College Ave
Street

Email Robert@pinpointresults.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:
Angels of Care and Team Select

☐ 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)

3/8/23

The Florida Senate

APPEARANCE RECORD

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

Meeting Date: 3/8/23

Bill Number or Topic: 452

Committee: Senate HHS Approp Subcmte

Amendment Barcode (if applicable):

Name: ALAN ABRAMOWITZ

Phone: 850.241.3236

Address: 2848 Marlton Dr
Street

Email: Alan@arcflorida.org

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:

THE ARC OF FLORIDA

☐ 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.

CourtSmart Tag Report

Room: KB 412 **Case No.:** - **Type:**
Caption: Senate Commitee on Health and Human Services **Judge:**

Started: 3/8/2023 8:32:12 AM
Ends: 3/8/2023 10:02:56 AM Length: 01:30:45

8:32:19 AM	Sen. Harrell (Chair)
8:33:54 AM	Sen. Garcia (Chair)
8:34:14 AM	S 112
8:34:27 AM	Sen. Harrell
8:38:43 AM	Aimee Diaz Lyon (waives in support)
8:38:48 AM	Doug Bell, Florida Chapter - American Academy of Pediatrics (FCAAP) (waives in support)
8:38:50 AM	Amy Young (waives in support)
8:38:54 AM	Ivonne Fernandez, AARP (waives in support)
8:38:56 AM	Jarrod Fowler, Florida Medical Association (waives in support)
8:39:02 AM	Chris Lyon, Florida Osteopathic Medical Association (waives in support)
8:39:11 AM	Shane Messer, Florida Council for Behavioral Healthcare (waives in support)
8:39:18 AM	Jared Willis, Alliance for Political Access (waives in support)
8:39:21 AM	David Mica, Jr, Florida Hospital Assn. (waives in support)
8:39:27 AM	Beth Labasky, Informed Families of Florida (waives in support)
8:39:49 AM	Julio Fuentes, FL State Hispanic Chamber
8:42:26 AM	Barney Bishop, Small Business Pharmacy
8:43:47 AM	Sen. Harrell
8:44:32 AM	S 210
8:44:39 AM	Sen. Harrell
8:49:13 AM	Stephen Winn, Gadsden County Sheriff's Office (waives in support)
8:49:18 AM	Alan Johnson (waives in support)
8:49:21 AM	Albert Balido, Florida Certification Board (waives in support)
8:49:30 AM	Barney Bishop, Small Business Pharmacy
8:50:32 AM	Sen. Harrell
8:51:33 AM	S 452
8:51:40 AM	Sen. Harrell
8:55:00 AM	Am. 767644
8:55:19 AM	Sen. Harrell
8:56:03 AM	Am. 619948
8:56:45 AM	S 452 (cont.)
8:56:57 AM	Sen. Burton
8:57:01 AM	Sen. Harrell
8:58:06 AM	Sen. Davis
8:58:46 AM	Sen. Harrell
8:58:58 AM	Alan Abramowitz, The ARC of Florida (waives in support)
8:59:09 AM	Robert Beck, Angels of Care and Team Select (waives in support)
8:59:18 AM	Margaret J. Hooper, FL Developmental Disabilities Council (waives in support)
8:59:34 AM	Sen. Harrell
9:00:33 AM	Sen. Harrell (Chair)
9:00:56 AM	Tab 1- Update on the Agency for Persons with Disabilities
9:01:49 AM	Taylor Hatch, Director, Agency for Persons with Disabilities
9:27:27 AM	Sen. Harrell
9:28:50 AM	Sen. Burton
9:29:19 AM	T. Hatch
9:30:00 AM	Sen. Baxley
9:31:27 AM	T. Hatch
9:31:55 AM	Sen. Harrell
9:32:30 AM	Sen. Davis
9:33:02 AM	T. Hatch
9:33:06 AM	Sen. Davis
9:33:31 AM	T. Hatch
9:33:40 AM	Sen. Harrell

9:33:54 AM	T. Hatch
9:35:53 AM	Sen. Davis
9:36:42 AM	T. Hatch
9:37:11 AM	Sen. Harrell
9:37:39 AM	Laura Monesky
9:44:07 AM	Sen. Harrell
9:44:24 AM	Melissa Mazaeda
9:52:00 AM	Sen. Burton
9:54:02 AM	Sen. Harrell
9:54:56 AM	M. Mazaeda
9:55:06 AM	Sen. Harrell
9:55:16 AM	Sen. Davis
9:57:00 AM	M. Mazaeda
10:00:01 AM	Sen. Baxley
10:01:07 AM	Sen. Harrell
10:01:18 AM	M. Mazaeda
10:02:29 AM	Sen. Harrell