

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**HEALTH POLICY**  
**Senator Bean, Chair**  
**Senator Sobel, Vice Chair**

**MEETING DATE:** Tuesday, March 11, 2014  
**TIME:** 4:00 —6:00 p.m.  
**PLACE:** Pat Thomas Committee Room, 412 Knott Building

**MEMBERS:** Senator Bean, Chair; Senator Sobel, Vice Chair; Senators Brandes, Braynon, Flores, Galvano, Garcia, Grimsley, and Joyner

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 584</b> Lee (Similar CS/H 301)	Medical Examiners; Clarifying the circumstances under which a case must be referred to the district medical examiner for an investigation and determination of cause of death; prohibiting medical examiners from charging user fees for specified services involving a determination of cause of death, etc.  HP      03/11/2014 Temporarily Postponed CA	Temporarily Postponed
2	<b>SB 1068</b> Latvala (Similar H 1065, Compare H 1063)	Licensed Massage Therapists; Requiring an applicant for licensure under ch. 480, F.S., to submit to certain fingerprinting requirements; requiring the Department of Health to issue an emergency order suspending the license of a massage therapist for the commission of certain offenses; requiring the Board of Massage Therapy to deny an application for a massage therapy license for certain offenses; requiring a person with an ownership interest in a massage establishment to submit to certain background screening requirements, etc.  HP      03/11/2014 Fav/CS AP	Fav/CS Yeas 9 Nays 0
3	<b>SB 278</b> Grimsley (Compare H 323)	Pharmacy Technicians; Increasing the number of registered pharmacy technicians which a licensed pharmacist may supervise, etc.  HP      03/11/2014 Fav/CS RI RC	Fav/CS Yeas 9 Nays 0
4	<b>SB 1364</b> Bradley (Similar H 969)	Employee Health Care Access Act; Revising the definition of the term "eligible employee" for whom the act provides for the availability of access to certain health insurance coverage, etc.  HP      03/11/2014 Favorable CM BI	Favorable Yeas 5 Nays 3

**COMMITTEE MEETING EXPANDED AGENDA**

Health Policy

Tuesday, March 11, 2014, 4:00 —6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	<b>SB 1030</b> Bradley / Bean / Brandes (Compare H 859, S 962)	Medical-grade Marijuana and Cannabis; Authorizing specified physicians to prescribe to specified patients medical-grade marijuana; requiring the Department of Health to create a compassionate use registry; requiring the department to authorize a specified number of dispensing organizations; revising the definition of the term "cannabis" for purposes of the Florida Comprehensive Drug Abuse Prevention and Control Act and as applicable to certain criminal offenses proscribing the sale, manufacture, delivery, possession, or purchase of cannabis, to which penalties apply, etc.  HP 03/11/2014 Fav/CS CJ AP	Fav/CS Yeas 8 Nays 0
6	<b>SB 722</b> Garcia (Similar H 591)	Newborn Health Screening; Authorizing the State Public Health Laboratory to release the results of a newborn's hearing and metabolic tests or screenings to the newborn's health care practitioner, etc.  HP 03/11/2014 Fav/CS CF JU	Fav/CS Yeas 8 Nays 0
7	<b>SB 1122</b> Bean (Identical H 1131)	Emergency Allergy Treatment; Expanding provisions to apply to all emergency allergy reactions, rather than to insect bites only; authorizing certain health care practitioners to prescribe epinephrine auto-injectors to an authorized entity; authorizing such entities to maintain a supply of epinephrine auto-injectors; authorizing certified individuals to use epinephrine auto-injectors; authorizing uncertified individuals to use epinephrine auto-injectors under certain circumstances; providing immunity from liability, etc.  HP 03/11/2014 Fav/CS AHS AP	Fav/CS Yeas 8 Nays 0
8	<b>SB 640</b> Braynon (Similar H 531)	Public Health Trusts; Authorizing public health trusts to lease certain real property, etc.  HP 03/11/2014 Favorable CA AHS AP	Favorable Yeas 9 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Health Policy

Tuesday, March 11, 2014, 4:00 —6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	<b>SB 746</b> Sobel (Identical H 959)	Health Care Clinic Act; Redefining the term "clinic"; clarifying that a clinic that employs a physician whose license is suspended or revoked is subject to administrative and criminal penalties, etc.  HP 03/11/2014 Fav/CS CJ CA AP	Fav/CS Yeas 9 Nays 0
10	<b>SB 734</b> Sobel (Similar CS/H 511)	Cancer Control and Research; Revising the membership of the Florida Cancer Control and Research Advisory Council; requiring a statewide research plan; deleting the duties of the council, Board of Governors, and State Surgeon General relating to the awarding of grants and contracts for cancer-related programs; deleting council duties relating to the development of written summaries of treatment alternatives; deleting financial aid provisions and the Florida Cancer Control and Research Fund, etc.  HP 03/11/2014 Favorable AHS AP	Favorable Yeas 9 Nays 0
11	<b>SB 488</b> Ring (Similar H 349)	Out-of-network Physician Charges; Relating to the Florida Patient's Bill of Rights and Responsibilities; providing that a patient is responsible for reviewing a document informing the patient that he or she may be charged for out-of-network physician services; requiring a patient of a licensed facility to be presented with a document regarding charges for out-of-network physician services, etc.  HP 03/11/2014 Fav/CS CF AHS AP	Fav/CS Yeas 9 Nays 0

Other Related Meeting Documents

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Health Policy

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BILL: SB 584

INTRODUCER: Senator Lee

SUBJECT: Medical Examiners

DATE: March 5, 2014

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Stovall	HP	<b>Pre-meeting</b>
2.			CA	

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**I. Summary:**

SB 584 amends section 406.06 of the Florida Statutes to prevent a medical examiner or a county from charging a user fee for an examination, investigation, or autopsy performed pursuant to s. 406.11, F.S. The bill also amends s. 382.011, F.S.<sup>1</sup> to correctly cite only to ss. 406.11(1), F.S., rather than the entire section and to conform the language between the two sections of law that the death *involves* any of the enumerated circumstances rather than it is *due to* one of the enumerated circumstances.

**II. Present Situation:**

**Medical Examiners Act**

Part I of ch. 406 is titled the “Medical Examiners Act”<sup>2</sup> (act) and lays out minimum and uniform requirements for statewide medical examiner services. Among other things, the act establishes the Medical Examiners Commission<sup>3</sup> (commission) with duties including initiating cooperative policies with any agencies of the state; investigating, suspending, and removing medical examiners for violations of the act; overseeing the distribution of state funds for the medical examiner districts; and making any necessary agreements and contracts in order to effect the provisions of the act, subject to the approval of the executive director of the Florida Department of Law Enforcement (FDLE).<sup>4</sup> The act also requires the commission to establish medical

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<sup>1</sup> This section requires the district medical examiner to determine the cause of death or fetal death for decedents whose death was due to any of the circumstances listed in s. 406.11, F.S., and who had not seen their primary or attending physician for over a year or for which there is a reason to believe that the death may have been due to an unlawful act or neglect.

<sup>2</sup> s. 406.01, F.S.

<sup>3</sup> The Medical Examiners Commission consists of seven members appointed by the Governor, one member appointed by the State Attorney General, and one member appointed by the State Surgeon General.

<sup>4</sup> s. 406.02, F.S.

examiner districts each of which is served by a medical examiner who is appointed by the Governor.<sup>5</sup> Currently, there are 24 medical examiner districts.<sup>6</sup>

Section 406.11(1), F.S., requires district medical examiners to determine the cause of death of a decedent who died or was found dead in their district:

- If the person died:
  - Of criminal violence;
  - By accident;
  - By suicide;
  - Suddenly, when in apparent good health;
  - Unattended by a practicing physician or other recognized practitioner;
  - In any prison or penal institution;
  - In police custody;
  - In any suspicious or unusual circumstance;
  - By criminal abortion;
  - By poison;
  - By disease constituting a threat to public health; or
  - By disease, injury, or toxic agent resulting from employment.
- If the dead body was brought into the state without proper medical certification; or,
- If the dead body is to be cremated, dissected, or buried at sea.<sup>7,8</sup>

Subsections (1) and (2)(a) of s. 406.11, F.S., require and grant authority to the medical examiner to make or have performed any examinations, investigations, and autopsies they deem necessary or that are requested by the state attorney for the purpose of determining the cause of death. Subsection (2) also restricts the medical examiners from retaining or furnishing any body part for any purpose other than those authorized in statute<sup>9</sup> without notifying the next of kin and grant rulemaking authority to the Commission to adopt rules for such notifications. Subsection (3) grants the Commission rulemaking authority to incorporate practice parameters for medical examiners.

### **Medical Examiner Fees**

Section 406.06(3), F.S., entitles district and associate medical examiners to “compensation and such reasonable salary and fees as are established by the board of county commissioners in the respective districts.” Presently, as required in s. 406.08, F.S., district medical examiners submit

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<sup>5</sup> ss. 406.05 and 406.06, F.S.

<sup>6</sup> A map of the medical examiner districts can be found at <http://myfloridamedicalexaminer.com/>, last visited on Mar. 6, 2014.

<sup>7</sup> The medical examiner must approve the cremation of a dead body through a consent process that differs from one district to another. Some medical examiner districts require written consent while others may allow telephone approval. Approval will not be written in the death record margin or in such a way as to deface the record. See Vital Records Registration Handbook, 2012 revision, found at <http://www.floridahealth.gov/certificates-and-registries/certificates/EDRS/documents/HB2012Final.pdf>, last visited on Mar. 6, 2014, page 73.

<sup>8</sup> In 2012, 44,895 dead bodies were buried, 106,827 were cremated, 1,001 were donated, and 8 were buried at sea. See Florida Death Count Query System, found at <http://www.floridacharts.com/FLQUERY/Death/DeathCount.aspx>, last visited on Mar. 6, 2014.

<sup>9</sup> In ch. 406, F.S., relating to medical examiners and the disposition of human remains; Part V of ch. 765, F.S., relating to the granting of anatomical gifts; and ch. 873, F.S., relating to the sale of anatomical matter.

an annual budget to the board of county commissioners which includes fees, salaries, and expenses for their office. Medical examiner office budgets that are established through contract with county governments<sup>10</sup> are often based on a fee-for-service schedule.<sup>11</sup> Each specific fee is approved by the board of county commissioners in each county within the district, and the fee may vary from county to county. In some districts, fees for a specific type of service are paid directly to the medical examiner's office, while in other districts, such fees go directly to the county's general revenue fund.<sup>12</sup> The fees charged by district medical examiner's offices for the services provided pursuant to s. 406.11, F.S., vary from district to district and, occasionally, from county to county. For example, according to the Medical Examiners Commission, for cremation services ten counties charge no fee<sup>13</sup> while the other 57 counties' fees vary with Miami-Dade county charging the highest fee at \$63 and the average fee being approximately \$31.30. The total amount of revenue generated by cremation service fees in 2012 was approximately \$3.93 million.<sup>14</sup>

### III. Effect of Proposed Changes:

**Section 1** of the bill amends s. 382.011, F.S., to correctly cite to s. 406.11(1), F.S., rather than the whole section. Only subsection (1) of section 406.11, F.S., relates to causes of death. In addition, the conditions when a funeral director or other person must refer the case to the district medical examiner are changed from when the death was "due to" the causes in s. 406.11, F.S., which is conclusive, to when the death "involves" any such circumstances.

**Section 2** of the bill amends s. 406.06, F.S., to restrict counties and medical examiners from charging user fees for examinations, investigations, and autopsies performed pursuant to s. 406.11, F.S.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

Article VII, subsection 18(a) of the Florida Constitution, provides that a county or municipality may not be bound by any general law requiring the county or municipality to spend funds or to take an action requiring the expenditure of funds, unless the Legislature has determined that such law fulfills an important state interest and unless:

- Funds have been appropriated that have been estimated at the time of enactment to be sufficient to fund such expenditure;
- The Legislature authorizes or has authorized a county or municipality to enact a funding source not available for such county or municipality on February 1, 1989, that can be used to generate the amount of funds estimated to be sufficient to fund such expenditure by a simple majority vote of the governing body of such county or municipality;

<sup>10</sup> Medical examiner services are provided by private contract in districts 1, 2, 5, 6, 8, 10, 12, 14, 16, 21, and 22. See FDLE bill analysis for SB 584, on file with Health Policy Committee Staff.

<sup>11</sup> Id.

<sup>12</sup> Supra n. 10

<sup>13</sup> Hardee, Highlands, Bay, Calhoun, Gulf, Holmes, Jackson, Washington, Collier, and Charlotte counties.

<sup>14</sup> Supra n. 10

- The law requiring such expenditure is approved by two-thirds of the membership in each house of the Legislature;
- The expenditure is required to comply with a law that applies to all persons similarly situated, including the state and local governments; or
- The law is either required to comply with a federal requirement or required for eligibility for a federal entitlement, which federal requirement specifically contemplates actions by counties or municipalities for compliance.

Subsection 18(d) provides an exemption from this prohibition. Laws determined to have an “insignificant fiscal impact,” which means an amount not greater than the average statewide population for the applicable fiscal year times 10 cents (which is \$1.93 million for 2012-2013 fiscal year), are exempt.

SB 584 may prevent counties and district medical examiners from charging fees which generated at least \$3.93 million in revenue in 2012. As such, the law may be unenforceable unless passed by a two-thirds majority in each house of the Legislature.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Cost savings may be generated for individuals in the private sector who would have been charged a fee for one of the specified medical examiner services, however, these individual cost savings may result in increased costs to the private sector as a whole if affected counties choose to increase local taxes to recoup the lost fee revenue.

**C. Government Sector Impact:**

Local governments may incur a loss in revenue if they currently charge fees to cover costs of operations which would be prohibited by the changes in the bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

There is no distinction drawn in the bill between the types of fees allowed to be charged by a medical examiner and the “user fees” that are prohibited by the bill. Since the term “user fee” is not defined, this may cause some confusion as to exactly which fees may and may not be charged.<sup>15</sup>

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 382.011 and 406.06.

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

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

None.

**B. Amendments:**

None.

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

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<sup>15</sup> Supra n. 10 at page 3





802414

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/11/2014	.	
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	.	
	.	

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The Committee on Health Policy (Sobel) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 34 - 37  
and insert:  
county commissioners in the respective districts; however, a medical examiner or a county, other than a home rule charter county that has a population of at least 1.3 million, may not charge a user fee for an examination, investigation, or autopsy performed pursuant to s. 406.11.



802414

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

12 And the title is amended as follows:

13       Delete line 9

14 and insert:

15       of death; providing an exception; providing an

16       effective date.

By Senator Lee

24-00733-14

2014584\_\_

1 A bill to be entitled  
2 An act relating to medical examiners; amending s.  
3 382.011, F.S.; clarifying the circumstances under  
4 which a case must be referred to the district medical  
5 examiner for an investigation and determination of  
6 cause of death; amending s. 406.06, F.S.; prohibiting  
7 medical examiners from charging user fees for  
8 specified services involving a determination of cause  
9 of death; providing an effective date.

10  
11 Be It Enacted by the Legislature of the State of Florida:

12  
13 Section 1. Subsection (1) of section 382.011, Florida  
14 Statutes, is amended to read:

15 382.011 Medical examiner determination of cause of death.—

16 (1) In the case of a any death or fetal death involving any  
17 of the circumstances due to causes or conditions listed in s.  
18 406.11(1) 406.11, which any death that occurred more than 12  
19 months after the decedent was last treated by a primary or  
20 attending physician identified as defined in s. 382.008(3), or  
21 any death for which there is reason to believe that the death  
22 may have been due to an unlawful act or neglect, the funeral  
23 director or other person to whose attention the death may come  
24 shall refer the case to the district medical examiner of the  
25 county in which the death occurred or the body was found for  
26 investigation and determination of the cause of death.

27 Section 2. Subsection (3) of section 406.06, Florida  
28 Statutes, is amended to read:

29 406.06 District medical examiners; associates; suspension

Page 1 of 2

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

24-00733-14

2014584\_\_

30 of medical examiners.—

31 (3) District medical examiners and associate medical  
32 examiners ~~are shall be~~ entitled to compensation and such  
33 reasonable salary and fees as are established by the board of  
34 county commissioners in the respective districts; however, a  
35 medical examiner or a county may not charge a user fee for an  
36 examination, investigation, or autopsy performed pursuant to s.  
37 406.11.

38 Section 3. This act shall take effect July 1, 2014.

Page 2 of 2

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



**THE FLORIDA SENATE**

Tallahassee, Florida 32399-1100

COMMITTEES:  
Judiciary, *Chair*  
Appropriations Subcommittee on Health  
and Human Services  
Appropriations Subcommittee on Transportation,  
Tourism, and Economic Development  
Banking and Insurance  
Ethics and Elections  
Gaming  
Rules  
Transportation

SENATOR TOM LEE  
Deputy Majority Leader  
24th District

February 4, 2014

The Honorable Aaron Bean  
Senate Health Policy Committee, Chair  
302 Senate Office Building  
404 South Monroe St.  
Tallahassee, FL 32399

Dear Chairman Bean,

I respectfully request that SB 584 related to the *Medical Examiners*, be placed on the Senate Health Policy committee agenda at your earliest convenience.

Thank you for your consideration.

Sincerely,

Tom Lee  
Senator, District 24

Cc: Sandra Stovall, Staff Director

REPLY TO:

815 Oakfield Drive, Suite D, Brandon, Florida 33511 (813) 853-7081  
 416 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5024

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

DON GAETZ  
President of the Senate

GARRETT RICHTER  
President Pro Tempore



**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

3-11-14

Meeting Date

Topic Medical Examiner Bill Number 584  
 Name Marty Cassini Amendment Barcode \_\_\_\_\_  
 Job Title Legislative Counsel (if applicable)  
 Address 115 S. Andrews Ave, 426 Phone 954-357-7575  
 Street Ext Lauderdale FL 33301 (if applicable)  
 City State Zip  
 Speaking:  For  Against  Information  
 Representing Broward County  
 Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

03/11/2014

Meeting Date

Topic Medical Examiners Commission

Bill Number SB 584  
*(if applicable)*

Name James Martin

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Assistant General Counsel

Address 2331 Phillips Road  
*Street*

Phone 850-410-7676

Tallahassee FL 32308  
*City State Zip*

E-mail jamesmartin@fdle.state.fl.us

Speaking:  For  Against  Information

Representing Florida Department of Law Enforcement

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/11/14  
Meeting Date

Topic MEDICAL EXAMINERS

Bill Number 584  
*(if applicable)*

Name JACK McRAY

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title \_\_\_\_\_

Address 200 W. COLLEGE ST # 304  
*Street*

Phone 850-577-5107

TLH FL 32301  
*City State Zip*

E-mail jmcra@aar.org

Speaking:  For  Against  Information

Representing AAAP

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/11/14

Meeting Date

Topic Medical Examiners

Bill Number SB 584  
*(if applicable)*

Name Kathy Bryant

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Marion County Commissioner

Address \_\_\_\_\_  
*Street*

Phone \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing Marion County / FL Association of Counties

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

~~3/11/14~~ 3/11/14

Meeting Date

Topic Medical Examiners

Bill Number 584  
*(if applicable)*

Name Susan Harbin

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Legislative Advocate

Address 100 S. Monroe  
*Street*

Phone 770 546-8845

City Tallahassee State FL Zip \_\_\_\_\_

E-mail sharbin@fl-counties.com

Speaking:  For  Against  Information

Representing FL Association of Counties

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

Meeting Date \_\_\_\_\_

Topic MEDICAL EXAMINERS Bill Number SB 584

Name TODD BON LARSON Amendment Barcode 802414  
(if applicable)  
(if applicable)

Job Title LEGISLATIVE AFFAIRS DIRECTOR

Address 301 N. OLIVE AVE., STE 1101 Phone (561) 355-3451  
Street

WEST PALM BEACH FL 33401 E-mail tbonlar@phca.gov.org  
City State Zip

Speaking:  For <sup>AMENDMENT</sup>  Against  Information

Representing PALM BEACH COUNTY

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

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

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S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

Meeting Date 3-11-14

Topic Medical Examiners Bill Number 584

Name Marty Cassini Amendment Barcode 802414  
(if applicable)  
(if applicable)

Job Title Legislative Counsel

Address 115 S. Andrews Ave, 426 Phone 954-357-7575  
Street

Fort Lauderdale FL 33301 E-mail mcassini@broward.org  
City State Zip

Speaking:  For  Against  Information

Representing Broward County

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/20/11)

**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.)

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Prepared By: The Professional Staff of the Committee on Health Policy

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BILL: CS/SB 1068

INTRODUCER: Health Policy Committee and Senator Latvala

SUBJECT: Massage Therapy

DATE: March 11, 2014

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peterson	Stovall	HP	Fav/CS
2.			AP	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1068 requires applicants for licensure as a massage therapist and certain persons with ownership in or management responsibilities for a massage establishment to submit to background screening. The bill requires the Board of Massage Therapy (board) and the Department of Health (DOH) to deny an application for new or renewal licensure under ch. 480, F.S., if any person who is screened is determined to have been convicted of or entered a plea of guilty or nolo contendere to specified criminal acts. The bill also requires the DOH to suspend the license of a massage therapist or massage establishment when it learns that the massage therapist or person who is subject to background screening for the massage establishment license has been convicted of or entered a plea of guilty or nolo contendere to one of the specified criminal acts. The bill exempts specified physician-owned entities from the massage establishment licensure requirements.

**II. Present Situation:**

**Florida Regulation of Massage Therapists and Massage Establishments**

Massage therapists and massage establishments in Florida are regulated by the Board of Massage Therapy, within the DOH, under the Massage Practice Act, chapter 480, Florida Statutes, and Rule chapter 64B7, Florida Administrative Code. A person must be licensed as a massage



therapist to practice massage for compensation, unless otherwise specifically exempted under the Massage Practice Act.<sup>1</sup> In order to be licensed as a massage therapist, an applicant must:<sup>2</sup>

- Be at least 18 years of age or have received a high school diploma or graduate equivalency diploma;
- Complete a course of study at a massage school approved by the board or apprenticeship program; and,
- Pass an examination.

Licensed massage therapists may practice in a licensed massage establishment, at a client's residence or office, or at a sports event, convention or trade show.<sup>3</sup> Sexual misconduct, defined as a violation of the professional relationship through the use of such relationship to engage or attempt to engage in sexual activity outside the scope of the profession, is strictly prohibited.<sup>4</sup>

Section 480.43, F.S., provides that a massage establishment license is required at any facility where massage therapy services are offered by a licensed massage therapist. It also provides that massage establishment licenses may not be transferred to a new owner, but may be transferred to a new location, subject to certain conditions. The board's rules address insurance, compliance with building codes, and safety and sanitary requirements,<sup>5</sup> and require that massage therapy establishments be inspected prior to initial licensure and annually, thereafter.<sup>6</sup>

The next biennial renewal date for licenses issued under the Massage Practice Act is August 31, 2015.<sup>7</sup>

### **The Care Provider Background Screening Clearinghouse**

In 2012, the Legislature created the Care Provider Background Screening Clearinghouse (clearinghouse). The clearinghouse establishes a single data source for background screening results of persons required to be screened by law for employment in positions that provide services to children, the elderly, and disabled individuals.<sup>8</sup> The clearinghouse also allows the results of criminal history checks to be shared among specified state agencies,<sup>9</sup> thereby reducing duplicative screenings for individuals requiring multiple screenings by multiple agencies.

Fingerprints submitted for inclusion in the clearinghouse are sent to the FDLE electronically as a scanned image and retained by the FDLE for 5 years, subject to further retention on a renewal basis.<sup>10</sup> The FDLE searches the retained prints against incoming Florida arrests and must report the results to the Agency for Health Care Administration (AHCA) for inclusion in the clearinghouse, thus avoiding the need for future state screens and related fees. A digital

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<sup>1</sup> s. 480.047(1)(a), F.S.; s. 480.034, F.S.

<sup>2</sup> s. 480.041 and 480.042, F.S.

<sup>3</sup> S. 480.046(1)(n), F.S.

<sup>4</sup> s. 480.0485, F.S.

<sup>5</sup> Rule 64B7-26.003, F.A.C.

<sup>6</sup> See Rules 64B7-26.004 and 64B7-26.004, F.A.C.

<sup>7</sup> Florida Department of Health, Board of Massage Therapy, *Renewal Information* <http://floridasmassagetherapy.gov/renewals/> (last visited March 10, 2014).

<sup>8</sup> s. 435.12(1), F.S.

<sup>9</sup> *Id.*

<sup>10</sup> s. 435.12(2)(a), F.S.

photograph of the person screened is taken at the time the fingerprints are taken and retained by the FDLE in electronic format, as well. This enables accurate identification of the person when he or she changes jobs or is otherwise presented with a situation requiring screening. Retained fingerprints must be resubmitted for a Federal Bureau of Investigation (FBI) national criminal history check every 5 years until such time as the FBI implements its own retention program. Once the FBI implements its retention program, the need for any future screening by the specified agencies of persons in the clearinghouse will be eliminated.<sup>11</sup>

The clearinghouse is in the process of being implemented by six designated state agencies. Currently, the clearinghouse is active and being used by the AHCA and the DOH.<sup>12</sup>

### **Health Practitioner Background Screening**

Current law requires physicians, chiropractors, podiatrists, nurses, specified persons in connection with an application for a pharmacy permit, and persons licensed or registered under part XIV of ch. 468, F.S.,<sup>13</sup> to submit to background screening as a condition of licensure<sup>14</sup> and, in some cases, licensure renewal.<sup>15</sup> The fingerprints of all of these practitioners are currently entered into the clearinghouse.<sup>16</sup> In addition, some health care practitioners may be required to undergo background screening as a condition of employment or volunteer service in a facility or with an organization that provides care to children, the elderly, or individuals with disabilities.<sup>17</sup>

Massage therapists and the owners or operators of massage establishments do not undergo a criminal background screening prior to licensure. Applicants are required to self-report criminal offenses on their applications<sup>18</sup> and licensees must self-report subsequent violations to the DOH within 30 days after conviction.<sup>19</sup>

### **III. Effect of Proposed Changes:**

**Section 1** amends s. 456.0135, F.S., to add applicants for licensure under ch. 480, F.S., to the list of applicants required to provide electronic fingerprints to the FDLE for an FBI national criminal history check. The section also adds language requiring that all fingerprints submitted to the FDLE must be retained by the FDLE and enrolled in the national retained print arrest notification program. The DOH is not required to request that the FDLE forward retained prints of an applicant for renewal to the FBI if the fingerprints are already enrolled in the national program. The bill adds a specific requirement for the DOH to submit the fingerprints of all practitioners subject to this section to the clearinghouse.

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<sup>11</sup> Florida Senate, *CS/CS/SB 320*, 8 (Feb. 28, 2012), available at <http://www.flsenate.gov/Session/Bill/2012/0320/Analyses/2012s0320.bha.PDF> (last visited March 7, 2014).

<sup>12</sup> See Agency for Health Care Administration, *Care Provider Background Screening Clearinghouse* [http://ahca.myflorida.com/MCHO/Central\\_Services/Background\\_Screening/BGS\\_results.shtml](http://ahca.myflorida.com/MCHO/Central_Services/Background_Screening/BGS_results.shtml), (last visited March 8, 2014).

<sup>13</sup> Orthotists, prosthetists, pedorthists, orthotic fitters, orthotic fitter assistants, and orthotist and prosthetist residents.

<sup>14</sup> See ss. 458.311(1)(g), 459.0055(1)(j), 460.406(2)(f), 461.006(1)(e), 464.008(1)(b), 464.009(4), 465.022

ss. 456.039(4)(a), F.S.

<sup>16</sup> Conversation with Jennifer Wenhold, Florida Department of Health (March 7, 2014).

<sup>17</sup> See, e.g., s. 943.0542, F.S.

<sup>18</sup> Florida Department of Health, *SB 1086 Bill Analysis* (Feb. 18, 2014) (on file with the Senate Health Policy Committee).

<sup>19</sup> s. 456.072(1)(x), F.S.

**Section 2** amends s. 456.074, F.S., to require the DOH to issue an emergency order suspending the license of a massage therapist or massage establishment when it learns that the massage therapist or person who is subject to background screening in connection with the massage establishment license has been convicted or found guilty of, or has entered a plea of guilty or nolo contendere to, regardless of adjudication, a felony offense under any of the following Florida laws or similar provision in another jurisdiction:

- s. 787.01, F.S., relating to kidnapping.
- s. 787.02, F.S., relating to false imprisonment.
- s. 787.025, F.S., relating to luring or enticing a child.
- s. 787.06, F.S., relating to human trafficking.
- s. 787.07, F.S., relating to human smuggling.
- s. 794.011, F.S., relating to sexual battery.
- s. 794.08, F.S., relating to female genital mutilation.
- s. 796.03, F.S., relating to procuring a person under the age of 18 for prostitution.
- s. 796.035, F.S., relating to the selling or buying of minors into prostitution.
- s. 796.04, F.S., relating to forcing, compelling, or coercing another to become a prostitute.
- s. 796.05, F.S. relating to deriving support from the proceeds of a prostitute.
- s. 796.07(4)(c), F.S., relating to a felony of the third degree for a third or subsequent violation as provided in s. 775.082, s. 775.083, or s. 775.084.
- s. 800.04, F.S., relating to lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age.
- s. 825.1025(2)(b), F.S., relating to lewd or lascivious offenses committed upon or in the presence of an elderly or disabled person.
- s. 827.071, F.S., relating to sexual performance by a child.
- s. 847.0133, F.S., relating to the protection of minors.
- s. 847.0135, F.S., relating to computer pornography.
- s. 847.0138, F.S., relating to the transmission of material harmful to minors to a minor by electronic device or equipment.
- s. 847.0145, F.S., relating to the selling or buying of minors.

**Section 3** amends s. 480.041, F.S., to require applicants for licensure or renewal licensure as a massage therapist to submit to background screening. Massage therapists licensed before July 1, 2014, must submit to background screening by January 31, 2015. The board is required to deny an application for licensure under the same circumstances and for the same crimes enumerated in section 2 above.

**Section 4** amends s. 480.043, F.S., to require a person who has an ownership interest in a massage establishment or, for corporations submitting proof of at least \$250,000 in business assets, the owner, officer, or manager of the massage establishment to submit to background screening. The board will determine by rule the proof a corporation is to submit to document the business assets. The board is required to deny an application for new or renewal licensure if a person with an ownership interest in the massage establishment, or for a corporation that has more than \$250,000 of business assets in this state, the owner, officer, or individual directly involved in the management of the massage establishment has been convicted or found guilty of, or has entered a plea of guilty or nolo contendere to, regardless of adjudication, a felony offense under any of the following Florida laws or similar provision in another jurisdiction:

- s. 787.01, F.S., relating to kidnapping.
- s. 787.02, F.S., relating to false imprisonment.
- s. 787.025, F.S., relating to luring or enticing a child.
- s. 787.06, F.S., relating to human trafficking.
- s. 787.07, F.S., relating to human smuggling.
- s. 794.011, F.S., relating to sexual battery.
- s. 794.08, F.S., relating to female genital mutilation.
- s. 796.03, F.S., relating to procuring a person under the age of 18 for prostitution.
- s. 796.035, F.S., relating to the selling or buying of minors into prostitution.
- s. 796.04, F.S., relating to forcing, compelling, or coercing another to become a prostitute.
- s. 796.05, F.S. relating to deriving support from the proceeds of a prostitute.
- s. 796.07(4)(c), F.S., relating to a felony of the third degree for a third or subsequent violation as provided in s. 775.082, s. 775.083, or s. 775.084.
- s. 800.04, F.S., relating to lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age.
- s. 825.1025(2)(b), F.S., relating to lewd or lascivious offenses committed upon or in the presence of an elderly or disabled person.
- s. 827.071, F.S., relating to sexual performance by a child.
- s. 847.0133, F.S., relating to the protection of minors.
- s. 847.0135, F.S., relating to computer pornography.
- s. 847.0138, F.S., relating to the transmission of material harmful to minors to a minor by electronic device or equipment.
- s. 847.0145, F.S., relating to the selling or buying of minors.

A person with an ownership interest in, or for a corporation that has more than \$250,000 of business assets in this state, the owner, officer, or individual directly involved in the management of, a massage establishment licensed before July 1, 2014, must submit to the background screening by January 1, 2015.

The bill exempts an entity wholly owned by one or more physicians licensed under ch. 458, F.S. (allopathic physicians), ch. 459, F.S. (osteopathic physicians), or ch. 460, F.S. (chiropractors), or by such physicians and the spouse, parent, child, or sibling of such physicians from the massage establishment licensure requirements. The term defines “entity wholly owned” as a proprietorship, group practice, partnership, or corporation that provides health care services rendered by licensed physicians and health care practitioners in which the licensed physicians or such physicians and the spouse, parent, child, or sibling of such physicians are the business owners in all aspects of the business entity, including, but not limited to, being reflected as the business owners on the title or lease of the physical facility, filing taxes as the business owners, being account holders on the entity’s bank account, being listed as the principals on all incorporation documents required by this state, and having ultimate authority over all personnel and compensation decisions relating to the entity.

The language parallels language used in ch. 627, F.S., relating to the Personal Injury Protection insurance requirements.

**Section 5** amends s. 480.0465, F.S., to conform a cross-reference.

**Section 6** provides an effective date of July 1, 2014.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

All licensed massage therapists and specified persons associated with currently licensed massage establishments will be required to submit to background screening by January 1, 2015. The DOH estimates these numbers at 40,392 and 23,486, respectively. The DOH estimates the annual number of new applicants for massage therapy licenses or massage establishment licenses who will be subject to the requirement at 4,281 and 1,615, respectively. The combined cost of a state and national background screen, 5-year state fingerprint retention, and FBI enrollment totals \$77.50. Total private sector impact, therefore, is estimated at \$4, 950,545 in the first year and \$456,940 in subsequent 2 fiscal years.<sup>20</sup>

Private physician offices or other physician-owned facilities that provide massage services, in addition to health care services, will no longer incur the cost of complying with the massage establishment licensure requirements.

C. Government Sector Impact:

The state's share of the fees collected (and described above) is estimated at \$3,066,144 in the first year and \$283,008 annually thereafter.<sup>21</sup>

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<sup>20</sup> Florida Department of Law Enforcement, *SB 1086 Bill Analysis* (March 6, 2014) (on file with the Senate Health Policy Committee).

<sup>21</sup> *Id.*

The FDLE anticipates requesting one FTE to assist with the fingerprint retention processing required by the bill, but will handle the criminal record checks with existing staff. The projected cost of the new FTE is \$63,520 in 2014-2015 fiscal year and \$59,747 in the subsequent 2 fiscal years.

The DOH anticipates the background screening of current licensees will result in expenses associated with enforcement actions of \$145,000, which includes four OPS Investigation Specialists for a period of 6 months and one Senior Attorney for 1 year, but that those costs can be absorbed into current budget authority.<sup>22</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 456.0135, 456.074, 480.041, 480.043, and 480.0465.

**IX. Additional Information:**

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

**CS by Health Policy on March 11, 2014:**

- Expands the duty of the DOH to suspend a license of a person who commits a violation of specified crimes to include the license of a massage establishment.
- Conforms the terminology that describes which representatives of a massage establishment must submit to background screening to make it consistent throughout the bill.
- Clarifies the obligation of the representative of a corporately-owned massage establishment to submit to background screening by Jan. 1, 2015.
- Specifies the authority of the board and the DOH, respectively, to deny a massage therapist's or massage establishment's application for license renewal based on the results of the background screen.
- Adds three offenses related to prostitution to the list of disqualifying offenses.
- Exempts physician-owned entities from the massage establishment licensure requirements.

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<sup>22</sup> *Supra* note 18.

B. Amendments:

None.

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

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234686

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
03/11/2014	.	
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The Committee on Health Policy (Grimsley) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 75 - 213  
and insert:  
suspending the license of a massage therapist or massage establishment as defined in chapter 480 upon receipt of information that such therapist or person with an ownership interest in the massage establishment, or for a corporation that has more than \$250,000 of business assets in this state, the owner, officer, or individual directly involved in the





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11 management of the massage establishment has been convicted or  
12 found guilty of, or has entered a plea of guilty or nolo  
13 contendere to, regardless of adjudication, a felony offense  
14 under any of the following provisions of state law or a similar  
15 provision in another jurisdiction:

16 (a) Section 787.01, relating to kidnapping.

17 (b) Section 787.02, relating to false imprisonment.

18 (c) Section 787.025, relating to luring or enticing a  
19 child.

20 (d) Section 787.06, relating to human trafficking.

21 (e) Section 787.07, relating to human smuggling.

22 (f) Section 794.011, relating to sexual battery.

23 (g) Section 794.08, relating to female genital mutilation.

24 (h) Section 796.03, relating to procuring a person under  
25 the age of 18 for prostitution.

26 (i) Section 796.035, relating to the selling or buying of  
27 minors into prostitution.

28 (j) Section 800.04, relating to lewd or lascivious offenses  
29 committed upon or in the presence of persons less than 16 years  
30 of age.

31 (k) Section 825.1025(2)(b), relating to lewd or lascivious  
32 offenses committed upon or in the presence of an elderly or  
33 disabled person.

34 (l) Section 827.071, relating to sexual performance by a  
35 child.

36 (m) Section 847.0133, relating to the protection of minors.

37 (n) Section 847.0135, relating to computer pornography.

38 (o) Section 847.0138, relating to the transmission of  
39 material harmful to minors to a minor by electronic device or



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40 equipment.

41 (p) Section 847.0145, relating to the selling or buying of  
42 minors.

43 Section 3. Present subsections (3) and (4) of section  
44 480.041, Florida Statutes, are redesignated as subsections (4)  
45 and (5), respectively, and a new subsection (3) and subsections  
46 (6) and (7) are added to that section, to read:

47 480.041 Massage therapists; qualifications; licensure;  
48 endorsement.—

49 (3) An applicant must submit to background screening under  
50 s. 456.0135.

51 (6) Massage therapists who were issued a license before  
52 July 1, 2014, must submit to the background screening  
53 requirements of s. 456.0135 by January 31, 2015.

54 (7) The board shall deny an application for a new or  
55 renewal license if an applicant has been convicted or found  
56 guilty of, or enters a plea of guilty or nolo contendere to,  
57 regardless of adjudication, a felony offense under any of the  
58 following provisions of state law or a similar provision in  
59 another jurisdiction:

60 (a) Section 787.01, relating to kidnapping.

61 (b) Section 787.02, relating to false imprisonment.

62 (c) Section 787.025, relating to luring or enticing a  
63 child.

64 (d) Section 787.06, relating to human trafficking.

65 (e) Section 787.07, relating to human smuggling.

66 (f) Section 794.011, relating to sexual battery.

67 (g) Section 794.08, relating to female genital mutilation.

68 (h) Section 796.03, relating to procuring a person under



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69 the age of 18 for prostitution.

70 (i) Section 796.035, relating to the selling or buying of  
71 minors into prostitution.

72 (j) Section 800.04, relating to lewd or lascivious offenses  
73 committed upon or in the presence of persons less than 16 years  
74 of age.

75 (k) Section 825.1025(2) (b), relating to lewd or lascivious  
76 offenses committed upon or in the presence of an elderly or  
77 disabled person.

78 (l) Section 827.071, relating to sexual performance by a  
79 child.

80 (m) Section 847.0133, relating to the protection of minors.

81 (n) Section 847.0135, relating to computer pornography.

82 (o) Section 847.0138, relating to the transmission of  
83 material harmful to minors to a minor by electronic device or  
84 equipment.

85 (p) Section 847.0145, relating to the selling or buying of  
86 minors.

87 Section 4. Present subsections (2) through (6) of section  
88 480.043, Florida Statutes, are redesignated as subsections (3)  
89 through (7), respectively, present subsections (7) through (9)  
90 of that section are redesignated as subsections (9) through  
91 (11), respectively, and new subsections (2), (8), and (12) are  
92 added to that section, to read:

93 480.043 Massage establishments; requisites; licensure;  
94 inspection.—

95 (2) A person who has an ownership interest in a massage  
96 establishment shall submit to the background screening  
97 requirements under s. 456.0135. However, if a corporation



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98 submits proof, as determined by department rule, of having more  
99 than \$250,000 of business assets in this state, the department  
100 shall require the owner, officer, or individual directly  
101 involved in the management of the massage establishment to  
102 submit to the background screening requirements of s. 456.0135.

103 (8) The department shall deny an application for a new or  
104 renewal license if a person with an ownership interest in the  
105 massage establishment, or for a corporation that has more than  
106 \$250,000 of business assets in this state, the owner, officer,  
107 or individual directly involved in the management of the massage  
108 establishment has been convicted or found guilty of, or entered  
109 a plea of guilty or nolo contendere to, regardless of  
110 adjudication, a felony offense under any of the following  
111 provisions of state law or a similar provision in another  
112 jurisdiction:

113 (a) Section 787.01, relating to kidnapping.

114 (b) Section 787.02, relating to false imprisonment.

115 (c) Section 787.025, relating to luring or enticing a  
116 child.

117 (d) Section 787.06, relating to human trafficking.

118 (e) Section 787.07, relating to human smuggling.

119 (f) Section 794.011, relating to sexual battery.

120 (g) Section 794.08, relating to female genital mutilation.

121 (h) Section 796.03, relating to procuring a person under  
122 the age of 18 for prostitution.

123 (i) Section 796.035, relating to selling or buying of  
124 minors into prostitution.

125 (j) Section 800.04, relating to lewd or lascivious offenses  
126 committed upon or in the presence of persons less than 16 years



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- 127 of age.
- 128 (k) Section 825.1025(2)(b), relating to lewd or lascivious
- 129 offenses committed upon or in the presence of an elderly or
- 130 disabled person.
- 131 (l) Section 827.071, relating to sexual performance by a
- 132 child.
- 133 (m) Section 847.0133, relating to the protection of minors.
- 134 (n) Section 847.0135, relating to computer pornography.
- 135 (o) Section 847.0138, relating to the transmission of
- 136 material harmful to minors to a minor by electronic device or
- 137 equipment.
- 138 (p) Section 847.0145, relating to the selling or buying of
- 139 minors.
- 140 (12) A person with an ownership interest, or for a
- 141 corporation that has more than \$250,000 of business assets in
- 142 this state, the owner, officer, or individual directly involved
- 143 in the management of, a massage establishment that was issued a
- 144 license before July 1, 2014, shall submit to the background
- 145 screening requirements of s. 456.0135 before January 31, 2015.

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

148 And the title is amended as follows:

149 Delete lines 2 - 24

150 and insert:

151 An act relating to massage therapy; amending s.  
152 456.0135, F.S.; requiring an applicant for licensure  
153 under ch. 480, F.S., to submit to certain  
154 fingerprinting requirements; requiring fingerprints to  
155 be enrolled in the national retained print arrest



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156 notification program and the Care Provider Background  
157 Screening Clearinghouse; amending s. 456.074, F.S.;  
158 requiring the Department of Health to issue an  
159 emergency order suspending the license of a massage  
160 therapist or massage establishment for the commission  
161 of certain offenses; amending s. 480.041, F.S.;  
162 requiring an applicant for a massage therapist license  
163 to submit to certain background screening  
164 requirements; requiring that a massage therapist who  
165 was issued a license before a specified date meet the  
166 background screening requirements by a specified date;  
167 requiring the Board of Massage Therapy to deny an  
168 application for a massage therapy license or renewal  
169 license for certain offenses; amending s. 480.043,  
170 F.S.; requiring a person with a specified interest in  
171 a massage establishment to submit to certain  
172 background screening requirements; authorizing the  
173 department to adopt a rule related to corporate  
174 assets; requiring the department to deny an  
175 application for a massage establishment license or  
176 renewal license under certain circumstances;



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/11/2014	.	
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The Committee on Health Policy (Grimsley) recommended the following:

**Senate Substitute for Amendment (234686) (with title amendment)**

Delete lines 75 - 213

and insert:

suspending the license of a massage therapist or massage establishment as defined in chapter 480 upon receipt of information that such therapist or person with an ownership interest in the massage establishment, or for a corporation that has more than \$250,000 of business assets in this state, the



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11 owner, officer, or individual directly involved in the  
12 management of the massage establishment has been convicted or  
13 found guilty of, or has entered a plea of guilty or nolo  
14 contendere to, regardless of adjudication, a felony offense  
15 under any of the following provisions of state law or a similar  
16 provision in another jurisdiction:

17 (a) Section 787.01, relating to kidnapping.

18 (b) Section 787.02, relating to false imprisonment.

19 (c) Section 787.025, relating to luring or enticing a  
20 child.

21 (d) Section 787.06, relating to human trafficking.

22 (e) Section 787.07, relating to human smuggling.

23 (f) Section 794.011, relating to sexual battery.

24 (g) Section 794.08, relating to female genital mutilation.

25 (h) Section 796.03, relating to procuring a person under  
26 the age of 18 for prostitution.

27 (i) Section 796.035, relating to the selling or buying of  
28 minors into prostitution.

29 (j) Section 796.04, relating to forcing, compelling, or  
30 coercing another to become a prostitute.

31 (k) Section 796.05, relating to deriving support from the  
32 proceeds of a prostitute.

33 (l) Section 796.07(4)(c), relating to a felony of the third  
34 degree for a third or subsequent violation as provided in s.  
35 775.082, s. 775.083, or s. 775.084.

36 (m) Section 800.04, relating to lewd or lascivious offenses  
37 committed upon or in the presence of persons less than 16 years  
38 of age.

39 (n) Section 825.1025(2)(b), relating to lewd or lascivious





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40 offenses committed upon or in the presence of an elderly or  
41 disabled person.

42 (o) Section 827.071, relating to sexual performance by a  
43 child.

44 (p) Section 847.0133, relating to the protection of minors.

45 (q) Section 847.0135, relating to computer pornography.

46 (r) Section 847.0138, relating to the transmission of  
47 material harmful to minors to a minor by electronic device or  
48 equipment.

49 (s) Section 847.0145, relating to the selling or buying of  
50 minors.

51 Section 3. Present subsections (3) and (4) of section  
52 480.041, Florida Statutes, are redesignated as subsections (4)  
53 and (5), respectively, and a new subsection (3) and subsections  
54 (6) and (7) are added to that section, to read:

55 480.041 Massage therapists; qualifications; licensure;  
56 endorsement.—

57 (3) An applicant must submit to background screening under  
58 s. 456.0135.

59 (6) Massage therapists who were issued a license before  
60 July 1, 2014, must submit to the background screening  
61 requirements of s. 456.0135 by January 31, 2015.

62 (7) The board shall deny an application for a new or  
63 renewal license if an applicant has been convicted or found  
64 guilty of, or enters a plea of guilty or nolo contendere to,  
65 regardless of adjudication, a felony offense under any of the  
66 following provisions of state law or a similar provision in  
67 another jurisdiction:

68 (a) Section 787.01, relating to kidnapping.



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- 69       (b) Section 787.02, relating to false imprisonment.
- 70       (c) Section 787.025, relating to luring or enticing a
- 71 child.
- 72       (d) Section 787.06, relating to human trafficking.
- 73       (e) Section 787.07, relating to human smuggling.
- 74       (f) Section 794.011, relating to sexual battery.
- 75       (g) Section 794.08, relating to female genital mutilation.
- 76       (h) Section 796.03, relating to procuring a person under
- 77 the age of 18 for prostitution.
- 78       (i) Section 796.035, relating to the selling or buying of
- 79 minors into prostitution.
- 80       (j) Section 796.04, relating to forcing, compelling, or
- 81 coercing another to become a prostitute.
- 82       (k) Section 796.05, relating to deriving support from the
- 83 proceeds of a prostitute.
- 84       (l) Section 796.07(4)(c), relating to a felony of the third
- 85 degree for a third or subsequent violation as provided in s.
- 86 775.082, s. 775.083, or s. 775.084.
- 87       (m) Section 800.04, relating to lewd or lascivious offenses
- 88 committed upon or in the presence of persons less than 16 years
- 89 of age.
- 90       (n) Section 825.1025(2)(b), relating to lewd or lascivious
- 91 offenses committed upon or in the presence of an elderly or
- 92 disabled person.
- 93       (o) Section 827.071, relating to sexual performance by a
- 94 child.
- 95       (p) Section 847.0133, relating to the protection of minors.
- 96       (q) Section 847.0135, relating to computer pornography.
- 97       (r) Section 847.0138, relating to the transmission of



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98 material harmful to minors to a minor by electronic device or  
99 equipment.

100 (s) Section 847.0145, relating to the selling or buying of  
101 minors.

102

103 Section 4. Present subsections (2) through (6) of section  
104 480.043, Florida Statutes, are redesignated as subsections (3)  
105 through (7), respectively, present subsections (7) through (9)  
106 of that section are redesignated as subsections (9) through  
107 (11), respectively, and new subsections (2), (8), (12), and (13)  
108 are added to that section, to read:

109 480.043 Massage establishments; requisites; licensure;  
110 inspection.-

111 (2) A person who has an ownership interest in a massage  
112 establishment shall submit to the background screening  
113 requirements under s. 456.0135. However, if a corporation  
114 submits proof, as determined by department rule, of having more  
115 than \$250,000 of business assets in this state, the department  
116 shall require the owner, officer, or individual directly  
117 involved in the management of the massage establishment to  
118 submit to the background screening requirements of s. 456.0135.

119 (8) The department shall deny an application for a new or  
120 renewal license if a person with an ownership interest in the  
121 massage establishment, or for a corporation that has more than  
122 \$250,000 of business assets in this state, the owner, officer,  
123 or individual directly involved in the management of the massage  
124 establishment has been convicted or found guilty of, or entered  
125 a plea of guilty or nolo contendere to, regardless of  
126 adjudication, a felony offense under any of the following



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127 provisions of state law or a similar provision in another  
128 jurisdiction:  
129 (a) Section 787.01, relating to kidnapping.  
130 (b) Section 787.02, relating to false imprisonment.  
131 (c) Section 787.025, relating to luring or enticing a  
132 child.  
133 (d) Section 787.06, relating to human trafficking.  
134 (e) Section 787.07, relating to human smuggling.  
135 (f) Section 794.011, relating to sexual battery.  
136 (g) Section 794.08, relating to female genital mutilation.  
137 (h) Section 796.03, relating to procuring a person under  
138 the age of 18 for prostitution.  
139 (i) Section 796.035, relating to selling or buying of  
140 minors into prostitution.  
141 (j) Section 796.04, relating to forcing, compelling, or  
142 coercing another to become a prostitute.  
143 (k) Section 796.05, relating to deriving support from the  
144 proceeds of a prostitute.  
145 (l) Section 796.07(4)(c), relating to a felony of the third  
146 degree for a third or subsequent violation as provided in s.  
147 775.082, s. 775.083, or s. 775.084.  
148 (m) Section 800.04, relating to lewd or lascivious offenses  
149 committed upon or in the presence of persons less than 16 years  
150 of age.  
151 (n) Section 825.1025(2)(b), relating to lewd or lascivious  
152 offenses committed upon or in the presence of an elderly or  
153 disabled person.  
154 (o) Section 827.071, relating to sexual performance by a  
155 child.



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156 (p) Section 847.0133, relating to the protection of minors.

157 (q) Section 847.0135, relating to computer pornography.

158 (r) Section 847.0138, relating to the transmission of

159 material harmful to minors to a minor by electronic device or  
160 equipment.

161 (s) Section 847.0145, relating to the selling or buying of  
162 minors.

163 (12) A person with an ownership interest, or for a  
164 corporation that has more than \$250,000 of business assets in  
165 this state, the owner, officer, or individual directly involved  
166 in the management of, a massage establishment that was issued a  
167 license before July 1, 2014, shall submit to the background  
168 screening requirements of s. 456.0135 before January 31, 2015.

169 (13) An entity wholly owned by one or more physicians  
170 licensed under chapter 458, chapter 459, or chapter 460 or by  
171 such physicians and the spouse, parent, child, or sibling of  
172 such physicians is exempt from the requirements of this section.

173 As used in this subsection, the term "entity wholly owned" means  
174 a proprietorship, group practice, partnership, or corporation  
175 that provides health care services rendered by licensed  
176 physicians and health care practitioners in which the licensed  
177 physicians or such physicians and the spouse, parent, child, or  
178 sibling of such physicians are the business owners in all  
179 aspects of the business entity, including, but not limited to,  
180 being reflected as the business owners on the title or lease of  
181 the physical facility, filing taxes as the business owners,  
182 being account holders on the entity's bank account, being listed  
183 as the principals on all incorporation documents required by  
184 this state, and having ultimate authority over all personnel and



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185 compensation decisions relating to the entity.

186

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

188 And the title is amended as follows:

189 Delete lines 2 - 28

190 and insert:

191 An act relating to massage therapy; amending s.  
192 456.0135, F.S.; requiring an applicant for licensure  
193 under ch. 480, F.S., to submit to certain  
194 fingerprinting requirements; requiring fingerprints to  
195 be enrolled in the national retained print arrest  
196 notification program and the Care Provider Background  
197 Screening Clearinghouse; amending s. 456.074, F.S.;  
198 requiring the Department of Health to issue an  
199 emergency order suspending the license of a massage  
200 therapist or massage establishment for the commission  
201 of certain offenses; amending s. 480.041, F.S.;  
202 requiring an applicant for a massage therapist license  
203 to submit to certain background screening  
204 requirements; requiring that a massage therapist who  
205 was issued a license before a specified date meet the  
206 background screening requirements by a specified date;  
207 requiring the Board of Massage Therapy to deny an  
208 application for a massage therapy license or renewal  
209 license for certain offenses; amending s. 480.043,  
210 F.S.; requiring a person with a specified interest in  
211 a massage establishment to submit to certain  
212 background screening requirements; authorizing the  
213 department to adopt a rule related to corporate



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214 assets; requiring the department to deny an  
215 application for a massage establishment license or  
216 renewal license under certain circumstances; requiring  
217 that the owner of a massage establishment that was  
218 issued a license before a specified date submit to the  
219 background screening requirements by a specified date;  
220 exempting certain entities from massage establishment  
221 licensure requirements; amending s. 480.0465, F.S.;  
222 conforming

By Senator Latvala

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1 A bill to be entitled  
 2 An act relating to licensed massage therapists;  
 3 amending s. 456.0135, F.S.; requiring an applicant for  
 4 licensure under ch. 480, F.S., to submit to certain  
 5 fingerprinting requirements; requiring fingerprints to  
 6 be enrolled in the national retained print arrest  
 7 notification program and the Care Provider Background  
 8 Screening Clearinghouse; amending s. 456.074, F.S.;  
 9 requiring the Department of Health to issue an  
 10 emergency order suspending the license of a massage  
 11 therapist for the commission of certain offenses;  
 12 amending s. 480.041, F.S.; requiring an applicant for  
 13 a massage therapist license to submit to certain  
 14 background screening requirements; requiring that a  
 15 massage therapist who was issued a license before a  
 16 specified date meet the background screening  
 17 requirements by a specified date; requiring the Board  
 18 of Massage Therapy to deny an application for a  
 19 massage therapy license for certain offenses; amending  
 20 s. 480.043, F.S.; requiring a person with an ownership  
 21 interest in a massage establishment to submit to  
 22 certain background screening requirements; requiring  
 23 the board to deny an application for a massage  
 24 establishment permit under certain circumstances;  
 25 requiring that the owner of a massage establishment  
 26 that was issued a license before a specified date  
 27 submit to the background screening requirements by a  
 28 specified date; amending s. 480.0465, F.S.; conforming  
 29 a cross-reference; providing an effective date.

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

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30  
 31 Be It Enacted by the Legislature of the State of Florida:  
 32  
 33 Section 1. Section 456.0135, Florida Statutes, is amended  
 34 to read:  
 35 456.0135 General background screening provisions.—  
 36 (1) An application for initial licensure received on or  
 37 after January 1, 2013, under chapter 458, chapter 459, chapter  
 38 460, chapter 461, chapter 464, ~~or~~ s. 465.022, or chapter 480  
 39 shall include fingerprints pursuant to procedures established by  
 40 the department through a vendor approved by the Department of  
 41 Law Enforcement and fees imposed for the initial screening and  
 42 retention of fingerprints. Fingerprints must be submitted  
 43 electronically to the Department of Law Enforcement for state  
 44 processing, and the Department of Law Enforcement shall forward  
 45 the fingerprints to the Federal Bureau of Investigation for  
 46 national processing. Each board, or the department if there is  
 47 no board, shall screen the results to determine if an applicant  
 48 meets licensure requirements. For any subsequent renewal of the  
 49 applicant's license that requires a national criminal history  
 50 check, the department shall request the Department of Law  
 51 Enforcement to forward the retained fingerprints of the  
 52 applicant to the Federal Bureau of Investigation unless the  
 53 fingerprints are enrolled in the national retained print arrest  
 54 notification program.  
 55 (2) All fingerprints submitted to the Department of Law  
 56 Enforcement as required under subsection (1) shall be retained  
 57 by the Department of Law Enforcement as provided under s.  
 58 943.05(2)(g) and (h) and (3) and enrolled in the national

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



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59 retained print arrest notification program at the Federal Bureau  
 60 of Investigation when the Department of Law Enforcement begins  
 61 participation in the program. The department shall notify the  
 62 Department of Law Enforcement regarding any person whose  
 63 fingerprints have been retained but who is no longer licensed.

64 (3) The costs of fingerprint processing, including the cost  
 65 for retaining fingerprints, shall be borne by the applicant  
 66 subject to the background screening.

67 (4) All fingerprints received under this section shall be  
 68 entered into the Care Provider Background Screening  
 69 Clearinghouse as provided in s. 435.12.

70 Section 2. Subsection (5) is added to section 456.074,  
 71 Florida Statutes, to read:

72 456.074 Certain health care practitioners; immediate  
 73 suspension of license.—

74 (5) The department shall issue an emergency order  
 75 suspending the license of a massage therapist as defined in  
 76 chapter 480 upon receipt of information that such therapist has  
 77 been convicted or found guilty of, or has entered a plea of  
 78 guilty or nolo contendere to, regardless of adjudication, a  
 79 felony offense under any of the following provisions of state  
 80 law or a similar provision in another jurisdiction:

81 (a) Section 787.01, relating to kidnapping.

82 (b) Section 787.02, relating to false imprisonment.

83 (c) Section 787.025, relating to luring or enticing a  
 84 child.

85 (d) Section 787.06, relating to human trafficking.

86 (e) Section 787.07, relating to human smuggling.

87 (f) Section 794.011, relating to sexual battery.

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88 (g) Section 794.08, relating to female genital mutilation.

89 (h) Section 796.03, relating to procuring a person under  
 90 the age of 18 for prostitution.

91 (i) Section 796.035, relating to the selling or buying of  
 92 minors into prostitution.

93 (j) Section 800.04, relating to lewd or lascivious offenses  
 94 committed upon or in the presence of persons less than 16 years  
 95 of age.

96 (k) Section 825.1025(2)(b), relating to lewd or lascivious  
 97 offenses committed upon or in the presence of an elderly or  
 98 disabled person.

99 (l) Section 827.071, relating to sexual performance by a  
 100 child.

101 (m) Section 847.0133, relating to the protection of minors.

102 (n) Section 847.0135, relating to computer pornography.

103 (o) Section 847.0138, relating to the transmission of  
 104 material harmful to minors to a minor by electronic device or  
 105 equipment.

106 (p) Section 847.0145, relating to the selling or buying of  
 107 minors.

108 Section 3. Present subsections (3) and (4) of section  
 109 480.041, Florida Statutes, are redesignated as subsections (4)  
 110 and (5), respectively, and a new subsection (3) and subsections  
 111 (6) and (7) are added to that section, to read:

112 480.041 Massage therapists; qualifications; licensure;  
 113 endorsement.—

114 (3) An applicant must submit to background screening under  
 115 s. 456.0135.

116 (6) Massage therapists who were issued a license before

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117 July 1, 2014, must submit to the background screening  
 118 requirements of s. 456.0135 by January 31, 2015.  
 119 (7) The board shall deny an application for a license if an  
 120 applicant has been convicted or found guilty of, or enters a  
 121 plea of guilty or nolo contendere to, regardless of  
 122 adjudication, a felony offense under any of the following  
 123 provisions of state law or a similar provision in another  
 124 jurisdiction:  
 125 (a) Section 787.01, relating to kidnapping.  
 126 (b) Section 787.02, relating to false imprisonment.  
 127 (c) Section 787.025, relating to luring or enticing a  
 128 child.  
 129 (d) Section 787.06, relating to human trafficking.  
 130 (e) Section 787.07, relating to human smuggling.  
 131 (f) Section 794.011, relating to sexual battery.  
 132 (g) Section 794.08, relating to female genital mutilation.  
 133 (h) Section 796.03, relating to procuring a person under  
 134 the age of 18 for prostitution.  
 135 (i) Section 796.035, relating to the selling or buying of  
 136 minors into prostitution.  
 137 (j) Section 800.04, relating to lewd or lascivious offenses  
 138 committed upon or in the presence of persons less than 16 years  
 139 of age.  
 140 (k) Section 825.1025(2)(b), relating to lewd or lascivious  
 141 offenses committed upon or in the presence of an elderly or  
 142 disabled person.  
 143 (l) Section 827.071, relating to sexual performance by a  
 144 child.  
 145 (m) Section 847.0133, relating to the protection of minors.

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146 (n) Section 847.0135, relating to computer pornography.  
 147 (o) Section 847.0138, relating to the transmission of  
 148 material harmful to minors to a minor by electronic device or  
 149 equipment.  
 150 (p) Section 847.0145, relating to the selling or buying of  
 151 minors.  
 152 Section 4. Present subsections (2) through (6) of section  
 153 480.043, Florida Statutes, are redesignated as subsections (3)  
 154 through (7), respectively, present subsections (7) through (9)  
 155 of that section are redesignated as subsections (9) through  
 156 (11), respectively, and new subsections (2), (8), and (12) are  
 157 added to that section, to read:  
 158 480.043 Massage establishments; requisites; licensure;  
 159 inspection.—  
 160 (2) A person who has an ownership interest in a massage  
 161 establishment shall submit to the background screening  
 162 requirements under s. 456.0135. However, if a corporation  
 163 submits proof of having more than \$250,000 of business assets in  
 164 this state, the department shall require the owner, officer, or  
 165 individual directly involved in the management of the massage  
 166 establishment to submit to the background screening requirements  
 167 of s. 456.0135.  
 168 (8) The department shall deny an application for a massage  
 169 establishment permit if the applicant; a person with an  
 170 ownership interest in a massage establishment; or a corporation  
 171 that has more than \$250,000 of business assets in this state, or  
 172 the owner, officer, or individual directly involved in the  
 173 management of such massage establishment, has been convicted or  
 174 found guilty of, or entered a plea of guilty or nolo contendere

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175 to, regardless of adjudication, a felony offense under any of  
 176 the following provisions of state law or a similar provision in  
 177 another jurisdiction:

178 (a) Section 787.01, relating to kidnapping.  
 179 (b) Section 787.02, relating to false imprisonment.  
 180 (c) Section 787.025, relating to luring or enticing a  
 181 child.

182 (d) Section 787.06, relating to human trafficking.  
 183 (e) Section 787.07, relating to human smuggling.  
 184 (f) Section 794.011, relating to sexual battery.  
 185 (g) Section 794.08, relating to female genital mutilation.  
 186 (h) Section 796.03, relating to procuring a person under  
 187 the age of 18 for prostitution.

188 (i) Section 796.035, relating to selling or buying of  
 189 minors into prostitution.

190 (j) Section 800.04, relating to lewd or lascivious offenses  
 191 committed upon or in the presence of persons less than 16 years  
 192 of age.

193 (k) Section 825.1025(2)(b), relating to lewd or lascivious  
 194 offenses committed upon or in the presence of an elderly or  
 195 disabled person.

196 (l) Section 827.071, relating to sexual performance by a  
 197 child.

198 (m) Section 847.0133, relating to the protection of minors.  
 199 (n) Section 847.0135, relating to computer pornography.  
 200 (o) Section 847.0138, relating to the transmission of  
 201 material harmful to minors to a minor by electronic device or  
 202 equipment.

203 (p) Section 847.0145, relating to the selling or buying of

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204 minors.

205 (12) A massage establishment owner whose massage  
 206 establishment was issued a license before July 1, 2014, shall  
 207 submit to the background screening requirements of s. 456.0135  
 208 before January 31, 2015. However, if a corporation submits proof  
 209 of having more than \$250,000 of business assets in this state,  
 210 the department shall require the owner, officer, or individual  
 211 directly involved in the management of the massage establishment  
 212 to submit to the background screening requirements of s.  
 213 456.0135.

214 Section 5. Section 480.0465, Florida Statutes, is amended  
 215 to read:

216 480.0465 Advertisement.—Each massage therapist or massage  
 217 establishment licensed under the provisions of this act shall  
 218 include the number of the license in any advertisement of  
 219 massage services appearing in a any newspaper, airwave  
 220 transmission, telephone directory, or other advertising medium.  
 221 Pending licensure of a new massage establishment pursuant to the  
 222 provisions of s. 480.043(7) ~~s. 480.043(6)~~, the license number of  
 223 a licensed massage therapist who is an owner or principal  
 224 officer of the establishment may be used in lieu of the license  
 225 number for the establishment.

226 Section 6. This act shall take effect July 1, 2014.

**THE FLORIDA SENATE**

Tallahassee, Florida 32399-1100

COMMITTEES:  
Ethics and Elections, Chair  
Budget - Subcommittee on General Government  
Appropriations  
Budget - Subcommittee on Transportation, Tourism,  
and Economic Development Appropriations  
Community Affairs  
Environmental Preservation and Conservation  
Rules  
Judiciary  
Appropriations  
Select Committee on Gaming

**SENATOR JACK LATVALA**  
20th District

February 21, 2014

The Honorable Aaron Bean, Chair  
Senate Committee on Health Policy  
530 Knott Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear Chair Bean:

I respectfully request that Senate Bill 1068/Licensed Massage Therapists be placed on the agenda of the Senate Committee on Health Policy at your earliest convenience.

This bill would require a background check and fingerprints of persons wishing to be licensed as massage therapists in Florida. It would allow an emergency suspension for therapists charged with certain offenses. The impetus for this bill was based on a Tampa Bay area licensed massage therapist who was charged with sexual battery.

If you have any questions regarding this legislation, please contact me. Thank you for your consideration.

Sincerely,

Jack Latvala  
State Senator  
District 20

Cc: Sandra Stovall, Staff Director; Celia Georgiades, Administrative Assistant

REPLY TO:

- 26133 U.S. Highway 19 North, Suite 201 Clearwater, FL 33763 (727) 793-2797
- 408 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5020

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

Don Gaetz  
President of the Senate

Garrett Richter  
President Pro Tempore



**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

3/11/2014  
Meeting Date

Topic \_\_\_\_\_ Bill Number 1068 (if applicable)

Name BRIAN PITTS Amendment Barcode \_\_\_\_\_ (if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291

SAINT PETERSBURG FLORIDA 33705  
City State Zip  
E-mail JUSTICE2JESUS@YAHOO.COM

Speaking:  For  Against  Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/11/14

Meeting Date

Topic SEN. GRIMSLEY SUBSTITUTE AMENDMENT Bill Number 1068  
Name PAUL LAMBERT Amendment Barcode \_\_\_\_\_ (if applicable)  
Job Title GENERAL COUNSEL  
Address 502 NORTH ADAMS ST. Phone 850 697-2696  
TALLAHASSEE FL 32301 E-mail PLAMBERT@PAULLAMBERTLAW.COM  
City State Zip

Speaking:  For  Against  Information

Representing FLORIDA CHIROPRACTIC ASSOCIATION

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

Meeting Date

Topic and Grimsley S.A. Bill Number 1068  
Name JANET MADRY Amendment Barcode ~~1068~~ (if applicable)  
Job Title \_\_\_\_\_  
Address 2866 Bay Heather Circle Phone 850-501-2502  
GULF BREEZE E-mail \_\_\_\_\_  
City State Zip

Speaking:  For  Against  Information

Representing FLORIDA STATE MASSAGE ASSOCIATION

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/20/11)

**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.)

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Prepared By: The Professional Staff of the Committee on Health Policy

---

**BILL:** CS/SB 278

**INTRODUCER:** Health Policy Committee and Senator Grimsley

**SUBJECT:** Pharmacy

**DATE:** March 11, 2014      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peterson	Stovall	HP	Fav/CS
2.			RI	
3.			RC	

---

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

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**I. Summary:**

CS/SB 278 removes the cap on the number of pharmacy technicians the Board of Pharmacy (board) may authorize a pharmacist to supervise. Currently, the law authorizes a pharmacist to supervise one pharmacy technician, but the board may authorize supervision of two more for a total of three. The bill also revises the composition of the board to increase the number of pharmacists representing community and institutional class II pharmacies from a minimum of one each, to a minimum of three each.

**II. Present Situation:**

**Pharmacists**

Pharmacists are regulated under ch. 465, F.S., the Florida Pharmacy Act (act), by the board within the Department of Health (DOH). A pharmacist is any person licensed under the act to practice the profession of pharmacy.<sup>1</sup>

The practice of the profession of pharmacy includes: compounding, dispensing, and consulting concerning contents, therapeutic values, and uses of any medicinal drug; consulting concerning therapeutic values and interactions of patent or proprietary preparations; and other pharmaceutical services. Other pharmaceutical services include: monitoring, reviewing, or assisting a patient in the management of the patient’s drug therapy and communicating with the

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<sup>1</sup> Section 465.003(10), F.S.

patient's prescribing health care provider or others, as authorized by the patient, regarding the drug therapy. However, a person practicing the profession of pharmacy is not authorized to alter a prescriber's directions, diagnose or treat any disease, initiate any drug therapy, or practice medicine or osteopathic medicine, unless specifically permitted by law. A pharmacist is authorized to transmit information from persons authorized to prescribe medicinal drugs to their patients.<sup>2</sup>

To be licensed as a pharmacist, a person must:

- Submit an application form and the required fees.
- Submit satisfactory proof that the applicant is not less than 18 years of age and is a recipient of a degree from an accredited school or college of pharmacy; or is a graduate of a 4-year undergraduate pharmacy program of a school or college of pharmacy located outside the United States, has demonstrated proficiency in English, has passed the Foreign Pharmacy Graduate Equivalency Examination, and has completed a minimum of 500 hours in a supervised work activity program within Florida under the supervision of a pharmacist licensed by the DOH.
- Submit satisfactory proof that the applicant has completed an internship program, which must not exceed 2,080 hours.
- Successfully complete the licensure examination.<sup>3</sup>

### Pharmacy Technicians

Florida law authorizes a licensed pharmacist to delegate certain duties, exclusive of acts that constitute the practice of professional pharmacy as defined in s. 465.003(13), F.S., to a pharmacy technician who is registered with the board. All delegated acts must be performed under the direct supervision<sup>4</sup> of the pharmacist and the pharmacist retains the professional and personal responsibility for the acts.<sup>5</sup> The acts a registered pharmacy technician may perform include:<sup>6</sup>

- Retrieval of prescription files;
- Data entry;
- Label preparation;
- Counting, weighing, measuring, pouring, and mixing prescription medication or stock legend drugs and controlled substances;
- Initiating communication with a prescribing practitioner or medical staff regarding requests for prescription refill authorization, clarification of missing information on prescriptions, and confirmation of information such as names, medication, and strength; and
- Accepting authorization for prescription renewals.

Pharmacy technicians are prohibited from performing the following acts:<sup>7</sup>

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<sup>2</sup> Section 465.003(13), F.S.

<sup>3</sup> Section 465.007, F.S. Florida law also allows a pharmacist to obtain a license by endorsement as an alternative to licensure by examination. *See* s. 465.0075, F.S.

<sup>4</sup> Chapter 465 does not contain a definition of "direct supervision." The Rules Committee of the board discussed this issue at its February meeting, but did not take final action. The issue is expected to be on the committee's agenda again during its April meeting

<sup>5</sup> Section 465.014(1), F.S.; Rule 64B16-27.1001(7), F.A.C.

<sup>6</sup> Rule 64B16-27.420, F.A.C.

<sup>7</sup> *Id.*

- Receiving new verbal prescriptions or any change in the medication, strength, or directions;
- Interpreting a prescription or medication order for therapeutic acceptability and appropriateness;
- Conducting a final verification of dosage and directions;
- Engaging in prospective drug review;
- Providing patient counseling;
- Monitoring prescription drug usage; and
- Overriding clinical alerts without first notifying the pharmacist.

Any person desiring to become a registered pharmacy technician must register by filing an application with the board. The board must register each applicant who:

- Completes the application form and submits the required fees.
- Is at least 17 years of age.
- Has completed a pharmacy technician training program approved by the board. Approved programs include programs accredited or licensed by specified national organizations, and employer-based programs. Employer-based programs must provide 160 hours of training over a period not to exceed 6 months, limited to employees of the pharmacy, and subject to approval by the board.<sup>8</sup>
- A pharmacy technician who registered prior to January 1, 2011, and who has worked as a pharmacy technician for a minimum of 1,500 hours under the supervision of a licensed pharmacist or received certification as a pharmacy technician by a certification program accredited by the National Commission for Certifying Agencies is exempt from the requirement to complete an initial training program in order to register.<sup>9</sup>

A person who is licensed by the state as a pharmacy intern may be employed as a registered pharmacy technician without registering as a pharmacy technician.<sup>10</sup>

Pharmacy technicians must complete 20 hours of continuing education in one or more of the following areas during the 24 months prior to renewal:<sup>11</sup>

- Pharmacy technician practice areas and special health.
- Biological, physical, behavioral, and social sciences.
- Legal aspects of health care.
- Management/administration of health care personnel and patient care.
- Teaching/learning process of health care personnel and patients.

The board also recognizes advanced coursework at an accredited educational institution as continuing education.

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<sup>8</sup> 64B16-26.351 F.A.C.

<sup>9</sup> Section 465.014(2), F.S.

<sup>10</sup> Section 465.014(5), F.S.

<sup>11</sup> Rule 64B16-26.103(4), F.A.C.



## Pharmacist Supervision

A licensed pharmacist may not supervise more than one registered pharmacy technician unless otherwise permitted by the guidelines adopted by the board. The board may authorize supervision of up to two additional pharmacy technicians.<sup>12</sup>

The guidelines require a pharmacist to submit a written request and receive approval by the board before supervising more than one registered pharmacy technician. The board considers the following in determining the pharmacist-to-pharmacy technician ratio:<sup>13</sup>

- A brief description of the pharmacy's workflow justifying the request;
- The hours the pharmacy is open; and,
- The number of pharmacists, pharmacy interns, and pharmacy technicians employed.

All registered pharmacy technicians must wear a name badge that identifies them as a pharmacy technician, and verbally identify themselves as such during any communication.<sup>14</sup>

At the end of the first quarter of fiscal year 2013-2014, there were 44,492 registered pharmacy technicians, 31,445 pharmacists and 9,179 licensed pharmacies. Of the licensed pharmacies, 4,436 had a ratio of three pharmacy technicians to one pharmacist, and 580 pharmacies had a ratio of two pharmacy technicians to one pharmacist.<sup>15</sup> According to the December 2013 Aggregate Demand Index compiled by the Pharmacy Manpower Project, Inc. (project),<sup>16</sup> Florida has a ranking of 2.33, meaning Florida does not have a shortage of pharmacists. Specifically, the Florida ranking falls between “demand is less than the pharmacist supply available” and “demand is in balance with supply” on the scale used by the project.<sup>17</sup>

As of 2009, Florida was among 18 states allowing a maximum 1 to 3 pharmacist-to-pharmacist technician ratio.<sup>18</sup> Seventeen states and the District of Columbia had no ratio limits; eight states allowed a maximum 1 to 2 pharmacist-to-pharmacist technician ratio; seven states allowed a 1 to 4 ratio; and one state allowed a 1 to 1 ratio. More recently, Indiana and Idaho have allowed a 1 to

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<sup>12</sup> Section 465.014(1), F.S.

<sup>13</sup> Rule 64B16-27.410, F.A.C.

<sup>14</sup> Rule 64B16-27.420(4), F.A.C.

<sup>15</sup> Florida Dept. of Health, *2014 Agency Legislative Bill Analysis: SB 278* (Nov. 6, 2013) (on file with the Senate Health Policy Committee).

<sup>16</sup> Members of the Pharmacy Manpower Project, which collects, analyzes, and disseminates data on the supply of licensed pharmacists in the United States, include: the Academy of Managed Care Pharmacy, the American Association of Colleges of Pharmacy, the American College of Apothecaries, the American College of Clinical Pharmacy, the American Pharmaceutical Association, the American Society of Consultant Pharmacists, the American Society of Health-System Pharmacists, the Bureau of Health Professions, the Healthcare Distribution Management Association, the National Association of Chain Drug Stores, the National Community Pharmacists Association, the National Council of State Pharmacy Association Executives, the National Pharmaceutical Association, the Pharmaceutical Research and Manufacturers Association, and the Pharmacy Technicians Certification Board.

<sup>17</sup> Aggregate Demand Index, Supported by Pharmacy Manpower Project Inc., <http://www.pharmacymanpower.com/about.jsp> (last visited Feb. 20, 2014).

<sup>18</sup> National Association of Chain Drug Stores, *Standardized Pharmacy Technician Education and Training* (May 2009), available at: [http://www.nabp.net/events/assets/AnnualMtgTechTrainStd\(Nicholson\).pdf](http://www.nabp.net/events/assets/AnnualMtgTechTrainStd(Nicholson).pdf) (last visited Feb. 20, 2014).

6 ratio.<sup>19</sup> Some states require that higher ratios are contingent on certification or licensure of technicians, or other quality assurance measures.<sup>20</sup>

### III. Effect of Proposed Changes:

CS/SB 278 removes the cap on the number of pharmacy technicians the board may authorize a pharmacist to supervise. Currently, the law authorizes a pharmacist to supervise one pharmacy technician, but the board may authorize supervision of two more for a total of three. The bill also revises the composition of the board to increase the number of pharmacists representing community and institutional class II pharmacies from a minimum of one each, to a minimum of three each.

The bill provides an effective date of July 1, 2014.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

### V. Fiscal Impact Statement:

#### A. Tax/Fee Issues:

None.

#### B. Private Sector Impact:

Privately-owned pharmacies may experience greater efficiency in operations, resulting in cost savings, by utilizing more pharmacy technicians in their operations.

#### C. Government Sector Impact:

The DOH will incur non-recurring costs for rulemaking, which current budget authority is adequate to absorb. There will also be costs associated with requests made to the board

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<sup>19</sup> Indiana changed its ratio July 2, 2012. *See* Indiana Code, 25-26-13-18. *See also* Idaho Board of Pharmacy Rule 251. Pharmacy Technicians.

<sup>20</sup> *See* National Association of Boards of Pharmacy: Kansas News: Pharmacy Technician Ratio (2006), <http://www.nabp.net/news/kansas-news-pharmacy-technician-ratio> (last visited Feb. 20, 2014).

to authorize a ratio greater than 1 to 1, although this cost is indeterminate because it is not possible to project how many pharmacies will make that request.

Like their private sector counterparts, publicly-owned pharmacies may experience greater efficiency in operations, resulting in cost savings, by utilizing more pharmacy technicians in their operations.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 465.004 and 465.014.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

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

**CS by Health Policy on March 11, 2014:**

- Restores current law regarding the number of pharmacy technicians a pharmacist can supervise without board approval by removing the cap of six proposed by the bill as filed.
- Restores current law regarding the board's authority to adopt guidelines for determining when a pharmacist may supervise more than one pharmacist.
- Revises the composition of the board to increase the number of pharmacists representing community and institutional class II pharmacies from a minimum of one each, to a minimum of three each.

**B. Amendments:**

None.



133346

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/11/2014	.	
	.	
	.	
	.	

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The Committee on Health Policy (Grimsley) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 25 - 32  
and insert:  
authorization requests. A licensed pharmacist may not supervise more than one registered pharmacy technician unless otherwise permitted by the guidelines adopted by the board. The board shall establish guidelines to be followed by licensees or permittees in determining the circumstances under which a licensed pharmacist may supervise more than one ~~but not more~~



133346

11 ~~than three pharmacy technician technicians.~~

12 Section 2. Subsection (2) of section 465.004, Florida  
13 Statutes, is amended to read:

14 465.004 Board of Pharmacy.—

15 (2) Seven members of the board must be licensed pharmacists  
16 who are residents of this state and who have been engaged in the  
17 practice of the profession of pharmacy in this state for at  
18 least 4 years and, to the extent practicable, represent the  
19 various pharmacy practice settings. Of the pharmacist members,  
20 three ~~one~~ must be currently engaged in the practice of pharmacy  
21 in a community pharmacy, three ~~one~~ must be currently engaged in  
22 the practice of pharmacy in a Class II institutional pharmacy or  
23 a Modified Class II institutional pharmacy, and one ~~five~~ shall  
24 be a pharmacist ~~pharmacists~~ licensed in this state irrespective  
25 of practice setting. The remaining two members must be residents  
26 of the state who have never been licensed as pharmacists and who  
27 are in no way connected with the practice of the profession of  
28 pharmacy. No person may be appointed as a consumer member who is  
29 in any way connected with a drug manufacturer or wholesaler. At  
30 least one member of the board must be 60 years of age or older.

31 Section 3. This act shall take effect July 1, 2014.

32  
33 ===== T I T L E A M E N D M E N T =====

34 And the title is amended as follows:

35 Delete lines 5 - 6

36 and insert:

37 supervise; amending s. 465.004, F.S.; revising the  
38 composition of the Board of Pharmacy; providing an  
39 effective date.



624798

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/11/2014	.	
	.	
	.	
	.	

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The Committee on Health Policy (Joyner) recommended the following:

**Senate Amendment to Amendment (133346)**

Delete lines 7 - 11  
and insert:  
permitted by the guidelines adopted by the board. The board shall establish guidelines to be followed by licensees or permittees in determining the circumstances under which a licensed pharmacist may supervise more than one but not more than six ~~three~~ pharmacy technicians.

By Senator Grimsley

21-00351-14

2014278\_\_

1 A bill to be entitled  
2 An act relating to pharmacy technicians; amending s.  
3 465.014, F.S.; increasing the number of registered  
4 pharmacy technicians which a licensed pharmacist may  
5 supervise; deleting a provision to conform to changes  
6 made by the act; providing an effective date.

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

10 Section 1. Subsection (1) of section 465.014, Florida  
11 Statutes, is amended to read:

12 465.014 Pharmacy technician.-

13 (1) A person other than a licensed pharmacist or pharmacy  
14 intern may not engage in the practice of the profession of  
15 pharmacy, except that a licensed pharmacist may delegate to  
16 pharmacy technicians who are registered pursuant to this section  
17 those duties, tasks, and functions that do not fall within the  
18 purview of s. 465.003(13). All such delegated acts must ~~shall~~ be  
19 performed under the direct supervision of a licensed pharmacist  
20 who is ~~shall be~~ responsible for all such acts performed by  
21 persons under his or her supervision. A ~~pharmacy~~ registered  
22 pharmacy technician, under the supervision of a pharmacist, may  
23 initiate or receive communications with a practitioner or his or  
24 her agent, on behalf of a patient, regarding refill  
25 authorization requests. A licensed pharmacist may not supervise  
26 more than six ~~one~~ registered pharmacy technicians ~~technician~~  
27 unless otherwise permitted by the guidelines adopted by the  
28 board. ~~The board shall establish guidelines to be followed by~~  
29 ~~licensees or permittees in determining the circumstances under~~

Page 1 of 2

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

21-00351-14

2014278\_\_

30 ~~which a licensed pharmacist may supervise more than one but not~~  
31 ~~more than three pharmacy technicians.~~

32 Section 2. This act shall take effect July 1, 2014.

Page 2 of 2

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



The Florida Senate

### Committee Agenda Request

**To:** Senator Aaron Bean, Chair  
Committee on Health Policy

**Subject:** Committee Agenda Request

**Date:** March 5, 2014

I respectfully request that **Senate Bill #278**, relating to Pharmacy Technicians , be placed on the:

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

*Denise Grimsley*  
 \_\_\_\_\_  
 Senator Denise Grimsley  
 Florida Senate, District 21

File signed original with committee office

S-020 (03/2004)



THE FLORIDA SENATE

### APPEARANCE RECORD

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

3/11/2014  
Meeting Date

Topic \_\_\_\_\_ Bill Number 278 (if applicable)

Name BRIAN PITTS Amendment Barcode \_\_\_\_\_ (if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291  
Street

SAINT PETERSBURG FLORIDA 33705 E-mail JUSTICE2JESUS@YAHOO.COM  
City State Zip

Speaking:  For  Against  Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/20/11)



THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/11/14

Meeting Date

Topic Pharmacy Technicians

Bill Number 278  
*(if applicable)*

Name Tammy Perdue

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title General Counsel

Address 516 N. Adams St

Phone 850.224-7173

Tallahassee FL 32301  
*City State Zip*

E-mail tperdue@aif.com

Speaking:  For  Against  Information

Representing Associated Industries of Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/11/14

Meeting Date

Topic Tech Ratio (Pharmacy)

Bill Number ~~202~~ 278  
*(if applicable)*

Name Dr. Jon Hickman

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Pharmacist

Address 8314 Inverness Dr

Phone 904-655-6385

Tallahassee FL 32312  
*City State Zip*

E-mail DrJHick1@aol.com

Speaking:  For  Against  Information

Representing Walgreens

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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



Meeting Date \_\_\_\_\_

Topic Pharmacy Tech Bill Number 278  
(if applicable)

Name Melissa Joiner Ramba Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title Director of Government Affairs

Address 227 S. Adams St. Phone 570-0269  
Street

Tallahassee FL 32303 E-mail \_\_\_\_\_  
City State Zip

Speaking:  For  Against  Information

Representing Florida Retail Federation

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

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

This form is part of the public record for this meeting. S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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



Meeting Date 3/11/14

Topic Pharmacy Technicians Bill Number SB 278  
(if applicable)

Name Jeanne Philip Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title Member & Legislative liason

Address 421 Huckleberry Trl. Phone 904-230-1686  
Street

St. Johns FL 32259 E-mail jeanne.philip@walgreens.com  
City State Zip

Speaking:  For  Against  Information

Representing FL Board of Pharmacy

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

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

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/11/2014

Meeting Date

Topic Pharmacy Tech ratio

Bill Number 278  
*(if applicable)*

Name Ramy Gabriel

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Pharmacist

Address 306 Lincoln Pl

Phone \_\_\_\_\_

*Street*  
Miami Beach FL 33139  
*City* *State* *Zip*

E-mail ramy.gabriel@gmail.com

Speaking:  For  Against  Information

Representing FPA

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3-11-14

Meeting Date

Topic Pharmacy Technicians

Bill Number SB 278  
*(if applicable)*

Name Patrick Barnes

Amendment Barcode 133346  
*(if applicable)*

Job Title Pharmacy Manager

Address 11651 Low Cost Ct

Phone (904) 262-3928

*Street*  
Jax FL 32250  
*City* *State* *Zip*

E-mail patrick.barnes@jax.ufl.edu

Speaking:  For  Against  Information

Representing Florida Society of Health System Pharmacists

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

5/11/2014  
Meeting Date

Topic PHARMACY TECHNICIAN

Bill Number 5B278  
(if applicable)

Name MICHAEL JACKSON

Amendment Barcode 133346  
(if applicable)

Job Title EXECUTIVE VICE PRESIDENT & CEO

Address 610 N. ADAMS ST

Phone (850) 222-2400

TALLAHASSEE FL 32301  
City State Zip

E-mail MJACKSON@PHARMVIEW.COM

Speaking:  For  Against  Information

Representing FLORIDA PHARMACY ASSOCIATION

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3-11-14  
Meeting Date

Topic Pharm Tech bill

Bill Number 278  
(if applicable)

Name Bob Barrado

Amendment Barcode 133346  
(if applicable)

Job Title Pharmacist

Address 7922 Flowerfield Dr

Phone 813-361-0491

City State Zip

E-mail bobbarrado1@hotmail.com

Speaking:  For  Against  Information

Representing Florida Pharmacy Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3-11-14  
Meeting Date

Topic Pharmacy technicians

Bill Number SB 278

Name Amy Birch

Amendment Barcode 133346  
(if applicable)

Job Title Pharmacist

Address 12044 Diamond Springs Dr

Phone (904) 624-9298

Jax FL 32246  
Street City State Zip

E-mail amy.birch@jax.ufl.edu

Speaking:  For  Against  Information

Representing Florida Society of Health System Pharmacists

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/11/14  
Meeting Date

Topic Pharmacy Technicians

Bill Number SB 278

Name Larry Gonzalez

Amendment Barcode 133346  
(if applicable)

Job Title General Counsel, RSKP

Address 223 S. Gadsden St.

Phone 850-222-0465

Tallahassee FL 32301  
Street City State Zip

E-mail lawgonz@earthlink.net

Speaking:  For  Against  Information

Representing Florida Society of Health-System Pharmacists

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/11/14  
Meeting Date

Topic Pharmacy Tech

Bill Number 278

Name GOAR ALVAREZ (GOAR ALVAREZ)

Amendment Barcode 133346  
(if applicable)

Job Title Director

Address 3200 S. UNIVERSITY DRIVE

Phone 954-262-7383

FL Lauderdale FL 33328  
City State Zip

E-mail galvarez@nova.edu

Speaking:  For  Against  Information

Representing FLORIDA PHARMACY ASSOC.

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3-11-14  
Meeting Date

Topic Pharm Tech

Bill Number 278

Name Michael Fischer

Amendment Barcode 133346  
(if applicable)

Job Title \_\_\_\_\_

Address \_\_\_\_\_

Phone 222-6344

\_\_\_\_\_  
City State Zip

E-mail Mike@redfishconsult.com

Speaking:  For  Against  Information

Representing FLORIDA INDEPENDENT PHARMACY NETWORK

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/20/11)

**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.)

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Prepared By: The Professional Staff of the Committee on Health Policy

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BILL: SB 1364

INTRODUCER: Senator Bradley

SUBJECT: Employee Health Care Access Act

DATE: March 10, 2014

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Lloyd	Stovall	HP	<b>Favorable</b>
2.			CM	
3.			BI	

---

**I. Summary:**

SB 1364 modifies the definition of an “eligible employee” under the Employee Health Care Access Act to mean a full-time employee whose normal workweek is 30 or more hours, rather than the current 25 or more hours.

The effective date of the act is July 1, 2014.

**II. Present Situation:**

**Employee Health Care Access Act**

Enacted in 1992, the Employee Health Care Access Act (act) requires health insurers and health maintenance organizations (carriers) in the small group market to offer coverage to all small employers on a guaranteed-issue basis.<sup>1</sup> The carriers offer a standard benefit plan, a basic health benefit plan, and a high deductible plan that meets the requirements of health savings account plans, to any small employer who applies for coverage, regardless of the health status of the employees. A small employer carrier that offers coverage to a small employer must offer to all of the employer’s eligible employees and their dependents.<sup>2</sup>

Under the act, an “eligible employee” is defined as an employee who works full time and has a normal workweek of 25 or more hours.<sup>3</sup>

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<sup>1</sup> s. 627.6699, F.S.

<sup>2</sup> s. 637.6699(5)(h)5, F.S.

<sup>3</sup> s. 627.6699(3)(h), F.S.

Federal definitions and requirements for individual or group health insurance coverage can vary based on when coverage was in effect. For a grandfathered plan<sup>4</sup> in Florida, a “small employer” means any person, sole proprietor, self-employed individual, independent contractor, firm, corporation, partnership, or association that is actively engaged in business, has its principal place of business in this state, and employs an average of at least one but not more than 50 “eligible employees.”<sup>5</sup>

For a non-grandfathered plan,<sup>6</sup> as defined in s. 627.402, F.S., a “small employer” means any employer that has its principal place of business in this state and employs an average of at least one employee but not more than 50 employees.<sup>7</sup> Employees, for a non-grandfathered plan, have the same definition as under section 3 of the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. s. 1002.

### **Patient Protection and Affordable Care Act - Shared Responsibility Payments**

The federal Patient Protection and Affordable Care Act (PPACA) was signed into law on March 23, 2010.<sup>8</sup> Among its sweeping changes to the United States health care system are requirements for health insurers to make coverage available to all individuals and employers, without exclusions for preexisting conditions and without basing premiums on health related factors.

Another component of the PPACA includes a requirement that employers employing a certain number of employees, generally 50 fulltime employees, will be subject to the employer shared responsibility payment provision.<sup>9</sup> For purposes of the employer shared responsibility payment, the definition of a full-time employee is based on whether or not the employee averaged at least 30 hours of service per week.<sup>10,11</sup>

Beginning in 2014, the Small Business Health Options Program (SHOP) Marketplace provides coverage to small business with 50 or fewer fulltime employees, defined in the same manner as under the shared responsibility provision. The total fulltime employees’ calculation consider the employers total fulltime-equivalencies so the hours of all non-seasonal employees are included.<sup>12</sup>

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<sup>4</sup> s. 627.6699(3)(j)

<sup>5</sup> s. 627.6699(3)(w)1, F.S.

<sup>6</sup> A grandfathered health plan is health plan coverage that is individual or group coverage in which an individual was enrolled on March 10, 2010. Grandfathered health plans are exempt from many of the insurance requirements of the Patient Protection and Affordable Care Act but may lose this status if certain changes are made to the plan.

<sup>7</sup> s. 627.66993(3)(w)2, F.S.

<sup>8</sup> P.L. 111-148. On March 30, 2010, PPACA was amended by P.L. 111-152, the Health Care and Education Reconciliation Act of 2010.

<sup>9</sup> Internal Revenue Service, *Questions and Answers on Employer Shared Responsibility*,

<http://www.irs.gov/uac/Newsroom/Questions-and-Answers-on-Employer-Shared-Responsibility-Provisions-Under-the-Affordable-Care-Act#Identification> (last visited Mar. 7, 2014).

<sup>10</sup> Internal Revenue Service, *Questions and Answers on Employer Shared Responsibility*,

<http://www.irs.gov/uac/Newsroom/Questions-and-Answers-on-Employer-Shared-Responsibility-Provisions-Under-the-Affordable-Care-Act#Identification> (last visited Mar. 7, 2014).

<sup>11</sup> Federal Register, Vol. 79, No. 29, Final Rule 26 CFR 54.4980H-1(a)(21), published Feb. 12, 2014.

<sup>12</sup> Centers for Medicare and Medicaid Services, *Key Facts about the Small Business Health Options Program Marketplace* <http://marketplace.cms.gov/getofficialresources/publications-and-articles/key-facts-about-shop.pdf> (last visited Mar. 9, 2014).



Under SHOP, the small business owner enrolls through an agent, broker or insurance company. Once enrolled, the agent, broker or insurance company assists the small business and its employees into the plan selected by the small business owner. To be eligible, the business owner must offer coverage to all fulltime employees and at least 70 percent of the eligible employees must enroll in the plan. For most states in 2014, only one plan may be offered to employees. A SHOP Marketplace for employers with up to 100 employees will be available by January 1, 2016.<sup>13</sup> Open enrollment periods for the SHOP Marketplaces are determined by the employer.

Employees not eligible for coverage under the SHOP may seek individual or family coverage under the Health Insurance Marketplace during an open enrollment period. The 2014 open enrollment period ends March 31, 2014. The proposed 2015 open enrollment period is November 15, 2014 through January 15, 2015.

The employer shared responsibility provision requires affected employers to offer affordable health care coverage with a minimum level of benefits to their fulltime employees and dependents or incur a possible payment if that employee receives a premium tax credit for purchasing coverage through one of the Marketplaces under PPACA. Assessments will not be made until 2015 for larger firms (over 100 fulltime employees) and not until 2016 for those with over 50 employees.<sup>14</sup> There is no employer shared responsibility requirement under PPACA for employers with less than 50 fulltime employees.<sup>15</sup>

### III. Effect of Proposed Changes:

**Section 1** changes the definition of an “eligible employee” under the “Employee Health Care Access Act” to an employee who works fulltime having a normal workweek of 30 or more hours. The current definition defines a fulltime employee as having a normal workweek of 25 or more hours.

This change would more closely align the definition of a fulltime employee to federal regulation under the PPACA for the employer shared responsibility provisions.<sup>16</sup>

**Section 2** provides an effective date of July 1, 2014.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

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<sup>13</sup> Healthcare.gov, *What if my business has 50 or more employees?* <https://www.healthcare.gov/what-do-large-business-owners-need-to-know/> (Last visited: Mar. 9, 2014).

<sup>14</sup> U.S. Treasury Department, *Fact Sheet - Final Regulations Implementing Employer Shared Responsibility Under the Affordable Care Act*, <http://www.treasury.gov/press-center/press-releases/Documents/Fact%20Sheet%20021014.pdf> (last visited Mar. 7, 2014).

<sup>15</sup> See definition of “applicable large employer,” Federal Register, Vol. 79, No. 29, Final Rule 26 CFR 54.4980H-1(a)(4), published Feb. 12, 2014.

<sup>16</sup> See *supra* note 11.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

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

None.

**B. Private Sector Impact:**

Changing the definition of an “eligible employee” under the Employee Health Access Act could impact the number of small employers that are eligible for small group coverage. By increasing the number of hours needed to be designated as a fulltime employee, it may reduce the total fulltime employees of the employer thereby qualifying the business for small group coverage rather than large group.

It may also impact the number of employees eligible for coverage under employment based coverage if the employee works less than 30 hours per work. These employees would no longer be considered an eligible employee for small group coverage under the Employee Health Access Act. Impacted employees could seek coverage through the Health Insurance Marketplace.

**C. Government Sector Impact:**

The Office of Insurance Regulation (OIR) would be required to update its rules and administrative processes to conform to the new definitions. The OIR has not submitted any fiscal or administrative impact statements related to this bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 627.6699.

**IX. Additional Information:**

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

None.

- B. **Amendments:**

None.

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

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By Senator Bradley

7-00902A-14

20141364\_\_

1                                   A bill to be entitled  
2       An act relating to the Employee Health Care Access  
3       Act; amending s. 627.6699, F.S.; revising the  
4       definition of the term "eligible employee" for whom  
5       the act provides for the availability of access to  
6       certain health insurance coverage; providing an  
7       effective date.  
8  
9   Be It Enacted by the Legislature of the State of Florida:  
10  
11       Section 1. Paragraph (h) of subsection (3) of section  
12       627.6699, Florida Statutes, is amended to read:  
13       627.6699 Employee Health Care Access Act.—  
14       (3) DEFINITIONS.—As used in this section, the term:  
15       (h) "Eligible employee" means an employee who works full  
16       time, having a normal workweek of 30 ~~25~~ or more hours, and who  
17       has met any applicable waiting-period requirements or other  
18       requirements of this section ~~act~~. The term includes a self-  
19       employed individual, a sole proprietor, a partner of a  
20       partnership, or an independent contractor, if the sole  
21       proprietor, partner, or independent contractor is included as an  
22       employee under a health benefit plan of a small employer, but  
23       does not include a part-time, temporary, or substitute employee.  
24       Section 2. This act shall take effect July 1, 2014.



The Florida Senate

### Committee Agenda Request


**To:** Senator Aaron Bean, Chair  
Committee on Health Policy

**Subject:** Committee Agenda Request

**Date:** March 5, 2014

I respectfully request that **Senate Bill #278**, relating to Pharmacy Technicians , be placed on the:

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

  
 Senator Denise Grimsley  
 Florida Senate, District 21

File signed original with committee office

S-020 (03/2004)



### THE FLORIDA SENATE APPEARANCE RECORD

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

3/11/14  
Meeting Date

Topic health care Bill Number 1364  
(if applicable)

Name Alisa LaPort Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title \_\_\_\_\_

Address PO Box 1344 Phone \_\_\_\_\_  
Street

Tallahassee, FL 32302 E-mail \_\_\_\_\_  
City State Zip

Speaking:  For  Against  Information

Representing Florida CHAIN

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

March 11  
Meeting Date

Topic For Bill Bill Number 1364 (if applicable)  
Name Tim Meenan Amendment Barcode \_\_\_\_\_ (if applicable)  
Job Title \_\_\_\_\_  
Address 310 W College Ave Phone \_\_\_\_\_  
Tall FL E-mail \_\_\_\_\_  
City State Zip

Speaking:  For  Against  Information

Representing National Association of Insurance & Financial Advisors Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/20/11)

**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.)

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Prepared By: The Professional Staff of the Committee on Health Policy

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BILL: CS/SB 1030

INTRODUCER: Health Policy Committee, Senator Bradley and others

SUBJECT: Medical-Grade Marijuana and Cannabis

DATE: March 11, 2014

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Stovall	HP	<b>Fav/CS</b>
2.			CJ	
3.			AP	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1030 creates s. 456.60, F.S., in order to allow the compassionate use of low-THC marijuana. The bill allows certain patients whose Florida licensed physician registers them with the Department of Health (DOH) to use low-THC marijuana under limited circumstances. The bill defines low-THC marijuana as containing no more than .5 percent of tetrahydrocannabinol (THC) and at least 15 percent of cannabidiol (CBD).

Physicians may only register patients with severe and chronic seizures or muscle spasms who they have treated for 6 or more months and they must adhere to a number of requirements including keeping a plan of treatment for that patient and monitoring the patient's use of the low-THC marijuana. Patients who are ordered low-THC marijuana by their physician are added to a registry that is created and maintained by the DOH. Such patients may only purchase or acquire low-THC marijuana in the amount ordered by their physician and only from a dispensing organization that is approved by the DOH.

The bill establishes a number of criteria that an organization must meet and continuously adhere to in order to be approved by the DOH as a dispensing organization. The DOH is required to approve at least one, but no more than four, such organizations.

The bill also exempts patients and their legal representatives from the legal restrictions on purchasing, acquiring, possession, and medical use of low-THC marijuana in other parts of the Florida Statutes. Approved dispensing organizations, including its owners, managers, and

employees are exempted from such legal restrictions for the cultivation, production, possession, and sale of low-THC marijuana and for possessing and disposing of any byproducts of such cultivation and production.

## II. Present Situation:

### Treatment of Marijuana in Florida

Florida law defines Cannabis as “all parts of any plant of the genus *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin”<sup>1</sup> and places it, along with other sources of THC, on the list of schedule 1 drugs.<sup>2</sup> Schedule 1 drugs are substances that have a high potential for abuse and no currently accepted medical use in treatment in the United States. As a schedule 1 drug, possession and trafficking in cannabis carry criminal penalties that vary from a misdemeanor of the first degree<sup>3</sup> up to a felony of the first degree with a possible minimum sentence of 15 years in prison and a \$200,000 fine.<sup>4</sup> Paraphernalia<sup>5</sup> that is sold, manufactured, used, or possessed with the intent to be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance is also prohibited and carries criminal penalties ranging from a misdemeanor of the first degree to felony of the third degree.<sup>6</sup>

### Medical Marijuana in Florida – the Necessity Defense

Despite the fact that the use, possession, and sale of marijuana is prohibited by state law, Florida courts have found that circumstances can necessitate medical use of marijuana and circumvent the application of any criminal penalties. The necessity defense was successfully applied in a marijuana possession case in *Jenks v. State*<sup>7</sup> where the First District Court of Appeal found that “section 893.03 does not preclude the defense of medical necessity” for the use of marijuana if the defendant:

- Did not intentionally bring about the circumstance which precipitated the unlawful act;
- Could not accomplish the same objective using a less offensive alternative available; and
- The evil sought to be avoided was more heinous than the unlawful act.

In the cited case the defendants, a married couple, were suffering from uncontrollable nausea due to AIDS treatment and had testimony from their physician that he could find no effective alternative treatment. Under these facts, the First District found that the Jenks met the criteria for the necessity defense and ordered an acquittal of the charges of cultivating cannabis and possession of drug paraphernalia.

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<sup>1</sup> s. 893.02(c), F.S.

<sup>2</sup> s. 893.03(c)7. and 37., F.S.

<sup>3</sup> For possessing or delivering less than 20 grams. See s. 893.13(3) and (6)(b), F.S.

<sup>4</sup> Trafficking in more than 25 pounds, or 300 plants, of cannabis is a felony of the first degree with a minimum sentence that varies from 3 to 15 years in prison depending on the amount of cannabis. See s. 893.135(1)(a), F.S.

<sup>5</sup> As defined in s. 893.145, F.S.

<sup>6</sup> s. 893.147, F.S.

<sup>7</sup> *Jenks v. State*, 582 So. 2d 676, June 13, 1991.



## Medical Marijuana Laws in Other States

Currently, 20 states and the District of Columbia<sup>8</sup> have some form of law that permits the use of marijuana for medicinal purposes. These laws vary widely in detail but most are similar in that they touch on several recurring themes. Most state laws include the following in some form:

- A list of medical conditions for which a practitioner can recommend the use of medical marijuana to a patient.
  - Nearly every state has a list of medical conditions though the particular conditions vary from state to state. Most states also include a way to expand the list either by allowing a state agency or board to add medical conditions to the list or by including a “catch-all” phrase.<sup>9</sup> Most states require that the patient receive certification from at least one, but often two, physicians designating that the patient has a qualifying condition before the patient may be issued an ID card.
- Provisions for the patient to designate one or more caregivers who can possess the medical marijuana and assist the patient in preparing and using the medical marijuana.
  - The number of caregivers allowed and the qualifications to become a caregiver vary from state to state. Most states allow one or two caregivers and require that they be at least 21 years of age and, typically, cannot be the patient’s physician. Caregivers are generally allowed to purchase or grow marijuana for the patient, be in possession of the allowed quantity of marijuana, and aid the patient in using the marijuana, but are strictly prohibited from using the marijuana themselves.
- A required identification card for the patient, caregiver, or both that is typically issued by a state agency.
- A registry of people who have been issued an ID card.
- A method for registered patients and caregivers to obtain medical marijuana.
  - There are two general methods by which patients can obtain medical marijuana: either they must self-cultivate the marijuana in their homes, or the state allows specified marijuana points of sale or dispensaries. The regulations governing such dispensaries vary widely.
- General restrictions on where medical marijuana may be used.
  - Typically, medical marijuana may not be used in public places, such as parks and on buses, or in areas where there are more stringent restrictions placed on the use of drugs, such as in or around schools or in prisons.

## State Medical Marijuana Laws and Their Interaction with the Federal Government

The Federal Controlled Substances Act lists Marijuana as a schedule 1 drug with no accepted medical uses. Under federal law possession, manufacturing, and distribution of marijuana is a

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<sup>8</sup> These states include Alaska, Arizona, California, Colorado, Connecticut, Delaware, Hawaii, Illinois (effective 2014), Maine, Maryland, Massachusetts, Michigan, Montana, Nevada, New Hampshire, New Jersey, New Mexico, Oregon, Rhode Island, Vermont, and Washington. California was the first to establish a medical marijuana program in 1996 and Illinois was the most recent state to pass medical marijuana legislation in August of 2013. Illinois legislation became effective in January, 2014. See <http://www.ncsl.org/issues-research/health/state-medical-marijuana-laws.aspx>. Last visited on Mar. 7, 2014.

<sup>9</sup> Such as in California’s law that includes “any other chronic or persistent medical symptom that either: Substantially limits the ability of the person to conduct one or more major life activities as defined in the Americans with Disabilities Act of 1990, or if not alleviated, may cause serious harm to the patient's safety or physical or mental health.”

crime.<sup>10</sup> Although state medical marijuana laws protect patients from prosecution for the legitimate use of marijuana under the guidelines established in that state, such laws do not protect individuals from prosecution under federal law should the federal government choose to enforce those laws.

In August of 2013, the United States Justice Department (USDOJ) issued a publication entitled “Smart on Crime: Reforming the Criminal Justice System for the 21<sup>st</sup> Century.”<sup>11</sup> This document details the federal government’s changing stance on low-level drug crimes announcing a “change in Department of Justice charging policies so that certain people who have committed low-level, nonviolent drug offenses, who have no ties to large-scale organizations, gangs, or cartels will no longer be charged with offenses that impose draconian mandatory minimum sentences. Under the revised policy, these people would instead receive sentences better suited to their individual conduct rather than excessive prison terms more appropriate for violent criminals or drug kingpins.” In addition, the USDOJ published on August 29, 2013, a memorandum with the subject “Guidance regarding Marijuana Enforcement.” This memorandum made clear that the USDOJ considered small-scale marijuana use to be a state matter which the states may choose to punish or not, and, while larger operations would fall into the purview of the USDOJ, those operations that adhere to state laws legalizing marijuana in states that have robust regulatory systems for such laws would be far less likely to come under federal scrutiny.<sup>12</sup> These announcements generally indicate the USDOJ’s relative unwillingness to prosecute such cases leaving such prosecutions largely up to state authorities.

### **Tetrahydrocannabinol**

Tetrahydrocannabinol, or THC, is the major psychoactive constituent of marijuana. The potency of marijuana, in terms of psychoactivity, is dependent on THC concentration and is usually expressed as percent of THC per dry weight of material.

Average THC concentration in marijuana is 1-5 percent and the form of marijuana known as *sinsemilla* is derived from the unpollinated female cannabis plant and is preferred for its high THC content (up to 17 percent THC). Recreational doses are highly variable and users often titer their own dose. A single intake of smoke from a pipe or joint is called a hit (approximately 1/20th of a gram). The lower the potency or THC content the more hits are needed to achieve the desired effects.<sup>13</sup>

Marinol is a currently approved drug<sup>14</sup> that consists of a man-made form of THC known as dornabinol.<sup>15</sup> Marinol is used to treat anorexia associated with weight loss in patients with AIDS and nausea and vomiting associated with cancer chemotherapy in patients who have failed to

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<sup>10</sup> The punishments vary depending on the amount of marijuana and the intent with which the marijuana is possessed. See <http://www.fda.gov/regulatoryinformation/legislation/ucm148726.htm#cntlsbd>. Last visited Mar. 7, 2014.

<sup>11</sup> See <http://www.justice.gov/ag/smart-on-crime.pdf>. Last visited on Mar. 7, 2014.

<sup>12</sup> See USDOJ memo on “Guidance Regarding Marijuana Enforcement”, Aug. 29, 2013, found at <http://www.justice.gov/iso/opa/resources/3052013829132756857467.pdf>, last visited on Mar. 7, 2014.

<sup>13</sup> Drugs and Human Performance Fact Sheet for Cannabis / Marijuana, National Highway Traffic Safety Administration, found at <http://www.nhtsa.gov/people/injury/research/job185drugs/cannabis.htm>, last visited on Mar. 7, 2014.

<sup>14</sup> Approved by the US Food and Drug Administration.

<sup>15</sup> See <http://www.marinol.com/about-marinol.cfm>, last visited on Mar. 7, 2014.

adequately respond to conventional antiemetic treatments. Marinol has a variety of side-effects including a cannabinoid dose-related “high.”<sup>16</sup>

### **Cannabidiol**

Cannabidiol, or CBD, is another cannabinoid that is found in marijuana and, although THC has psychoactive effects, CBD and other cannabinoids are not known to cause intoxication.<sup>17</sup> There is some evidence that shows that CBD is effective in treating seizure disorders,<sup>18,19</sup> although much of this evidence is anecdotal. Currently, the drug Epidiolex, which is a liquid form of highly purified CBD extract, has been approved by the FDA in November 2013, as an orphan drug<sup>20</sup> that may be used to treat Dravet syndrome.<sup>21,22</sup>

### **III. Effect of Proposed Changes:**

Section 1 of the bill creates s. 456.60, F.S., to allow the compassionate use of low-THC marijuana. The bill:

- Defines the terms:
  - “Dispensing organization” to mean an organization approved by the DOH to cultivate, process, and dispense low-THC marijuana;
  - “Low-THC marijuana” to mean a substance that contains no more than .5 percent of any THC and at least 15 percent of CBD and which is dispensed from a dispensing organization;
  - “Medical use” to mean the administration of the ordered amount of low-THC marijuana with the exception of possession, use, or administration by smoking and the transfer of low-THC marijuana to a person other than the qualified patient or his or her legal representative;
  - “Qualified patient” to mean a Florida resident who has been added to the compassionate use registry by a Florida licensed physician; and
  - “Smoking” to mean burning or igniting a substance and inhaling the smoke. The term smoking does not include the use of a vaporizer.
- Allows Florida licensed physicians to order low-THC marijuana for a patient suffering from a physical medical condition, or treatment for a medical condition, that chronically produces symptoms of seizure or severe and persistent muscle spasms. The physician may only order low-THC marijuana if:
  - The physician has tried alternate treatment options and there are no satisfactory alternative treatments to eliminate the patient’s symptoms;

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<sup>16</sup> Marinol prescribing information, see [http://www.rxabbvie.com/pdf/marinol\\_PL.pdf](http://www.rxabbvie.com/pdf/marinol_PL.pdf), last visited on Mar. 7, 2014.

<sup>17</sup> GW Pharmaceuticals, see <http://www.gwpharm.com/FAQ.aspx>, last visited on Mar. 7, 2014.

<sup>18</sup> See <http://www.cnn.com/2013/08/07/health/charlotte-child-medical-marijuana/>

<sup>19</sup> See also the presentation to the Florida House Criminal Justice Subcommittee on the Charlotte’s Web strain of marijuana on Jan 9, 2014.

<sup>20</sup> An orphan drug is defined as a drug that is intended for the safe and effective treatment, diagnosis, or prevention of rare diseases/disorders that affect fewer than 200,000 people in the U.S., or that affect more than 200,000 persons but are not expected to recover the costs of developing and marketing a treatment drug. See <http://www.fda.gov/forindustry/DevelopingProductsforRareDiseasesConditions/default.htm>., last visited on Mar. 10, 2014.

<sup>21</sup> See <http://www.gwpharm.com/LGS%20Orphan%20Designation.aspx>, last visited on Mar. 7, 2014.

<sup>22</sup> Dravet syndrome is a rare form of childhood epilepsy. See [http://www.ninds.nih.gov/disorders/dravet\\_syndrome/dravet\\_syndrome.htm](http://www.ninds.nih.gov/disorders/dravet_syndrome/dravet_syndrome.htm), last visited on Mar. 7, 2014.

- The patient is a permanent resident of Florida.
- The physician has treated the patient for his or her symptoms for at least 6 months;
- The physician, along with a second physician for patients under the age of 18, determines the risk of ordering low-THC marijuana are reasonable;
- The physician registers as the orderer for the named patient on the registry, updates the registry with the order's contents, and deactivates the patient's registration when treatment is discontinued;
- The physician maintains a patient treatment plan that includes the dose, route of administration, planned duration, and monitoring of the patient's symptoms and other indicators of tolerance or reaction to the low-THC marijuana; and
- The physician submits the treatment plan quarterly to the University Of Florida College Of Pharmacy for research on the safety and efficacy of the low-THC marijuana.
- Requires the DOH to:
  - Create a secure, electronic, and online registry for the registration of physicians and patients which must be able to be accessed by law enforcement and the dispensing organization in order to verify patient orders. The dispensing organization must be able to record the low-THC marijuana dispensed and the registry must prevent an active registration of a patient by multiple physicians.
  - Authorize at least one, but no more than four, dispensing organizations to ensure reasonable statewide accessibility and availability of low-THC marijuana as necessary. The DOH must develop an application form and impose initial and biennial renewal fees that are sufficient to cover the costs of administering their responsibilities under this section. An applicant for approval as a dispensing organization must be able to show:
    - The technical and technological ability to cultivate and produce low-THC marijuana;
    - The ability to secure the premises, resources, and personnel necessary to operate;
    - The ability to maintain accountability of all marijuana related products and to prevent diversion of those substances;
    - An infrastructure reasonably located to dispense low-THC marijuana statewide or regionally as determined by the DOH;
    - The financial ability to maintain operations for the duration of the 2-year cycle;
    - That all owners, managers, and employees have been fingerprinted and passed a level II background screening; and,
    - Any additional criteria determined by the DOH to be needed to safely implement the section.
    - Monitor physician registration and ordering of low-THC marijuana in order to be able to take disciplinary action as needed.
- Requires a dispensing organization to maintain compliance with all listed criteria for approval at all times and to verify before dispensing any low-THC marijuana that a patient has an active registration and that the patient's order matches the one recorded on the registry and has not already been filled. When the dispensing organization dispenses any low-THC marijuana it must record the date, time, quantity, and form of the marijuana dispensed.
- Creates exceptions from all other sections of law for:
  - Qualified patients and their legal representatives to purchase, acquire, and possess for that patient's medical use up to the ordered amount of low-THC marijuana;
  - Dispensing organizations, including their owners, managers, and employees to acquire, possess, cultivate, and dispose of excess product in reasonable quantities to produce low-

THC marijuana and for such organizations to possess, process, and dispense low-THC marijuana. The bill also clarifies that dispensing organizations and their owners, managers, and employees are not subject to licensure and regulation under ch. 465, F.S., relating to pharmacies.

**Section 2** of the bill amends s. 893.02, F.S., to exempt any plant of the genus Cannabis, its seeds, or its extracted resin or any compound, manufacture, salt, derivative, mixture, or preparation of such a plant, its seeds, or resin that contains .5 percent or less of THC and more than 15 percent of CBD from the definition of “Cannabis” if it is possessed or used in conformance with the newly created s. 456.60, F.S. This exemption in effect legalizes the plants, seeds, resins, and products that conform to the exemption.

**Section 3** of the bill establishes an effective date of July 1, 2014.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

CS/SB 1030 may have a positive fiscal impact on the private sector organizations that are approved by the DOH to become dispensing organizations.

C. Government Sector Impact:

The DOH will require \$120,000 to fund the creation of the compassionate use registry and will require further funds to maintain the registry, as well as approve and monitor the dispensing organizations.<sup>23</sup> However, these costs should be funded from the initial and license renewal fees charged to the dispensing organizations.

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<sup>23</sup> DOH analysis of SB 1030, on file with Health Policy Committee staff.

The Florida Department of Law Enforcement (FDLE) states that the definition change to the term “cannabis” in section 2 of the bill will require the FDLE to analyze all cannabis samples confiscated in order to prove that it is not exempt under the new definition. To do so will create an increased workload and the FDLE will require 25 new Crime Lab Analysts and at least 10 additional Gas Chromatographs to perform the additional analyses. The FDLE will incur an estimated \$1,832,700 recurring costs for the new personnel and a one-time cost of \$650,000 for new Gas Chromatographs.

Section 1 of the bill may generate additional revenue for the FDLE due to an increase in the number of criminal history checks performed. The current cost for a state record check is \$24.<sup>24</sup> The amount of revenue generated will likely be minimal.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Consideration should be given to creating a public records exemption for the personal identifying information in the compassionate use registry.

**VIII. Statutes Affected:**

This bill substantially amends section 893.02 of the Florida Statutes.  
This bill creates section 456.60 of the Florida Statutes.

**IX. Additional Information:**

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

**CS by Health Policy on March 11, 2014:**

The CS amends SB 1030 to:

- Change the name of “medical-grade marijuana” to “low-THC marijuana” throughout the bill;
- Amend a typo in the definition of “low-THC marijuana”; and,
- Change “prescribe” to “order” throughout the bill to avoid a conflict with other statutes that define “prescriptions” as being filled at a pharmacy.

- B. **Amendments:**

None.

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

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<sup>24</sup> FDLE analysis of SB 1030, on file with Health Policy Committee staff.



480078

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/11/2014	.	
	.	
	.	
	.	

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The Committee on Health Policy (Brandes) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 25 - 147

and insert:

456.60 Compassionate use of low-THC marijuana.-

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

(a) "Dispensing organization" means an organization

approved by the department to cultivate, process, and dispense

low-THC marijuana pursuant to this section.

(b) "Low-THC marijuana" means a substance that contains no



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11 more than 0.5 percent of any tetrahydrocannabinol and at least  
12 15 percent cannabidiol and that is dispensed only from a  
13 dispensing organization.

14 (c) "Medical use" means administration of the ordered  
15 amount of low-THC marijuana. The term does not include the  
16 possession, use, or administration by smoking. The term also  
17 does not include the transfer of low-THC marijuana to a person  
18 other than the qualified patient for whom it was ordered or the  
19 qualified patient's legal representative on behalf of the  
20 qualified patient.

21 (d) "Qualified patient" means a resident of this state who  
22 has been added to the compassionate use registry by a physician  
23 licensed under chapter 458 or chapter 459 to receive low-THC  
24 marijuana from a dispensing organization.

25 (e) "Smoking" means burning or igniting a substance and  
26 inhaling the smoke. Smoking does not include the use of a  
27 vaporizer.

28 (2) PHYSICIAN ORDERING.—A physician licensed under chapter  
29 458 or chapter 459 who has examined and treated a patient  
30 suffering from a physical medical condition, or from treatment  
31 for a medical condition, which chronically produces symptoms of  
32 seizures or severe and persistent muscle spasms may order for  
33 the patient's medical use low-THC marijuana to treat or  
34 alleviate such symptoms if no other satisfactory alternative  
35 treatment options exist for that patient and all of the  
36 following conditions apply:

37 (a) The patient is a permanent resident of this state.

38  
39 (b) The physician has treated the patient for his or her





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40 symptoms or a medical condition in which his or her symptoms  
41 were present for at least 6 months.

42 (c) The physician has tried alternate treatment options  
43 that have not alleviated the patient's symptoms.

44 (d) The physician determines the risks of ordering low-THC  
45 marijuana are reasonable in light of the potential benefit for  
46 that patient. If a patient is younger than 18 years of age, a  
47 second physician must concur with this determination, and such  
48 determination must be documented in the patient's medical  
49 record.

50 (e) The physician registers as the orderer of low-THC  
51 marijuana for the named patient on the compassionate use  
52 registry maintained by the department and updates the registry  
53 to reflect the contents of the order. The physician shall  
54 inactivate the patient's registration when treatment is  
55 discontinued.

56 (f) The physician maintains a patient treatment plan that  
57 includes the dose, route of administration, planned duration,  
58 and monitoring of the patient's symptoms and other indicators of  
59 tolerance or reaction to the low-THC marijuana.

60 (g) The physician submits the patient treatment plan  
61 quarterly to the University of Florida College of Pharmacy for  
62 research on the safety and efficacy of low-THC marijuana on  
63 patients with such symptoms.

64 (3) DUTIES OF THE DEPARTMENT.—The department shall:

65 (a) Create a secure, electronic, and online compassionate  
66 use registry for the registration of physicians and patients as  
67 provided under this section. The registry must be accessible to  
68 law enforcement agencies and to a dispensing organization in



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69 order to verify patient authorization for low-THC marijuana and  
70 record the low-THC marijuana dispensed. The registry must  
71 prevent an active registration of a patient by multiple  
72 physicians.

73 (b) Authorize at least one, but no more than four,  
74 dispensing organizations, to ensure reasonable statewide  
75 accessibility and availability as necessary for patients  
76 registered in the compassionate use registry and who are ordered  
77 low-THC marijuana under this section. The department shall  
78 develop an application form and impose an initial application  
79 and biennial renewal fee that is sufficient to cover the costs  
80 of administering this section. An applicant for approval as a  
81 dispensing organization must be able to demonstrate:

82 1. The technical and technological ability to cultivate and  
83 produce low-THC marijuana.

84 2. The ability to secure the premises, resources, and  
85 personnel necessary to operate as a dispensing organization.

86 3. The ability to maintain accountability of all raw  
87 materials, finished product, and any byproducts to prevent  
88 diversion or unlawful access to or possession of these  
89 substances.

90 4. An infrastructure reasonably located to dispense low-THC  
91 marijuana to registered patients statewide or regionally as  
92 determined by the department.

93 5. The financial ability to maintain operations for the  
94 duration of the 2-year approval cycle.

95 6. That all owners, managers, and employees have been  
96 fingerprinted and successfully passed background screening  
97 pursuant to s. 435.04.



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98           7. Additional criteria determined by the department to be  
99 necessary to safely implement this section.

100           (c) Monitor physician registration and ordering of low-THC  
101 marijuana for ordering practices which could facilitate unlawful  
102 diversion or misuse of low-THC marijuana, and take disciplinary  
103 action as indicated.

104           (4) DISPENSING ORGANIZATION.—An approved dispensing  
105 organization shall maintain compliance with the criteria  
106 demonstrated for selection and approval under subsection (3) as  
107 a dispensing organization at all times. Before dispensing low-  
108 THC marijuana to a qualified patient, the dispensing  
109 organization shall verify that the patient has an active  
110 registration in the compassionate use registry, the order  
111 presented matches the order contents as recorded in the  
112 registry, and the order has not already been filled. Upon  
113 dispensing the low-THC marijuana, the dispensing organization  
114 shall record in the registry the date, time, quantity, and form  
115 of low-THC marijuana dispensed.

116           (5) EXCEPTIONS TO OTHER SECTIONS OF LAW.—

117           (a) Notwithstanding any other section of law, but subject  
118 to the requirements of this section, a qualified patient and the  
119 qualified patient's legal representative may purchase, acquire,  
120 and possess for the patient's medical use up to the amount of  
121 low-THC marijuana ordered to the patient.

122           (b) Notwithstanding any other section of law, but subject  
123 to the requirements of this section, an approved dispensing  
124 organization and its owners, managers, and employees may  
125 acquire, possess, cultivate, and lawfully dispose of excess  
126 product in reasonable quantities to produce low-THC marijuana



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127 and possess, process, and dispense low-THC marijuana.

128

129

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

131 And the title is amended as follows:

132       Delete lines 2 - 5

133 and insert:

134

135       An act relating to low-THC marijuana and cannabis;  
136       creating s. 456.60, F.S.; defining terms; authorizing  
137       specified physicians to order low-THC marijuana for  
138       use by specified patients; providing

By Senators Bradley, Bean, and Brandes

7-01036C-14

20141030\_\_

A bill to be entitled

An act relating to medical-grade marijuana and cannabis; creating s. 456.60, F.S.; defining terms; authorizing specified physicians to prescribe to specified patients medical-grade marijuana; providing conditions; providing duties of the Department of Health; requiring the department to create a compassionate use registry; providing requirements for the registry; requiring the department to authorize a specified number of dispensing organizations; providing requirements and duties for a dispensing organization; providing exceptions to specified laws; amending s. 893.02, F.S.; revising the definition of the term "cannabis" for purposes of the Florida Comprehensive Drug Abuse Prevention and Control Act and as applicable to certain criminal offenses proscribing the sale, manufacture, delivery, possession, or purchase of cannabis, to which penalties apply; providing an effective date.

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

Section 1. Section 456.60, Florida Statutes, is created to read:

456.60 Compassionate use of medical-grade marijuana.—

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

(a) "Dispensing organization" means an organization approved by the department to cultivate, process, and dispense medical-grade marijuana pursuant to this section.

Page 1 of 6

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

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20141030\_\_

(b) "Medical-grade marijuana" means a substance that contains no more than 0.5 percent or less of any tetrahydrocannabinol and at least 15 percent cannabidiol and that is dispensed only from a dispensing organization.

(c) "Medical use" means administration of the prescribed amount of medical-grade marijuana. The term does not include the possession, use, or administration by smoking. The term also does not include the transfer of medical-grade marijuana to a person other than the qualified patient to whom it was prescribed or the qualified patient's legal representative on behalf of the qualified patient.

(d) "Qualified patient" means a resident of this state who has been added to the compassionate use registry by a physician licensed under chapter 458 or chapter 459 to receive medical-grade marijuana from a dispensing organization.

(e) "Smoking" means burning or igniting a substance and inhaling the smoke. Smoking does not include the use of a vaporizer.

(2) PHYSICIAN PRESCRIBING.—A physician licensed under chapter 458 or chapter 459 who has examined and treated a patient suffering from a physical medical condition, or from treatment for a medical condition, which chronically produces symptoms of seizures or severe and persistent muscle spasms may prescribe for the patient's medical use medical-grade marijuana to treat or alleviate such symptoms if no other satisfactory alternative treatment options exist for that patient and all of the following conditions apply:

(a) The patient is a permanent resident of this state.

(b) The physician has treated the patient for his or her

Page 2 of 6

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

7-01036C-14

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59 symptoms or a medical condition in which his or her symptoms  
60 were present for at least 6 months.

61 (c) The physician has tried alternate treatment options  
62 that have not alleviated the patient's symptoms.

63 (d) The physician determines the risks of prescribing  
64 medical-grade marijuana are reasonable in light of the potential  
65 benefit for that patient. If a patient is younger than 18 years  
66 of age, a second physician must concur with this determination,  
67 and such determination must be documented in the patient's  
68 medical record.

69 (e) The physician registers as the prescriber of medical-  
70 grade marijuana for the named patient on the compassionate use  
71 registry maintained by the department and updates the registry  
72 to reflect the prescription contents as prescribed. The  
73 physician shall inactivate the patient's registration when  
74 treatment is discontinued.

75 (f) The physician maintains a patient treatment plan that  
76 includes the dose, route of administration, planned duration,  
77 and monitoring of the patient's symptoms and other indicators of  
78 tolerance or reaction to the medical-grade marijuana.

79 (g) The physician submits the patient treatment plan  
80 quarterly to the University of Florida College of Pharmacy for  
81 research on the safety and efficacy of medical-grade marijuana  
82 on patients with such symptoms.

83 (3) DUTIES OF THE DEPARTMENT.—The department shall:

84 (a) Create a secure, electronic, and online compassionate  
85 use registry for the registration of physicians and patients as  
86 provided under this section. The registry must be accessible to  
87 law enforcement agencies and to a dispensing organization in

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88 order to verify patient authorization for medical-grade  
89 marijuana and record the medical-grade marijuana dispensed. The  
90 registry must prevent an active registration of a patient by  
91 multiple physicians.

92 (b) Authorize at least one, but no more than four,  
93 dispensing organizations, to ensure reasonable statewide  
94 accessibility and availability as necessary for patients  
95 registered in the compassionate use registry and who are  
96 prescribed medical-grade marijuana under this section. The  
97 department shall develop an application form and impose an  
98 initial application and biennial renewal fee that is sufficient  
99 to cover the costs of administering this section. An applicant  
100 for approval as a dispensing organization must be able to  
101 demonstrate:

102 1. The technical and technological ability to cultivate and  
103 produce medical-grade marijuana.

104 2. The ability to secure the premises, resources, and  
105 personnel necessary to operate as a dispensing organization.

106 3. The ability to maintain accountability of raw materials,  
107 finished product, and any byproducts to prevent diversion or  
108 unlawful access to or possession of these substances.

109 4. An infrastructure reasonably located to dispense  
110 medical-grade marijuana to registered patients statewide or  
111 regionally as determined by the department.

112 5. The financial ability to maintain operations for the  
113 duration of the 2-year approval cycle.

114 6. That all owners, managers, and employees have been  
115 fingerprinted and successfully passed background screening  
116 pursuant to s. 435.04.

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117 7. Additional criteria determined by the department to be  
 118 necessary to safely implement this section.

119 (c) Monitor physician registration and prescribing of  
 120 medical-grade marijuana for prescribing practices which could  
 121 facilitate unlawful diversion or misuse of medical-grade  
 122 marijuana, and take disciplinary action as indicated.

123 (4) DISPENSING ORGANIZATION.—An approved dispensing  
 124 organization shall maintain compliance with the criteria  
 125 demonstrated for selection and approval under subsection (3) as  
 126 a dispensing organization at all times. Before dispensing  
 127 medical-grade marijuana to a qualified patient, the dispensing  
 128 organization shall verify that the patient has an active  
 129 registration in the compassionate use registry, the prescription  
 130 presented matches the prescription contents as recorded in the  
 131 registry, and the prescription has not already been filled. Upon  
 132 dispensing the medical-grade marijuana, the dispensing  
 133 organization shall record in the registry the date, time,  
 134 quantity, and form of medical-grade marijuana dispensed.

135 (5) EXCEPTIONS TO OTHER SECTIONS OF LAW.—

136 (a) Notwithstanding any other section of law, but subject  
 137 to the requirements of this section, a qualified patient and the  
 138 qualified patient's legal representative may purchase, acquire,  
 139 and possess for the patient's medical use up to the amount of  
 140 medical-grade marijuana prescribed to the patient.

141 (b) Notwithstanding any other section of law, but subject  
 142 to the requirements of this section, an approved dispensing  
 143 organization and its owners, managers, and employees may  
 144 acquire, possess, cultivate, and lawfully dispose of excess  
 145 product in reasonable quantities to produce medical-grade

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146 marijuana and possess, process, and dispense medical-grade  
 147 marijuana.

148 (c) An approved dispensing organization is not subject to  
 149 licensure and regulation under chapter 465, and the owners,  
 150 managers, and employees of a dispensing organization are not  
 151 subject to licensure and regulation for the practice of pharmacy  
 152 under chapter 465.

153 Section 2. Subsection (3) of section 893.02, Florida  
 154 Statutes, is amended to read:

155 893.02 Definitions.—The following words and phrases as used  
 156 in this chapter shall have the following meanings, unless the  
 157 context otherwise requires:

158 (3) "Cannabis" means all parts of any plant of the genus  
 159 *Cannabis*, whether growing or not; the seeds thereof; the resin  
 160 extracted from any part of the plant; and every compound,  
 161 manufacture, salt, derivative, mixture, or preparation of the  
 162 plant or its seeds or resin. The term does not include any plant  
 163 of the genus *Cannabis* that contains 0.5 percent or less of  
 164 tetrahydrocannabinol and more than 15 percent of cannabidiol;  
 165 the seeds thereof; the resin extracted from any part of such  
 166 plant; or any compound, manufacture, salt, derivative, mixture,  
 167 or preparation of such plant or its seeds or resin, if possessed  
 168 or used in conformance with s. 456.60.

169 Section 3. This act shall take effect July 1, 2014.



The Florida Senate

### Committee Agenda Request

**To:** Senator Aaron Bean, Chair  
Committee on Health Policy

**Subject:** Committee Agenda Request

**Date:** February 19, 2014

I respectfully request that **Senate Bill # 1030**, relating to Medical-grade Marijuana and Cannabis, be placed on the:

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

Senator Rob Bradley  
Florida Senate, District 7

File signed original with committee office

S-020 (03/2004)  
 ENTERED



The Florida Senate

### Committee Agenda Request

**To:** Senator Aaron Bean, Chair  
Committee on Health Policy

**Co-Introducer**

**Subject:** Committee Agenda Request

**Date:** February 21, 2014

I respectfully request that **Senate Bill #1030**, relating to Medical-grade Marijuana and Cannabis, be placed on the:

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

Senator Jeff Brandes  
Florida Senate, District 22

File signed original with committee office

S-020 (03/2004)  
 ENTERED



THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/11/14  
Meeting Date

Topic \_\_\_\_\_ Bill Number 1030  
Name GOAN Alvarez Amendment Barcode 480071  
Job Title MESA (if applicable)  
Address 3200 S. University Drive Phone 954-262-1353  
Street FL Lauderdale State FL Zip 33328 E-mail galvarez@uva.edu  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Speaking:  For  Against  Information  
Representing SEAF  
Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/11/14  
Meeting Date

Topic Medical-grade Marijuana and Cannabis Bill Number 1030  
Name Keri Rayborn Silver Amendment Barcode \_\_\_\_\_  
Job Title \_\_\_\_\_ (if applicable)  
Address PO Box 1565 Phone 850-524-2394  
Street Tallahassee State FL Zip 32302 E-mail KeriRaybornconsultants.com  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Speaking:  For  Against  Information  
Representing Florida Sheriffs Association  
Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

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

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S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3-11-14

Meeting Date

Topic Cannibis

Bill Number SB 1030  
(if applicable)

Name Michael Krehl

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title Mason

Address 3784 Westworthway

Phone 850-653-5191

Tall. Fl. 32311

City State Zip

E-mail brickmasonindustries@gmail.com

Speaking:  For  Against  Information

Representing Self

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/11/14

Meeting Date

Topic MEDICAL MARIJUANA

Bill Number SB 1030  
(if applicable)

Name MARTY MONROE

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title \_\_\_\_\_

Address 6992 Alhambra Dr

Phone 850 942-2340

Tallahassee FL 32317

City State Zip

E-mail martybooks@aol.com

Speaking:  For  Against  Information

Representing BREAST CANCER SURVIVORS - BOSEM BUDDIES

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/11/2014  
Meeting Date

Topic MEDICAL-GRADE MARIJUANA + CANNABIS

Bill Number SB 1030  
*(if applicable)*

Name ROBERT REDMOND

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title \_\_\_\_\_

Address 1811 IRONWOOD CT W  
Street

Phone 813 767 4610

OLDSMAR FL 34677  
City State Zip

E-mail LFSPRO@GMAIL.COM

Speaking:  For  Against  Information

Representing SELF

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

*Waive my time in support*

3/11/14  
Meeting Date

Topic Charlottesville's web

Bill Number SB 1030  
*(if applicable)*

Name Ron Watson

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title President / Watson Strategies

Address 3738 Mardon Way  
Street

Phone 850 567-1202

Tallahassee FL 32309  
City State Zip

E-mail watson.strategies@concast.net

Speaking:  For  Against  Information

Representing me, myself + I

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/11/14  
Meeting Date

Topic Medical Marijuana Bill Number 1030  
Name LOUIS ROTUNDO Amendment Barcode \_\_\_\_\_  
Job Title \_\_\_\_\_  
Address 302 Pinestraw Circle Phone 407-699-9361  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
E-mail \_\_\_\_\_  
Speaking:  For  Against  Information  
Representing Florida Medical Cannabis Association  
Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3-11-14  
Meeting Date

Topic Medical Marijuana Bill Number 1030  
Name Kim Dillard Amendment Barcode \_\_\_\_\_  
Job Title \_\_\_\_\_  
Address 7544 Lilliehn Phone 850-255-2199  
City Pensacola State FL Zip 32526  
E-mail humming65@cox.net  
Speaking:  For  Against  Information  
Representing My son Daniel  
Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3-11-14

Meeting Date

Topic Medical Marijuana

Bill Number 1030  
(if applicable)

Name Rebecca Walters

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title \_\_\_\_\_

Address 1241 Kemala Ave

Phone (850) 754-0186

Molino FL 32577  
Street City State Zip

E-mail BeckyWalt1230@yahoo.com

Speaking:  For  Against  Information

Representing my son Josh

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

11 March '14

Meeting Date

Topic Charlottes web (MMT)

Bill Number 1030  
(if applicable)

Name Marina Delaney

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title \_\_\_\_\_

Address 4642 Hamilton Bridge Rd

Phone 850 736 9719

Pace FL 32571  
Street City State Zip

E-mail marina811@live.com

Speaking:  For  Against  Information

Representing James Delaney (son)

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3-11-14  
Meeting Date

Topic Medical Cannabis

Bill Number SB 1030  
(if applicable)

Name Jodi James

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title Executive Director

Address 1375 Cypress Ave

Phone 321 890 7302

Street  
MELBOURNE, FL 32935  
City State Zip

E-mail JJamesFlorida@gmail.com

Speaking:  For  Against  Information

Representing CANNABIS ACTION NETWORK

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/11/14  
Meeting Date

Topic THC marijuana

Bill Number SB 1030  
(if applicable)

Name Holly Mosely

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title parent / Caring 4 Florida

Address 211 Norwich Dr

Phone 850-232-0004

Street  
Dual Breeze Fl 32561  
City State Zip

E-mail holley@caring4florida.org

Speaking:  For  Against  Information

Representing Caring 4 Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/11/2014

Meeting Date

Topic \_\_\_\_\_

Bill Number 1030  
*(if applicable)*

Name BRIAN PITTS

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

*Street*

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/20/11)

**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.)

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Prepared By: The Professional Staff of the Committee on Health Policy

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**BILL:** CS/SB 722

**INTRODUCER:** Health Policy Committee and Senator Garcia

**SUBJECT:** Newborn Health Screening

**DATE:** March 11, 2014      **REVISED:** \_\_\_\_\_

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	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peterson	Stovall	HP	<b>Fav/CS</b>
2.	_____	_____	CF	_____
3.	_____	_____	JU	_____

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

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**I. Summary:**

CS/SB 722 expands the list of health care providers who may receive the results of a newborn’s hearing or metabolic tests or screenings from the State Public Health Laboratory and revises the definition of “hearing impairment” to conform to national standards. The bill creates a new section of law directing health care practitioners who diagnose a child with hearing loss to offer the parent or guardian an opportunity to receive information about services directly from specified providers. The bill also makes two technical corrections, deleting an obsolete date and updating a cross-reference to federal law.

**II. Present Situation:**

**Newborn Screening**

Newborn screening (NBS) is a preventive public health program that provides early identification of rare genetic, metabolic, hormonal, and functional disorders among infants and follow-up care for those affected. Babies with these conditions appear healthy at birth, but can develop serious medical problems later in infancy or childhood. Without treatment, the screened-for disorders can result in significant health consequences and in some cases, death. Virtually all<sup>1</sup> newborns in the United States are screened and only for disorders for which there is documented benefit to the infant from early detection and for which there is a reliable screening test that is feasible in a public health setting.

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<sup>1</sup> Florida’s newborn screening statute allows a parent to refuse the test. (s. 383.14(4), F.S.)



NBS began in the 1960s with testing for phenylketonuria (PKU). In 2002, the Maternal and Child Health Bureau of the Health Resources and Services Administration (HRSA), U.S. Department of Health and Human Services, commissioned the American College of Medical Genetics (ACMG) to develop a report outlining a process to standardize guidelines for newborn screenings. At the time, some state programs were screening for as few as five conditions and others as many as 50. The ACMG panel recommended 29 conditions as part of a core screening panel. Two additional conditions were recommended in 2010 by the Secretary's Advisory Committee on Heritable Disorders in Newborns and Children (SACHDNC).<sup>2</sup> The Secretary has adopted all 31 conditions as part of the Recommended Uniform Screening Panel (RUSP). Although states are not required to adopt the RUSP, all states currently screen for the substantial majority of the RUSP core conditions.<sup>3</sup>

### Florida Newborn Screening

Florida's NBS program is administered by the Department of Health (DOH). It began in 1965 with testing for Phenylketonuria and has since expanded to cover 37 conditions, including all of the core conditions contained on the RUSP. Florida's NBS program requires that all babies born alive be tested before one week of age.<sup>4</sup> Before leaving the hospital or other birthing facility, a few drops of blood are taken from the heel of the baby and the baby's ears are also tested for hearing. The hospital or birthing facility sends the blood sample to the State Public Health Laboratory (lab) in Jacksonville. The lab sends all test results back to the hospital or birthing facility, which, in turn, is required to forward them to the baby's physician.<sup>5</sup> Physicians can also get results for their patients from the Florida Newborn Screening Results website. If the screening results are abnormal, the Newborn Screening Follow-up Program, which is a part of Children's Medical Services (CMS), contacts the parent and/or the physician about additional testing and continues follow-up until the disorder is either ruled out or confirmed.<sup>6</sup>

Current law prohibits the release of DNA testing results, whether held by a public or private entity, without the consent of the person tested, except for purposes of criminal prosecutions or paternity determinations. In addition, records held by a public entity are exempt from disclosure under Florida's public records laws. A person who commits a violation of the confidentiality requirements is guilty of a first degree misdemeanor.<sup>7</sup> Notwithstanding this or any other law to the contrary, the lab may release NBS results either directly or indirectly through CMS to the

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<sup>2</sup> The SACHDNC was chartered in February 2003 to advise the Secretary of the U.S. Department of Health and Human Services regarding the most appropriate application of technologies, policies, guidelines, and standards for effectively reducing morbidity and mortality in newborns and children who have or are at risk for heritable disorders. (Secretary's Advisory Committee on Heritable Disorders in Newborns and Children, *2011 Annual Report to Congress*, available at <http://www.hrsa.gov/advisorycommittees/mchbadvisory/heritabledisorders/reportsrecommendations/reports/sachdnc2011report.pdf> (last visited Feb. 17, 2014).

<sup>3</sup> National Newborn Screening and Genetics Resource Center, *National Newborn Screening Status Report* (Jan. 1, 2013), available at <http://genes-r-us.uthscsa.edu/sites/genes-r-us/files/nbsdisorders.pdf> (last visited Feb. 18, 2014). Critical Congenital Heart Disease and Severe Combined Immunodeficiency are the two conditions that are part of the RUSP, but implemented by only a minority of states.

<sup>4</sup> Section 383.14(2), F.S., Rule 64C-7.002, F.A.C.

<sup>5</sup> Rule 64C-7.005, F.A.C.

<sup>6</sup> Florida Department of Health, *Newborn Screening*, <http://www.floridahealth.gov/healthy-people-and-families/childrens-health/newborn-screening> (last visited Feb. 17, 2014).

<sup>7</sup> Section 760.40(2), F.S.

newborn's primary care physician.<sup>8</sup> Other practitioners may be involved in the care and treatment of the newborn but, because of the narrow language in the statute, cannot be granted access to the Florida Newborn Screening Results website.<sup>9</sup>

### **Newborn and Infant Hearing Screening**

The Centers for Disease Control (CDC) has been tracking the number of children with hearing loss since the 1980s. The information assists in identifying risk factors for hearing loss and helps health departments, service providers, and early intervention programs to estimate case loads, plan for services, and advocate for needed resources. The CDC's Early Hearing Detection and Intervention (EHDI) program works with states to ensure that infants are screened for hearing loss no later than 1 month of age, infants who do not pass the screening for hearing loss get a full hearing evaluation no later than 3 months of age, and infants with a hearing loss receive intervention services no later than 6 months of age.<sup>10</sup>

The EHDI, in collaboration with partners that included state EHDI programs, the HRSA, and other stakeholders, has developed a survey instrument to collect standardized data from state EHDI programs about the screening, diagnostic, and intervention status of all newborns. The survey is voluntary, but serves as the primary national source of hearing screening and follow-up related data.<sup>11</sup>

Currently, the EHDI survey is based on the classification system adopted by the American Speech-Language-Hearing Association (ASHA).<sup>12,13</sup> The system classifies hearing loss in decibels (dB HL) as follows:<sup>14</sup>

- Normal (-10 to 14 dB HL)
- Slight (16 to 25 dB HL)
- Mild (26 to 40 dB HL)
- Moderate (41 to 55 dB HL)
- Moderately severe (56 to 70 dB HL)
- Severe (71 to 90 dB HL)
- Profound (91+ dB HL)

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<sup>8</sup> Section 383.14(1)(c), F.S.

<sup>9</sup> Florida Department of Health, *Senate Bill 722 Legislative Bill Analysis* (Jan. 24, 2014) (on file with the Senate Health Policy Committee).

<sup>10</sup> Centers for Disease Control, *Hearing Loss in Children*, <http://www.cdc.gov/ncbddd/hearingloss/about.html> (last visited Feb. 27, 2014).

<sup>11</sup> Email from Marcus Gaffney, MPH, Health Scientist, National Center on Birth Defects and Developmental Disabilities, Centers for Disease Control and Prevention (Feb. 19, 2014) (on file with the Senate Health Policy Committee).

<sup>12</sup> Email from Marcus Gaffney, MPH, Health Scientist, National Center on Birth Defects and Developmental Disabilities, Centers for Disease Control and Prevention to Pam Tempson, Florida Department of Health (March 1, 2013) (on file with the Senate Health Policy Committee).

<sup>13</sup> ASHA is the national professional, scientific, and credentialing association for more than 166,000 members and affiliates who are audiologists, speech-language pathologists, speech, language, and hearing scientists, audiology and speech-language pathology support personnel, and students. (American Speech-Language Hearing Association, *About the American Speech-Language-Hearing Association (ASHA)* <http://www.asha.org/about/> (last visited Feb. 27, 2014)).

<sup>14</sup> American Speech-Language-Hearing Association, *Type, Degree, and Configuration of Hearing Loss* (2011), available at <http://www.asha.org/uploadedFiles/AIS-Hearing-Loss-Types-Degree-Configuration.pdf> (last visited Feb. 17, 2014).

## Florida Newborn Hearing Screening

The 2000 Legislature created the Newborn and Infant Hearing Screening program with the goal of screening “all newborns for hearing impairment in order to alleviate the adverse effects of hearing loss on speech and language development, academic performance, and cognitive development.”<sup>15</sup> The program is implemented as a component of the NBS program.

All hearing screenings must be conducted by a licensed audiologist or physician, or appropriately supervised individual who has completed training specifically for newborn screening.<sup>16</sup> Any child who is diagnosed as having a permanent hearing impairment<sup>17</sup> must be referred to a primary care physician for medical management, treatment, and follow up services.<sup>18</sup>

In addition and in accordance with the Individuals with Disabilities Education Act (act),<sup>19</sup> a child up to the age of 3 years of age who is diagnosed as having a hearing impairment that requires ongoing special hearing services must be referred to the DOH Children’s Medical Services early intervention program (Early Steps). Early Steps is Florida’s program for providing services to eligible infants and toddlers with significant delays or a condition likely to result in a developmental delay. Special services provided by Early Steps include assistive technology, speech therapy, and developmental therapy. Funding for the program is a combination of federal, state (general revenue and Medicaid), and private for those children with insurance coverage.<sup>20</sup>

### III. Effect of Proposed Changes:

**Section 1** authorizes the lab to release the results of a newborn’s hearing and metabolic tests or screenings to the newborn’s health care practitioner. “Health care practitioner,” for purposes of this provision, is defined as a physician or physician assistant, advanced registered nurse practitioner, registered nurse or licensed practical nurse, midwife, speech-language pathologist or audiologist, or dietician or nutritionist.

**Section 2** changes the definition of “hearing impairment” to a loss of 16 dB HL or greater, to capture slight hearing loss, consistent with the classification system adopted by the American Speech-Language-Hearing Association. The bill deletes a reference to October 1, 2000, which was the deadline for hospitals to implement newborn hearing screening. Full implementation has occurred and the date is now obsolete. The bill updates a reference to part C of the act, which relates to Infants and Toddlers with Disabilities.

**Section 3** creates a new section of law that directs health care practitioners to offer parents and legal guardians of children who are diagnosed as having a permanent hearing impairment the opportunity to receive information from providers or institutions that offer speech and language

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<sup>15</sup> Section 383.145, F.S.

<sup>16</sup> Section 383.145(3)(e), F.S.

<sup>17</sup> “Hearing impairment” is defined as a loss of 30dB HL or greater in the frequency region important for speech recognition and comprehension in one or both ears, approximately 500 through 4,000 hertz. (s. 383.145(2)(c), F.S.)

<sup>18</sup> Section 383.145(3)(k), F.S.

<sup>19</sup> The act governs how states and public agencies provide early intervention, special education, and related services to children with disabilities. Children ages birth to 2 years are covered under part C of the act, relating to Infants and Toddlers with Disabilities. The act was reauthorized in 2004. (Pub. Law No. 108-446, H.R. 1350, 108<sup>th</sup> Cong. (Dec. 3, 2004)).

<sup>20</sup> Conversation with Renee Jenkins and Pam Tempson, Florida Department of Health, (Feb. 25, 2014).

pathology services, auditory-oral education, instruction with American Sign Language, or other services as approved by rule of the Department of Health. The health care practitioner must obtain signed consent and fax the consent form to those providers and institutions that are listed with the Children's Medical Services Early Steps Program to provide services to children who are deaf or hard of hearing and that have notified the DOH of their interest in providing direct communication to families. Finally, the bill directs the DOH to post the list of providers on its website and authorizes it to adopt any necessary rules to implement and administer the section.

**Section 4** provides an effective date of July 1, 2014.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The expanded definition of "hearing impairment" may have an indeterminate fiscal impact on private insurance carriers because more children will be referred to a primary care physician for follow up services. Although it is not possible to estimate the how many children may be referred, it likely will be few since the incidence of hearing loss of any level diagnosed as a result of the screening program is small (under 300).<sup>21</sup>

Health care practitioners who diagnose a child as having a permanent hearing impairment will incur an indeterminate cost for the time required to transmit the contact information of parents to participating service providers.

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<sup>21</sup> Conversation with Lois Taylor and Pam Tempson, Florida Department of Health, (March 7, 2014).

**C. Government Sector Impact:**

According to the DOH<sup>22</sup>, the expanded definition will not have a fiscal impact on the state because Early Steps and Medicaid use separate criteria for determining eligibility for services. Early Steps uses a threshold of 25 dB<sup>23</sup> in accordance with guidelines established by the Florida Early Hearing Loss Detection Intervention Advisory Council (Council). Although the Council could change the standard, the hearing loss of a child receiving services would still need to meet the federal standard of putting the child at risk of experiencing a substantial delay if early intervention services were not provided. Medicaid uses a threshold of 40 dB.

The DOH may incur nominal costs associated with the portion of the bill related to notice to parents about services. It will be required to process requests from service providers to be on the list of those interested in providing information about services directly to families. The bill does not create an approval process, however, and only requires the DOH to confirm that the provider is on the list already maintained through the Early Steps Program.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 383.14 and 383.145. The bill creates section 383.146 of the Florida Statutes.

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

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

**CS by Health Policy on March 11, 2014:**

- Creates a new section of law that directs health care practitioners to offer parents and legal guardians of children who are diagnosed as having a permanent hearing impairment the opportunity to receive information from certain service providers who are listed with the Children's Medical Services Early Steps Program to provide services to children who are deaf or hard of hearing.

<sup>22</sup> See *supra* note 9.

<sup>23</sup> Florida Department of Health, Children's Medical Services, *Florida Newborn Screening Guidelines 2012*, 51, available at <http://www.floridahealth.gov/healthy-people-and-families/childrens-health/newborn-screening/documents/guidelines-final-05-24-2012small.pdf> (last visited March 7, 2014).

- Directs the DOH to post the list of providers on its website and authorizes it to adopt any necessary rules.

**B. Amendments:**

None.

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

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206024

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/11/2014	.	
	.	
	.	
	.	

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The Committee on Health Policy (Bean) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 83 and 84

insert:

Section 3. Section 383.146, Florida Statutes, is created to read:

383.146 Children who are deaf or hard of hearing; notice of service providers.-

(1) At the time that a health care practitioner diagnoses a child as having a permanent hearing impairment, the health care practitioner shall ask the child's parent or legal guardian if



206024

12 he or she would like to provide a mailing address or an e-mail  
13 address to receive direct correspondence from providers or  
14 institutions that offer speech and language pathology services,  
15 auditory-oral education, instruction with American Sign  
16 Language, or other such services as approved by rule of the  
17 Department of Health. A parent or legal guardian shall authorize  
18 the release of the mail or e-mail address by signing a consent  
19 form.

20 (2) The health care practitioner shall fax the form to  
21 those providers and institutions that:

22 (a) Are licensed, approved, or listed in this state by the  
23 Children's Medical Services Early Steps Program to provide  
24 direct services to children who are deaf or hard of hearing; and

25 (b) Have notified the Department of Health of their  
26 interest in providing direct communication to families about  
27 their services.

28 (3) The Department of Health shall post a list of the  
29 providers and institutions specified in subsection (2) on its  
30 website and may adopt rules as necessary to implement and  
31 administer this section.

32  
33 ===== T I T L E A M E N D M E N T =====

34 And the title is amended as follows:

35 Delete line 10

36 and insert:

37 reference; creating s. 383.146, F.S.; requiring a  
38 health care practitioner to provide an opportunity for  
39 the parent or legal guardian of a child who is  
40 diagnosed with a hearing impairment to provide contact





206024

41 information so that he or she may receive information  
42 directly from specified service providers; requiring  
43 the health care practitioner to transmit the  
44 information; requiring the Department of Health to  
45 post a list of certain service providers and  
46 institutions; authorizing the department to adopt  
47 rules; providing an effective date.

By Senator Garcia

38-00487-14

2014722\_\_

A bill to be entitled

An act relating to newborn health screening; amending s. 383.14, F.S.; authorizing the State Public Health Laboratory to release the results of a newborn's hearing and metabolic tests or screenings to the newborn's health care practitioner; defining the term "health care practitioner" as it relates to such release; amending s. 383.145, F.S.; revising the definition of "hearing impairment"; updating a cross-reference; providing an effective date.

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

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

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

(1) SCREENING REQUIREMENTS.—To help ensure access to the maternal and child health care system, the Department of Health shall promote the screening of all newborns born in Florida for metabolic, hereditary, and congenital disorders known to result in significant impairment of health or intellect, as screening programs accepted by current medical practice become available and practical in the judgment of the department. The department shall also promote the identification and screening of all newborns in this state and their families for environmental risk factors such as low income, poor education, maternal and family stress, emotional instability, substance abuse, and other high-risk conditions associated with increased risk of infant

Page 1 of 3

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

38-00487-14

2014722\_\_

mortality and morbidity to provide early intervention, remediation, and prevention services, including, but not limited to, parent support and training programs, home visitation, and case management. Identification, perinatal screening, and intervention efforts shall begin prior to and immediately following the birth of the child by the attending health care provider. Such efforts shall be conducted in hospitals, perinatal centers, county health departments, school health programs that provide prenatal care, and birthing centers, and reported to the Office of Vital Statistics.

(c) *Release of screening results.*—Notwithstanding any ~~other~~ law to the contrary, the State Public Health Laboratory may release, directly or through the Children's Medical Services program, the results of a newborn's hearing and metabolic tests or screenings ~~screening~~ to the newborn's health care practitioner. As used in this paragraph, the term "health care practitioner" means a physician or physician assistant licensed under chapter 458; an osteopathic physician or physician assistant licensed under chapter 459; an advanced registered nurse practitioner, registered nurse, or licensed practical nurse licensed under part I of chapter 464; a midwife licensed under chapter 467; a speech-language pathologist or audiologist licensed under part I of chapter 468; or a dietician or nutritionist licensed under part X of chapter 468 ~~primary care physician~~.

Section 2. Paragraph (c) of subsection (2) and paragraphs (i) and (k) of subsection (3) of section 383.145, Florida Statutes, are amended to read:

383.145 Newborn and infant hearing screening.—

Page 2 of 3

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

38-00487-14

2014722\_\_

59 (2) DEFINITIONS.—

60 (c) "Hearing impairment" means a hearing loss of 16 ~~30~~ dB  
61 HL or greater in the frequency region important for speech  
62 recognition and comprehension in one or both ears, approximately  
63 500 through 4,000 hertz.

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

66 (i) ~~By October 1, 2000,~~ Newborn hearing screening must be  
67 conducted on all newborns in hospitals in this state on birth  
68 admission. When a newborn is delivered in a facility other than  
69 a hospital, the parents must be instructed on the importance of  
70 having the hearing screening performed and must be given  
71 information to assist them in having the screening performed  
72 within 3 months after the child's birth.

73 (k) A ~~Any~~ child who is diagnosed as having a permanent  
74 hearing impairment shall be referred to the primary care  
75 physician for medical management, treatment, and followup  
76 services. Furthermore, in accordance with Pub. L. No. 108-446  
77 ~~105-17, Infants and Toddlers with Disabilities ~~The Infants and~~~~  
78 ~~Toddlers Program~~, Individuals with Disabilities Education Act,  
79 any child from birth to 36 months of age who is diagnosed as  
80 having a hearing impairment that requires ongoing special  
81 hearing services must be referred to the Children's Medical  
82 Services Early Intervention Program serving the geographical  
83 area in which the child resides.

84 Section 3. This act shall take effect July 1, 2014.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR RENE GARCIA  
38th District

February 10, 2014

The Honorable Aaron Bean  
Chair, Health Policy Committee  
302 Senate Office Building  
404 S. Monroe Street  
Tallahassee, FL 32399-1100

Dear Chairman Bean:

This letter should serve as a request to have my bill SB 722 Newborn Health Screening heard at the next possible committee meeting. If there is any other information needed please do not hesitate to contact me. Thank you.

Sincerely,

State Senator René García  
District 38  
RG:dm

CC: Sandra Stovall, Staff Director

REPLY TO:

- 1490 West 68 St., Suite 201 Hialeah, FL 33014 (305) 364-3100
- 310 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5038

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

DON GAETZ  
President of the Senate

GARRETT RICHTER  
President Pro Tempore



COMMITTEES:  
Communications, Energy, and Public Utilities, Vice Chair  
Appropriations Subcommittee on Criminal and Civil Justice  
Appropriations Subcommittee on Health and Human Services  
Transportation  
Health Policy  
Agriculture  
Transportation

JOINT COMMITTEE:  
Joint Committee on Administrative Procedures, Chair

THE FLORIDA SENATE  
APPEARANCE RECORD

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

Meeting Date 3/11/14

Topic SB722 - Amendment <sup>Bean</sup> to parents (auditory-cranial) <sup>education</sup>  
Garcia's amendment - Dissemination of information Bill Number SB 722 (if applicable)

Name Jacqueline N. Fernandez-Proenza Amendment Barcode 206024 (if applicable)

Job Title Government Relations Coordinator

Address 6200 San Amaro Drive Phone (305) 878-7221  
Coral Gables, FL 33146 E-mail jfernandez@miami.edu  
City State Zip

Speaking:  For  Against  Information

Representing University of Miami

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/11/14  
Meeting Date

Topic Amendment - BEAN

Bill Number #722  
(if applicable)

Name Therese Bulger

Amendment Barcode 206024  
(if applicable)

Job Title Lobbyist

Address 253 Hayden #107

Phone 904 880 9063

Tallahassee, FL 32302  
Street City State Zip

E-mail bulger12@yahoo.com

Speaking:  For  Against  Information

Representing Florida Coalition

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/11/14  
Meeting Date

Topic Amendment - BEAN

Bill Number #722  
(if applicable)

Name Vijay Shandilya

Amendment Barcode 206024  
(if applicable)

Job Title \_\_\_\_\_

Address 281 Pelican Pointe Rd.

Phone 904-616-2914

Ponte Vedra FL 32081  
Street City State Zip

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

Meeting Date \_\_\_\_\_

Topic Amendment Bill Number 722  
Name S. V. P. Singh Amendment Barcode 206024  
Job Title Grandfather (if applicable)  
Address 281, Pelican Pointe Rd. Phone 9046162914  
Ponte Vedra FL 32081 E-mail \_\_\_\_\_  
City State Zip

Speaking:  For  Against  Information

Representing Grand Parents of deaf Children

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

Meeting Date 3/11/14

Topic Amendment - BEAN Bill Number # 722  
Name Geeta Shandilya Amendment Barcode 206024  
Job Title Parent (if applicable)  
Address 281 Pelican Pointe Rd. Phone 9047075271  
Ponte Vedra FL 32081 E-mail geetalya@gmail.com  
City State Zip

Speaking:  For  Against  Information

Representing Moms of children who are deaf

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

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

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S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/11/14  
Meeting Date

Topic Amendment - BEAN

Bill Number # 722  
(if applicable)

Name Avani Shandilya

Amendment Barcode 206029  
(if applicable)

Job Title Student

Address 281 Pelican Pointe Rd.  
Street  
Ponte Vedra FL 32081  
City State Zip

Phone 904-616-2914

E-mail geetalya@gmail.com

Speaking:  For  Against  Information

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/11/2014  
Meeting Date

Topic newborn Health Screening  
~~Fla Interpreter's~~

Bill Number 722  
(if applicable)

Name Patsy Eccles

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title Legislative / Gov't Relations

Address 2942 Golden Eagle Dr E.  
Street  
Tallahassee Fl 32312  
City State Zip

Phone \_\_\_\_\_

E-mail ecclesp@ironbridge  
flts

Speaking:  For  Against  Information

Representing Florida School for Deaf & Blind

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/11/2014

Meeting Date

Topic \_\_\_\_\_

Bill Number 722  
*(if applicable)*

Name BRIAN PITTS

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVENUE SOUTH

Phone 727-897-9291

*Street*

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/20/11)



**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.)

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Prepared By: The Professional Staff of the Committee on Health Policy

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BILL: CS/SB 1122

INTRODUCER: Health Policy Committee; and Senator Bean and others

SUBJECT: Emergency Allergy Treatment

DATE: March 11, 2014

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Lloyd	Stovall	HP	<b>Fav/CS</b>
2.			AHS	
3.			AP	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Technical Changes

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**I. Summary:**

CS/SB 1122 renames the Insect Sting Emergency Treatment Act to the Emergency Allergy Treatment Act (act) and expands the scope to include all emergency allergy reactions.

The educational training for certification of those who may administer epinephrine must be conducted by a nationally recognized organization or the Department of Health (DOH) approved person or entity, rather than a physician. The list of those that may attain a certificate of training changes to a non-exhaustive list of eligible persons from an exclusive list. Eligible persons include, but are not limited to, camp counselors, scout leaders, school teachers, forest rangers, tour guides, and chaperones who successfully complete the training program.

The act replaces references to outdated epinephrine delivery devices and specifies the use and prescription of epinephrine auto-injectors, as follows:

- An authorized health care practitioner may prescribe epinephrine auto-injectors in the name of an authorized entity for storage and use at a later date.
- An authorized certificate holder may provide or administer an epinephrine auto-injector to a person who the certificate holder believes in good faith is suffering a severe allergic reaction regardless of whether or not the person has a prescription for an auto-injector or has previously been diagnosed with an allergy.
- An authorized entity may make auto-injectors available to individuals other than a certified individual if the epinephrine auto-injector is accessed upon remote authorization by an authorized health care provider.

The act provides immunity from civil liability to an authorized health care provider, authorized entity, individual who holds a certificate, a noncertified individual, and a trainer. An authorized entity doing business in Florida is not liable for injuries or related damages that result from the administration of an epinephrine auto-injector by its employees or agents outside of the state if the entity would not have been liable in this state or the other state.

The DOH is authorized to establish rules for the maintenance and supply of the epinephrine auto-injectors.

## II. Present Situation:

Anaphylaxis is a severe, whole body allergic reaction to a chemical that has become an allergen.<sup>1</sup> The human body releases chemicals during anaphylaxis that can cause shock, resulting in a sudden drop in blood pressure and the release of histamines, which restrict breathing.<sup>2</sup> Symptoms of anaphylaxis include rapid, weak pulse; skin rash; nausea; and vomiting.<sup>3</sup> Common causes include certain medications, some foods, insect bites or stings, and exposure to latex.<sup>4</sup> Food allergies alone affect approximately 3.8 percent of all United States children and the prevalence of such allergies has increased by 18 percent from 1997 - 2007.<sup>5</sup> Food allergies are also the most common cause of anaphylaxis in the emergency room.<sup>6</sup>

Anaphylaxis is an emergency situation that requires immediate medical attention. If anaphylaxis is not treated, it will lead to unconsciousness and possible death. Symptoms can vary but can include hives, itching, flushing, swelling of the lips, tongue and roof of the mouth as well as tightness of the throat, chest, dizziness, and headaches.

Initial treatment of anaphylaxis includes the administration of epinephrine, also known as adrenaline. Epinephrine is classified as a sympathomimetic drug, meaning its effects mimic those of the stimulated sympathetic nervous system, which stimulates the heart and narrows the blood vessels. It is available through a prescription from a physician.

Many individuals with severe allergies that have resulted in, or can result in, anaphylaxis carry a pre-filled, auto-injector that contains one dose of epinephrine such as an EpiPen or Twinject.<sup>7</sup> Epinephrine acts quickly to improve breathing, stimulate the heart to improve breathing by relaxing muscles in the airways, and tighten the blood vessels to reduce swelling of the face, lips

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<sup>1</sup> U.S. National Library of Medicine, National Institute of Health, *Anaphylaxis*, <http://www.nlm.nih.gov/medlineplus/ency/article/000844.htm> (last visited Mar. 6, 2014).

<sup>2</sup> Mayo Foundation for Medical Education and Research, *First Aid: Anaphylaxis*, <http://www.mayoclinic.org/first-aid/first-aid-anaphylaxis/basics/art-20056608> (last visited Mar. 6, 2014).

<sup>3</sup> *Id.*

<sup>4</sup> Mayo Clinic, *Anaphylaxis - Definition*, <http://www.mayoclinic.org/diseases-conditions/anaphylaxis/basics/definition/con-20014324> (last visited: Mar. 6, 2014).

<sup>5</sup> McWilliams, Laurie, et al, *Future Therapies for Food Allergy*, landesbioscience.com, Human Vaccines and Immunotherapeutics, (October 2012), available at: <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3660769/pdf/hvi-8-1479.pdf> (last visited Mar. 6, 2014).

<sup>6</sup> *Id.*

<sup>7</sup> U.S. National Library of Medicine, National Institute of Health, *Epinephrine Injection*, <http://www.nlm.nih.gov/medlineplus/druginfo/meds/a603002.html> (last visited: Mar. 6, 2014).

and throat. The effects of epinephrine are rapid, but not long-lasting.<sup>8</sup> When injected, epinephrine eases the symptoms until professional medical treatment is obtained.

In 2012, the Legislature authorized pharmacists to administer, in the event of an allergic reaction, epinephrine using an auto injection delivery system within the framework of an established protocol with a physician. The action was included in legislation that expanded pharmacists' existing authority to administer certain vaccinations under a protocol with a supervising physician.<sup>9</sup> The legislation further required any participating pharmacist to complete a 3-hour continuing education course as part of his or her re-licensure or recertification on the safe and effective administration of vaccines and epinephrine.<sup>10</sup>

For public and private schools, the 2013 Legislature authorized the purchase and maintenance of a supply of epinephrine auto-injectors in a secure, locked location on its premises for use if a student has an anaphylactic reaction.<sup>11</sup> Any participating school district or private school is required to adopt a protocol developed by a licensed physician for administration of the epinephrine by school personnel. The epinephrine auto-injectors may be self-administered by the student or by the school personnel.

The state Board of Education rule for the use of epinephrine auto-injectors is based solely on self-administration.<sup>12</sup> The rule provides that the auto-injector is a prescription medication in a specific dose-for-weight device that is packaged for self-delivery in the event of a life threatening allergic reaction. Written authorization is required from the physician and parent for the student to carry an epinephrine auto-injector and to self-administer epinephrine. The rule requires a school nurse to develop an annual child-specific action plan for an anticipated health emergency in the school setting.<sup>13</sup>

In November 2013, Congress passed and the President signed the *School Access to Emergency Epinephrine Act*.<sup>14</sup> The federal legislation provides a financial incentive to schools to maintain a supply of the medication and permit trained personnel to administer it. Participating schools will be given additional preference for receiving federal asthma-treatment grants. The federal act also requires that the state Attorney General certify that the state's liability protections are adequate for school personnel. Currently, five states require schools to stock epinephrine or will require in the next school year.<sup>15</sup>

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<sup>8</sup> *Id.*

<sup>9</sup> Chapter Law 2012-60, s. 1, Laws of Florida.

<sup>10</sup> Chapter Law 2012-60, s. 3, Laws of Florida.

<sup>11</sup> Chapter Law 2013-63, ss. 1 and 3, Laws of Florida.

<sup>12</sup> Rule 6A-6.0251, F.A.C.; Effective March 24, 2008.

<sup>13</sup> *Id.* The annual plan is developed in cooperation with the student, parent, healthcare provider, and school personnel for the student with life threatening allergies and must specify that the emergency number 911 will be called immediately for an anaphylaxis event. It must also describe a plan of action if the student is unable to perform self-administration of the epinephrine auto-injector.

<sup>14</sup> Pub. Law 113-48, H.R. 2094, 113th Cong. (Nov. 13, 2013)

<sup>15</sup> The five states that require epinephrine are Maryland, Michigan, Nebraska, Nevada and Virginia. Another 26 states permit schools to stock epinephrine but do not mandate stocking.

The marketer and distributor of the EpiPen, Mylan Specialty, offers four free auto-injectors to qualifying public and private kindergarten, elementary, middle and high schools in the United States with a valid prescription.<sup>16</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 381.88, F.S. This section, and newly created s. 381.885, F.S., may be cited as the Emergency Allergy Treatment Act. Section 381.88, F.S., was previously the Insect Sting Emergency Treatment Act. Definitions for the re-titled act are created for:

- Administrator
- Authorized entity
- Authorized health care practitioner
- Department
- Epinephrine auto-injector
- Self-administration

Under this section, references to “insect stings” are revised to “allergic” reactions to reflect the broader scope of the bill. References to the prescription or administration of epinephrine throughout this act are clarified to specifically identify the epinephrine auto-injector.

The educational training program required for a layperson to obtain a certificate to obtain, produce, or administer epinephrine must be conducted by a nationally recognized organization with experience in training laypersons in emergency health treatment or an entity approved by the DOH, rather than a physician licensed in this state.

The list of eligible persons to whom a certificate of training under this section may be awarded is clarified to include, but not be limited to, a camp counselor, a scout leader, school teacher, forest ranger, tour guide, or chaperone who successfully complete the training program. The current list is an exclusive list of eligible entities.

Under the bill, a certificate holder is authorized to:

- Receive a prescription for epinephrine auto-injectors from either an authorized health care practitioner or the DOH,
- Possess the prescribed epinephrine auto injector; and,
- Administer the prescribed epinephrine auto-injector to a person experiencing a severe allergic reaction when a physician is not immediately available.

**Section 2** creates s. 381.885, F.S., to permit an authorized health care practitioner to prescribe epinephrine auto-injectors to an authorized entity and pharmacists to dispense the prescription in the name of the authorized entity. The authorized entity is permitted to acquire and maintain a supply of epinephrine auto-injectors in accordance with its instructions and any rules established by the DOH. The authorized entity is also permitted to designate employees or agents who hold a certificate that is issued under s. 381.88, F.S., to be responsible for the storage, maintenance, and oversight of the epinephrine auto-injector supply.

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<sup>16</sup> See EpiPen4Schools Program, <http://epipen4schools.com/> (last visited Mar. 6, 2014).

This section provides authorization for individuals who hold a certificate from the training program to use the epinephrine auto-injectors to:

- Provide to a person who the certified individual believes in good faith is experiencing a severe allergic reaction for that person's immediate self-administration; or,
- Administer the epinephrine auto-injector to a person who the certified individual believes in good faith is experiencing a severe allergic reaction.

Provision of the epinephrine auto-injector by the certified individual under either scenario may occur regardless of whether the affected person has a prescription or has been previously diagnosed with an allergy.

An authorized entity that acquires a stock supply of epinephrine auto-injectors pursuant to a prescription from an authorized health care practitioner may also make the auto-injectors available to non-certified individuals. These non-certified individuals may administer the auto-injector in the following circumstances:

- Non-certified individual believes in good faith person is experiencing severe allergic reaction;
- The auto-injector is stored in a locked, secure container; and,
- The auto-injectors can only be accessed upon remote authorization by an authorized health care provider after consultation with the authorized health care practitioner by audio, televideo or other electronic communication. The bill provides that this consultation is not the practice of telemedicine or a violation of professional practice standards.

The administration of epinephrine auto-injector under this section is specifically identified as not the practice of medicine.

Under the bill, immunity from liability for civil damages relating to administration or self-administration of an epinephrine auto-injector, the failure to administer an epinephrine auto-injector or any other act or omission committed in good faith is provided to the following individuals or entities:

- An authorized health care practitioner who prescribes epinephrine auto-injectors to an authorized entity or to a certificate holder pursuant to s. 381.88, F.S.;
- An authorized entity that possess or makes auto-injectors available;
- An individual that who holds a certificate pursuant to s. 381.88, F.S.;
- A noncertified individual provided epinephrine auto-injectors by an authorized entity upon an authorized health care practitioner's authorization under s. 381.885(4), F.S.; and,
- Any person who conducts training under s. 381.88, F.S.

Immunity from liability is also provided to authorized entities doing business in this state for injuries or related damages that relate to the provision of epinephrine auto-injectors by its employees or agents outside this state if the entity or its employees or agents would not have been liable for such injuries or related damages had the provision or administration occurred in this state.

The immunity granted under CS\SB 1122 does not reduce, limit or eliminate any other immunity or defense that may be available under state law, including the immunity provided under s. 768.13, F.S. This section is known as Florida's *Good Samaritan Act* and provides, in part:

(2)(a) Any person, including those licensed to practice medicine, who gratuitously and in good faith renders emergency care or treatment either in direct response to emergency situations related to and arising out of a public health emergency declared pursuant to s. 381.00315, a state of emergency which has been declared pursuant to s. 252.36, or at the scene of an emergency outside of a hospital, doctor's office, or other place having proper medical equipment, without objection of the injured victim or victims thereof, shall not be held liable for any civil damages as a result of such care or treatment or as a result of any act or failure to act in providing or arranging further medical treatment where the person acts as an ordinary reasonably prudent person would have acted under the same or similar circumstances.

(b)1. Any health care provider, including a hospital licensed under chapter 395, providing emergency services pursuant to obligations imposed by 42 U.S.C. s. 1395dd, s. 395.1041, s. 395.401, or s. 401.45 shall not be held liable for any civil damages as a result of such medical care or treatment unless such damages result from providing, or failing to provide, medical care or treatment under circumstances demonstrating a reckless disregard for the consequences so as to affect the life or health of another.

**Section 3** provides the effective date of the act is July 1, 2014.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

**B. Private Sector Impact:**

Private “authorized entities,” such as restaurants, camps, youth sports, private schools, theme parks, and sports arenas could incur costs to stock and maintain the epinephrine auto-injectors. This is voluntary and the cost is indeterminate.

Immunity from civil liability has also been provided under the bill to certified organizations and certificate holders to encourage participation.

**C. Government Sector Impact:**

The DOH is required to establish rules and indicate these costs can be absorbed within existing budget authority.

Other governmental agencies that may be impacted are any local municipalities or school boards that elect certification as an authorized entity for storage and maintenance of epinephrine auto-injectors. School districts, individual schools, parks and recreation departments would be likely entities that would participate in the program.

There is a cost to acquire the epinephrine auto-injectors and it is unclear who would bear the cost of the prescription. At least one distributor of the medication provides a limited, free supply of auto-injectors to schools.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

There are three other state statutes that address administration of epinephrine auto-injectors:

- Section 1002.20, F.S., relating to epinephrine supplies and authorization for student self-administration in public schools;
- Section 1002.42, F.S., relating to epinephrine supplies and authorization for student self-administration in private schools; and,
- Section 465.189, F.S.; relating to pharmacist administration of vaccines and epinephrine auto-injections.

All of these statutes require the third party (the school or the pharmacist) to have an approved protocol with a supervising physician prior to administration of epinephrine auto-injectors. For the school related statutes, the statute addresses only self-administered injections by a student authorized to self-administer and by rule, the state Board of Education has required written authorization from the physician and the student’s parent for the student to carry and self-administer epinephrine.

The bill describes a school as an authorized entity only for the purposes of subsection (5), the training program. Section 1002.20(3)(i), F.S., already authorizes schools to purchase epinephrine auto-injectors from wholesale distributors and to maintain a supply of injectors in a secure, locked location for student use. It is unclear if the intent of this language is to limit the role of the

schools to only being an authorized entity for training and preclude them as sites for storage, administration or distribution to certified individuals as created under this bill. A certificate of training may still be issued to a school teacher under the bill, yet the schools appear to be limited to student self-administration under s. 1002.20, F.S., since they are authorized entities only for training.

For pharmacists administering epinephrine auto-injectors, the statute also requires continuing education credit on the safe and effective administration of vaccines and epinephrine auto-injection as part of their biennial relicensure or recertification. It is unclear that if a pharmacist, who is not precluded under CS/SB 1122 from being recognized as an authorized entity or certificate holder, would be required to complete both the continuing education requirements under s. 465.009(6)(a), F.S., and the education training program or if completion of one of the requirements would be sufficient.

Additionally, on lines 123 - 127, the person suffering the adverse allergic reaction is not required to provide consent, if capable of providing. The student self-administration requirements specifically require parental and physician authorization for the epinephrine auto-injector. In any other situation where medical care is rendered, authorization for medical treatment is required, if capable.

On lines 160 - 167, the act provides immunity from civil liability for a broad range of individuals, including activity by an employee of an authorized entity doing business in this state that may occur outside of the state. In order to enjoy these broad protections under Florida law, the individual should have some additional nexus to Florida beyond what is currently provided in the bill.

A conflict might exist between subsections (4) and (5). Subsection (5) requires DOH approval by the training program but does not address the DOH being authorized to conduct its own training program; however, subsection (4) says the DOH can also perform the training program but does not address approval of that program.

## **VIII. Statutes Affected:**

This bill substantially amends the section 381.88 of the Florida Statutes.  
This bill creates section 381.885 of the Florida Statutes.

## **IX. Additional Information:**

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

### **CS by Health Policy on March 11, 2014:**

The CS makes technical corrections to update a cross reference that was re-numbered and to clarify who is authorized to possess and administer a prescription of an epinephrine auto-injector to a person suffering a severe allergic reaction.



B. Amendments:

None.

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

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852090

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/11/2014	.	
	.	
	.	
	.	

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The Committee on Health Policy (Bean) recommended the following:

**Senate Amendment**

Delete line 76  
and insert:  
program as described in subsection (5) ~~(4)~~.



234942

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/11/2014	.	
	.	
	.	
	.	

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The Committee on Health Policy (Bean) recommended the following:

**Senate Amendment**

Delete lines 86 - 91  
and insert:  
~~for administration.~~ The certificate also authorizes the holder  
~~thereof~~ to possess and ~~administer~~, in an emergency situation  
when a physician is not immediately available, to administer a  
~~the~~ prescribed epinephrine auto-injector to a person  
experiencing ~~suffering~~ a severe allergic ~~adverse~~ reaction ~~to an~~  
~~insect sting.~~

By Senator Bean

4-01324A-14

20141122\_\_

A bill to be entitled

An act relating to emergency allergy treatment; amending s. 381.88, F.S.; defining terms; expanding provisions to apply to all emergency allergy reactions, rather than to insect bites only; creating s. 381.885, F.S.; authorizing certain health care practitioners to prescribe epinephrine auto-injectors to an authorized entity; authorizing such entities to maintain a supply of epinephrine auto-injectors; authorizing certified individuals to use epinephrine auto-injectors; authorizing uncertified individuals to use epinephrine auto-injectors under certain circumstances; providing immunity from liability; providing an effective date.

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

Section 1. Section 381.88, Florida Statutes, is amended to read:

381.88 ~~Insect-sting~~ Emergency allergy treatment.—

(1) This section and s. 381.885 may be cited as the "~~Insect Sting~~ Emergency Allergy Treatment Act."

(2) As used in this section and s. 381.885, the term:

(a) "Administer" means to directly apply an epinephrine auto-injector to the body of an individual.

(b) "Authorized entity" means an entity or organization at or in connection with which allergens capable of causing a severe allergic reaction may be present. The term includes, but is not limited to, restaurants, recreation camps, youth sports

Page 1 of 6

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

4-01324A-14

20141122\_\_

leagues, theme parks and resorts, and sports arenas. However, a school as described in s. 1002.20(3)(i) is an authorized entity for the purposes of subsection (5) only.

(c) "Authorized health care practitioner" means a licensed practitioner authorized by the laws of the state to prescribe drugs.

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

(e) "Epinephrine auto-injector" means a single-use device used for the automatic injection of a premeasured dose of epinephrine into the human body.

(f) "Self-administration" means an individual's discretionary administration of an epinephrine auto-injector on herself or himself.

~~(3)~~(2) The purpose of this section is to provide for the certification of persons who administer lifesaving treatment to persons who have severe allergic adverse reactions ~~to insect stings~~ when a physician is not immediately available.

~~(4)~~(3) The department ~~of Health~~ may:

(a) Adopt rules necessary to administer this section.

(b) Conduct educational training programs as described in subsection ~~(5)~~ (4), and approve programs conducted by other persons or governmental agencies.

(c) Issue and renew certificates of training to persons who have complied with this section and the rules adopted by the department.

(d) Collect fees necessary to administer this section.

~~(5)~~(4) Educational training programs required by this section must be conducted by a nationally recognized organization experienced in training laypersons in emergency

Page 2 of 6

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

4-01324A-14

20141122\_\_

59 health treatment or an entity or individual approved by the  
 60 department physician licensed to practice medicine in this  
 61 state. The curriculum must include at a minimum:

62 (a) Recognition of the symptoms of systemic reactions to  
 63 food, insect stings, and other allergens; and

64 (b) The proper administration of an a subcutaneous  
 65 injection of epinephrine auto-injector.

66 ~~(6)(5)~~ A certificate of training may be given to a person  
 67 who:

68 (a) Is 18 years of age or older;

69 (b) Has, or reasonably expects to have, responsibility for  
 70 or contact with at least one other person who has severe adverse  
 71 reactions to insect stings as a result of his or her  
 72 occupational or volunteer status, including, but not limited to,  
 73 a camp counselor, scout leader, school teacher, forest ranger,  
 74 tour guide, or chaperone; and

75 (c) Has successfully completed an educational training  
 76 program as described in subsection (4).

77 ~~(7)(6)~~ A person who successfully completes an educational  
 78 training program may obtain a certificate upon payment of an  
 79 application fee of \$25.

80 ~~(8)(7)~~ A certificate issued pursuant to this section  
 81 authorizes the holder ~~thereof~~ to receive, upon presentment of  
 82 the certificate, ~~from any physician licensed in this state or~~  
 83 ~~from the department,~~ a prescription for ~~premeasured doses of~~  
 84 epinephrine auto-injectors from an authorized health care  
 85 practitioner or the department and the necessary paraphernalia  
 86 for administration. The certificate also authorizes the holder  
 87 ~~thereof to possess and administer,~~ in an emergency situation

4-01324A-14

20141122\_\_

88 when a physician is not immediately available, to possess and  
 89 administer a the prescribed epinephrine auto-injector to a  
 90 person experiencing suffering a severe allergic adverse reaction  
 91 to an insect sting.

92 Section 2. Section 381.885, Florida Statutes, is created to  
 93 read:

94 381.885 Epinephrine auto-injectors; emergency  
 95 administration.—

96 (1) PRESCRIBING TO AN AUTHORIZED ENTITY.—An authorized  
 97 health care practitioner may prescribe epinephrine auto-  
 98 injectors in the name of an authorized entity for use in  
 99 accordance with this section, and pharmacists may dispense  
 100 epinephrine auto-injectors pursuant to a prescription issued in  
 101 the name of an authorized entity.

102 (2) MAINTENANCE OF SUPPLY.—An authorized entity may acquire  
 103 and stock a supply of epinephrine auto-injectors pursuant to a  
 104 prescription issued in accordance with this section. Such  
 105 epinephrine auto-injectors must be stored in accordance with the  
 106 epinephrine auto-injector's instructions for use and with any  
 107 additional requirements that may be established by the  
 108 department. An authorized entity shall designate employees or  
 109 agents who hold a certificate issued pursuant to s. 381.88 to be  
 110 responsible for the storage, maintenance, and general oversight  
 111 of epinephrine auto-injectors acquired by the authorized entity.

112 (3) USE OF EPINEPHRINE AUTO-INJECTORS.—An individual who  
 113 holds a certificate issued pursuant to s. 381.88 may, on the  
 114 premises of or in connection with the authorized entity, use  
 115 epinephrine auto-injectors prescribed pursuant to subsection (1)  
 116 to:

4-01324A-14

20141122\_\_

117 (a) Provide an epinephrine auto-injector to a person who  
 118 the certified individual in good faith believes is experiencing  
 119 a severe allergic reaction for that person's immediate self-  
 120 administration, regardless of whether the person has a  
 121 prescription for an epinephrine auto-injector or has previously  
 122 been diagnosed with an allergy.

123 (b) Administer an epinephrine auto-injector to a person who  
 124 the certified individual in good faith believes is experiencing  
 125 a severe allergic reaction, regardless of whether the person has  
 126 a prescription for an epinephrine auto-injector or has  
 127 previously been diagnosed with an allergy.

128 (4) EXPANDED AVAILABILITY.—An authorized entity that  
 129 acquires a stock supply of epinephrine auto-injectors pursuant  
 130 to a prescription issued by an authorized health care  
 131 practitioner in accordance with this section may make the auto-  
 132 injectors available to individuals other than certified  
 133 individuals identified in subsection (3) who may administer the  
 134 auto-injector to a person believed in good faith to be  
 135 experiencing a severe allergic reaction if the epinephrine auto-  
 136 injectors are stored in a locked, secure container and are made  
 137 available only upon remote authorization by an authorized health  
 138 care practitioner after consultation with the authorized health  
 139 care practitioner by audio, televideo, or other similar means of  
 140 electronic communication. Consultation with an authorized health  
 141 care practitioner for this purpose is not considered the  
 142 practice of telemedicine or otherwise construed as violating any  
 143 law or rule regulating the authorized health care practitioner's  
 144 professional practice.

145 (5) IMMUNITY FROM LIABILITY.—

4-01324A-14

20141122\_\_

146 (a) The administration of an epinephrine auto-injector in  
 147 accordance with this section is not the practice of medicine.

148 (b) Any authorized health care practitioner who prescribes  
 149 epinephrine auto-injectors to an authorized entity or to an  
 150 individual that holds a certificate issued pursuant to s.  
 151 381.88; any authorized entity that possesses and makes available  
 152 epinephrine auto-injectors; any individual who holds a  
 153 certificate issued pursuant to s. 381.88; any noncertified  
 154 individual under subsection (4); and any person that conducts  
 155 the training under s. 381.88 is not liable for civil damages  
 156 that result from the administration or self-administration of an  
 157 epinephrine auto-injector, the failure to administer an  
 158 epinephrine auto-injector, or any other act or omission  
 159 committed, in good faith, pursuant to this section or s. 381.88.

160 (c) An authorized entity doing business in this state is  
 161 not liable for injuries or related damages that result from the  
 162 provision or administration of an epinephrine auto-injector by  
 163 its employees or agents outside this state if the entity or its  
 164 employees or agents would not have been liable for such injuries  
 165 or related damages had the provision or administration occurred  
 166 within this state, or would not have been liable under the law  
 167 of the state in which such provision or administration occurred.

168 (d) This section does not eliminate, limit, or reduce any  
 169 other immunity or defense that may be available under state law,  
 170 including the immunity provided under s. 768.13.

171 Section 3. This act shall take effect July 1, 2014.



The Florida Senate

### Committee Agenda Request

To: Senator Aaron Bean, Chair  
Committee on Health Policy

Subject: Committee Agenda Request

Date: March 3, 2014

I respectfully request that **Senate Bill # 1122**, relating to Emergency Allergy Treatment, be placed on the:

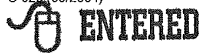
- committee agenda at your earliest possible convenience.
- next committee agenda.

*Aaron Bean*

\_\_\_\_\_  
Senator Aaron Bean  
Florida Senate, District 4

File signed original with committee office

S-020 (03/2004)



### THE FLORIDA SENATE APPEARANCE RECORD

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

Meeting Date \_\_\_\_\_

Topic Anaphylaxis Bill Number 1122  
(if applicable)

Name DR. RAY WOLF Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title Medical Director

Address 1071 NW 76th Ave Phone 908 432 9200  
Street Plantation FL 33322 City State Zip E-mail ray.wolf@mylan.com

Speaking:  For  Against  Information

Representing Mylan Specialty L.P.

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

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

**This form is part of the public record for this meeting.** S-001 (10/20/11)



THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

Meeting Date \_\_\_\_\_

Topic SB 1122 Bill Number 1122  
(if applicable)

Name Dr. David M. Gattup Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title News Surgeon

Address 437 Southwest Blvd. Phone \_\_\_\_\_  
Street

St. Pete FL 33703 E-mail \_\_\_\_\_  
City State Zip

Speaking:  For  Against  Information

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

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

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



**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Health Policy

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BILL: SB 640

INTRODUCER: Senator Braynon

SUBJECT: Public Health Trusts

DATE: March 9, 2014

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stovall	Stovall	HP	<b>Favorable</b>
2.			CA	
3.			AHS	
4.			AP	

---

**I. Summary:**

SB 640 authorizes the board of trustees of a public health trust to lease out office space without first advertising and soliciting bids for the office space.

**II. Present Situation:**

Chapter 73-102, Laws of Florida, authorized the governing body of each county to create a public health trust in and for the county. A public health trust's board of trustees, appointed by the governing body of the county, is responsible for the operation, governance, and management of a publicly funded health care facility designated by the county's governing body.<sup>1</sup>

Specifically, the board of trustees is empowered to:<sup>2</sup>

- Sue and be sued.
- Have a seal.
- Adopt bylaws, rules, and regulations for the board's responsibilities.
- Execute contracts.
- Acquire and hold title to real or personal property.
- Lease, either as lessee or lessor, or rent for any number of years and upon any terms and conditions real property, except that the board shall not lease or rent, as lessor, any real property except in accordance with the requirements of s. 125.35 [F. S. 1973].
- Appoint and remove a chief executive officer of the trust.
- Establish and collect fees for using or receiving services from the facility.
- Accept gifts of money, services, or real or personal property.

---

<sup>1</sup> See Part II of Chapter 154, Florida Statutes.

<sup>2</sup> Section 154.11(1), F.S.

- Appoint, remove, or suspend employees or agents of the board, fix their compensation, and adopt personnel and management policies.
- Provide for employee benefits.
- Cooperate with and contract with any governmental agency or instrumentality, federal, state, municipal, or county.
- Adopt rules and regulations for the management and use of any properties under its control.
- Appoint originally the staff of physicians to practice in a designated facility and approve bylaws and rules to be adopted by the medical staff addressing the method of appointing or removing additional staff members.
- Employ certified public accountants and legal counsel.

A public health trust may not impose any tax, issue bonds, or require the imposition of a tax or the issuance of any bond by the governing body of the county.<sup>3</sup>

A Public Health Trust was created in 1973 by the Miami-Dade<sup>4</sup> Board of County Commissioners as an independent governing body for Jackson Memorial Hospital. In 2003, the Board of County Commissioners amended the Miami-Dade County Code to expand the responsibilities of the Public Health Trust countywide to health care facilities within the Jackson Health System. The Trust is comprised of volunteer citizens who set policies that assure that the Jackson Health System is responsive to community needs. This “citizen body” provides leadership for joint planning between Jackson Health System, the University of Miami Miller School of Medicine, Miami-Dade County and other private and community organizations.<sup>5</sup>

Representatives of Jackson Health System have indicated that the requirements in s. 125.35, F.S. (1973) prove cumbersome and wasteful when trying to recruit physicians and other health care practitioners who desire to lease office space in the hospital. Typically the only bid received is from that one practitioner.

Section 125.35 [F. S. 1973], authorizes a board of county commissioners to sell and convey any real or personal property, and to lease real property belonging to the county, whenever the county believes it is in its best interest to do so. However, the sale or lease must be awarded to the highest and best bidder for the highest and best use. Each sale or lease must be noticed by publishing once a week for at least two weeks in a newspaper of general circulation published in the county. The highest bid must be accepted, unless all are rejected because all are too low. A surety bond may be required of each bid submitted.

### **III. Effect of Proposed Changes:**

The bill authorizes the board of trustees of a public health trust (Jackson Health System) to lease out its office space without first advertising and soliciting bids for the office space.

---

<sup>3</sup> Section 154.11(2), F.S.

<sup>4</sup> In 1973 the county was named Dade County.

<sup>5</sup> See Jackson Health System, Public Health Trust at: <http://www.jacksonhealth.org/trust.asp>, (Last visited March 9, 2014).

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

Jackson Health System, as well as any other public health trust, will be able to quickly and efficiently provide available office space to physicians and other health care professionals without the expense and delay of advertising and proceeding through a bid process.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 154.11 of the Florida Statutes.

**IX. Additional Information:**

## A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

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By Senator Braynon

36-00368A-14

2014640\_\_

1                           A bill to be entitled  
2       An act relating to public health trusts; amending s.  
3       154.11, F.S.; authorizing public health trusts to  
4       lease certain real property; providing an effective  
5       date.  
6  
7   Be It Enacted by the Legislature of the State of Florida:  
8  
9       Section 1. Paragraph (f) of subsection (1) of section  
10      154.11, Florida Statutes, is amended to read:  
11      154.11 Powers of board of trustees.-  
12      (1) The board of trustees of each public health trust shall  
13      be deemed to exercise a public and essential governmental  
14      function of both the state and the county and in furtherance  
15      thereof it shall, subject to limitation by the governing body of  
16      the county in which such board is located, have all of the  
17      powers necessary or convenient to carry out the operation and  
18      governance of designated health care facilities, including, but  
19      without limiting the generality of, the foregoing:  
20      (f) To lease, ~~either~~ as lessee or lessor, or rent for any  
21      number of years and upon any terms and conditions real property,  
22      except that the board shall not lease or rent, as lessor, any  
23      real property other than office space controlled by a public  
24      health trust, except in accordance with the requirements of s.  
25      125.35, Florida Statutes ~~{F.S. 1973}~~.  
26      Section 2. This act shall take effect July 1, 2014.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Regulated Industries, Vice Chair
Appropriations Subcommittee on Criminal and
Civil Justice
Appropriations Subcommittee on General
Government
Children, Families, and Elder Affairs
Ethics and Elections
Gaming
Health Policy

SENATOR OSCAR BRAYNON II
Democratic Whip
36th District

January 14, 2014

Senator Aaron Bean, Chair
Health Policy
302 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Bean:

This letter is to request that Senate Bill #640, relating to Public Health Trusts be placed on the agenda of the next scheduled meeting of the committee.

SB 640 Authorizing public health trusts to lease certain real property, etc.

Thank you for consideration of this request.

Sincerely,

[Handwritten signature of Oscar Braynon]

Senator Braynon
District 36

cc. Sandra Stovall, Staff Director,
Celia Georgiades, Committee Administrative Assistant, Room 530K

REPLY TO:
606 NW 183rd Street, Miami Gardens, Florida 33189 (305) 654-7150 FAX: (305) 654-7152
213 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5036

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore



THE FLORIDA SENATE

APPEARANCE RECORD

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

3/11/2014
Meeting Date

Topic \_\_\_\_\_ Bill Number 640 (if applicable)

Name BRIAN PITTS Amendment Barcode \_\_\_\_\_ (if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291

Street SAINT PETERSBURG FLORIDA 33705 E-mail JUSTICE2JESUS@YAHOO.COM
City State Zip

Speaking: [X] For [ ] Against [X] Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: [ ] Yes [X] No Lobbyist registered with Legislature: [ ] Yes [X] No

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

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

S-001 (10/20/11)

**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.)

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Prepared By: The Professional Staff of the Committee on Health Policy

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BILL: CS/SB 746

INTRODUCER: Health Policy Committee and Senator Sobel

SUBJECT: Health Care Clinic Act

DATE: March 11, 2014

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Stovall	HP	Fav/CS
2.			CJ	
3.			CA	
4.			AP	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 746 amends the definition of “clinic” to include any entity that “receives remuneration” rather than entities that “tender charges for reimbursement.” The bill also makes clinics liable for administrative penalties<sup>1</sup> and any applicable criminal penalties if an inspection or investigation reveals that the clinic hired or continued to employ a physician whose license is suspended or revoked.

**II. Present Situation:**

Clinics in the state must be licensed by the Agency for Health Care Administration (AHCA);<sup>2</sup> however, there are numerous exclusions from the definition of “clinic” in s. 400.9905, F.S.,<sup>3</sup> and from the requirement to obtain a license as a clinic. The definition of “clinic” only includes entities that “tender charges for reimbursement.” The AHCA interprets this phrase to only include entities that bill third parties, such as Medicare, Medicaid and insurance companies. Entities that provide health care services on a “cash only” basis are excluded from the definition of “clinic” and, as such, need not be licensed by the AHCA.<sup>4</sup>

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<sup>1</sup> See s 400.995, F.S., allowing the AHCA to deny, revoke or suspend a license and impose fines of up to \$5,000 for violations of the Health Care Clinic Act.

<sup>2</sup> s. 400.991, F.S.

<sup>3</sup> s. 400.9905(4)(a)-(n), F.S.

<sup>4</sup> See AHCA bill analysis for SB 746, on file with Health Policy Committee staff.

### III. Effect of Proposed Changes:

**Section 1** of the bill amends s. 400.9905, F.S., to amend the definition of “clinic” to include any entity that “receives remuneration” rather than entities that “tender charges for reimbursement.” The effect of this change is to require “cash only” clinics to obtain a license as a clinic and, as a result, these facilities will be subject to periodic inspections which may help detect and deter unlawful practices.

**Section 2** of the bill amends s. 400.9935, F.S., to make clinics liable for administrative penalties<sup>5</sup> and any applicable criminal penalties<sup>6</sup> if an inspection or investigation reveals that the clinic hired or continued to employ a physician whose license is suspended or revoked.

**Section 3** establishes an effective date of July 1, 2014.

### IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

### V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

“Cash only” clinics that are not currently licensed will be required to obtain a license from the AHCA and pay a \$2,000 licensing fee. Also, clinics that hire or continue to employ a physician whose license is suspended or revoked may be required to pay a fine of up to \$5,000.

---

<sup>5</sup> See s 400.995, F.S., allowing the AHCA to deny, revoke or suspend a license and impose fines of up to \$5,000 for violations of the Health Care Clinic Act.

<sup>6</sup> The criminal penalties are not specified, however, these penalties could include a felony of the third degree imposed by s. 458.327(1)(b), F.S., on physicians who attempt to use a license which is suspended or revoked to practice medicine.



C. **Government Sector Impact:**

The AHCA anticipates an increased workload for clinic licensure of approximately 10 percent and to require four new FTEs to manage the increased workload.<sup>7</sup> The increased workload will generate an estimated one-time cost to the AHCA of approximately \$16,000 and estimated recurring costs of approximately \$60,000.<sup>8</sup>

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 400.9905 and 400.9935

IX. **Additional Information:**

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

**CS by Health Policy on March 11, 2014:**

The CS amends SB 746 to state that only a clinic that hires or continues to employ, directly or contractually, a physician whose license is suspended or revoked is liable for sanctions or criminal penalties.

- B. **Amendments:**

None.

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

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<sup>7</sup> Supra n. 4

<sup>8</sup> Id.



483624

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/11/2014	.	
	.	
	.	
	.	

---

The Committee on Health Policy (Sobel) recommended the following:

**Senate Amendment**

Delete lines 186 - 187  
and insert:  
reveals that a clinic hired or continued to employ,  
directly or contractually, a physician whose license is  
suspended or revoked,

By Senator Sobel

33-00987-14

2014746\_\_

A bill to be entitled

An act relating to the Health Care Clinic Act; amending s. 400.9905, F.S.; redefining the term "clinic"; amending s. 400.9935, F.S.; clarifying that the a clinic that employs a physician whose license is suspended or revoked is subject to administrative and criminal penalties; providing an effective date.

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

Section 1. Subsection (4) of section 400.9905, Florida Statutes, is amended to read:

400.9905 Definitions.—

(4) "Clinic" means an entity that provides ~~where~~ health care services ~~are provided~~ to individuals and that receives remuneration ~~which tenders charges for reimbursement~~ for such services, including a mobile clinic and a portable equipment provider. As used in this part, the term does not include and the licensure requirements of this part do not apply to:

(a) Entities licensed or registered by the state under chapter 395; entities licensed or registered by the state and providing only health care services within the scope of services authorized under their respective licenses under ss. 383.30-383.335, chapter 390, chapter 394, chapter 397, this chapter except part X, chapter 429, chapter 463, chapter 465, chapter 466, chapter 478, part I of chapter 483, chapter 484, or chapter 651; end-stage renal disease providers authorized under 42 C.F.R. part 405, subpart U; providers certified under 42 C.F.R. part 485, subpart B or subpart H; or an any entity that provides

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

33-00987-14

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neonatal or pediatric hospital-based health care services or other health care services by licensed practitioners solely within a hospital licensed under chapter 395.

(b) Entities that own, directly or indirectly, entities licensed or registered by the state pursuant to chapter 395; entities that own, directly or indirectly, entities licensed or registered by the state and providing only health care services within the scope of services authorized pursuant to their respective licenses under ss. 383.30-383.335, chapter 390, chapter 394, chapter 397, this chapter except part X, chapter 429, chapter 463, chapter 465, chapter 466, chapter 478, part I of chapter 483, chapter 484, or chapter 651; end-stage renal disease providers authorized under 42 C.F.R. part 405, subpart U; providers certified under 42 C.F.R. part 485, subpart B or subpart H; or an any entity that provides neonatal or pediatric hospital-based health care services by licensed practitioners solely within a hospital licensed under chapter 395.

(c) Entities that are owned, directly or indirectly, by an entity licensed or registered by the state pursuant to chapter 395; entities that are owned, directly or indirectly, by an entity licensed or registered by the state and providing only health care services within the scope of services authorized pursuant to their respective licenses under ss. 383.30-383.335, chapter 390, chapter 394, chapter 397, this chapter except part X, chapter 429, chapter 463, chapter 465, chapter 466, chapter 478, part I of chapter 483, chapter 484, or chapter 651; end-stage renal disease providers authorized under 42 C.F.R. part 405, subpart U; providers certified under 42 C.F.R. part 485, subpart B or subpart H; or an any entity that provides neonatal

Page 2 of 7

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

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2014746\_\_

59 or pediatric hospital-based health care services by licensed  
60 practitioners solely within a hospital under chapter 395.

61 (d) Entities that are under common ownership, directly or  
62 indirectly, with an entity licensed or registered by the state  
63 pursuant to chapter 395; entities that are under common  
64 ownership, directly or indirectly, with an entity licensed or  
65 registered by the state and providing only health care services  
66 within the scope of services authorized pursuant to their  
67 respective licenses under ss. 383.30-383.335, chapter 390,  
68 chapter 394, chapter 397, this chapter except part X, chapter  
69 429, chapter 463, chapter 465, chapter 466, chapter 478, part I  
70 of chapter 483, chapter 484, or chapter 651; end-stage renal  
71 disease providers authorized under 42 C.F.R. part 405, subpart  
72 U; providers certified under 42 C.F.R. part 485, subpart B or  
73 subpart H; or an any entity that provides neonatal or pediatric  
74 hospital-based health care services by licensed practitioners  
75 solely within a hospital licensed under chapter 395.

76 (e) An entity that is exempt from federal taxation under 26  
77 U.S.C. s. 501(c)(3) or (4), an employee stock ownership plan  
78 under 26 U.S.C. s. 409 that has a board of trustees at least  
79 two-thirds of which are Florida-licensed health care  
80 practitioners and provides only physical therapy services under  
81 physician orders, a any community college or university clinic,  
82 and an any entity owned or operated by the federal or state  
83 government, including agencies, subdivisions, or municipalities  
84 thereof.

85 (f) A sole proprietorship, group practice, partnership, or  
86 corporation that provides health care services by physicians  
87 covered by s. 627.419, that is directly supervised by one or

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33-00987-14

2014746\_\_

88 more of such physicians, and that is wholly owned by one or more  
89 of those physicians or by a physician and the spouse, parent,  
90 child, or sibling of that physician.

91 (g) A sole proprietorship, group practice, partnership, or  
92 corporation that provides health care services by licensed  
93 health care practitioners under chapter 457, chapter 458,  
94 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,  
95 chapter 466, chapter 467, chapter 480, chapter 484, chapter 486,  
96 chapter 490, chapter 491, or part I, part III, part X, part  
97 XIII, or part XIV of chapter 468, or s. 464.012, and that is  
98 wholly owned by one or more licensed health care practitioners,  
99 or the licensed health care practitioners set forth in this  
100 paragraph and the spouse, parent, child, or sibling of a  
101 licensed health care practitioner if one of the owners who is a  
102 licensed health care practitioner is supervising the business  
103 activities and is legally responsible for the entity's  
104 compliance with all federal and state laws. However, a health  
105 care practitioner may not supervise services beyond the scope of  
106 the practitioner's license, except that, for the purposes of  
107 this part, a clinic owned by a licensee in s. 456.053(3)(b)  
108 which provides only services authorized pursuant to s.  
109 456.053(3)(b) may be supervised by a licensee specified in s.  
110 456.053(3)(b).

111 (h) Clinical facilities affiliated with an accredited  
112 medical school at which training is provided for medical  
113 students, residents, or fellows.

114 (i) Entities that provide only oncology or radiation  
115 therapy services by physicians licensed under chapter 458 or  
116 chapter 459 or entities that provide oncology or radiation

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33-00987-14

2014746\_\_

117 therapy services by physicians licensed under chapter 458 or  
 118 chapter 459 which are owned by a corporation whose shares are  
 119 publicly traded on a recognized stock exchange.

120 (j) Clinical facilities affiliated with a college of  
 121 chiropractic accredited by the Council on Chiropractic Education  
 122 at which training is provided for chiropractic students.

123 (k) Entities that provide licensed practitioners to staff  
 124 emergency departments or to deliver anesthesia services in  
 125 facilities licensed under chapter 395 and that derive at least  
 126 90 percent of their gross annual revenues from the provision of  
 127 such services. Entities claiming an exemption from licensure  
 128 under this paragraph must provide documentation demonstrating  
 129 compliance.

130 (l) Orthotic, prosthetic, pediatric cardiology, or  
 131 perinatology clinical facilities or anesthesia clinical  
 132 facilities that are not otherwise exempt under paragraph (a) or  
 133 paragraph (k) and that are a publicly traded corporation or are  
 134 wholly owned, directly or indirectly, by a publicly traded  
 135 corporation. As used in this paragraph, a publicly traded  
 136 corporation is a corporation that issues securities traded on an  
 137 exchange registered with the United States Securities and  
 138 Exchange Commission as a national securities exchange.

139 (m) Entities that are owned by a corporation that has \$250  
 140 million or more in total annual sales of health care services  
 141 provided by licensed health care practitioners where one or more  
 142 of the persons responsible for the operations of the entity is a  
 143 health care practitioner who is licensed in this state and who  
 144 is responsible for supervising the business activities of the  
 145 entity and is responsible for the entity's compliance with state

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146 law for purposes of this part.

147 (n) Entities that employ 50 or more licensed health care  
 148 practitioners licensed under chapter 458 or chapter 459 where  
 149 the billing for medical services is under a single tax  
 150 identification number. The application for exemption under this  
 151 subsection ~~must shall~~ contain information that includes: the  
 152 name, residence, and business address and phone number of the  
 153 entity that owns the practice; a complete list of the names and  
 154 contact information of all the officers and directors of the  
 155 corporation; the name, residence address, business address, and  
 156 medical license number of each licensed Florida health care  
 157 practitioner employed by the entity; the corporate tax  
 158 identification number of the entity seeking an exemption; a  
 159 listing of health care services to be provided by the entity at  
 160 the health care clinics owned or operated by the entity and a  
 161 certified statement prepared by an independent certified public  
 162 accountant which states that the entity and the health care  
 163 clinics owned or operated by the entity have not received  
 164 payment for health care services under personal injury  
 165 protection insurance coverage for the preceding year. If the  
 166 agency determines that an entity which is exempt under this  
 167 subsection has received payments for medical services under  
 168 personal injury protection insurance coverage, the agency may  
 169 deny or revoke the exemption from licensure under this  
 170 subsection.

171  
 172 Notwithstanding this subsection, an entity shall be deemed a  
 173 clinic and must be licensed under this part in order to receive  
 174 reimbursement under the Florida Motor Vehicle No-Fault Law, ss.

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175 627.730-627.7405, unless exempted under s. 627.736(5)(h).

176 Section 2. Paragraph (b) of subsection (1) of section

177 400.9935, Florida Statutes, is amended to read:

178 400.9935 Clinic responsibilities.—

179 (1) Each clinic shall appoint a medical director or clinic  
180 director who shall agree in writing to accept legal  
181 responsibility for the following activities on behalf of the  
182 clinic. The medical director or the clinic director shall:

183 (b) Ensure that all practitioners providing health care  
184 services or supplies to patients maintain a current active and  
185 unencumbered Florida license. If an inspection or investigation  
186 reveals that a clinic employs or employed a physician whose  
187 license was suspended or revoked while employed by the clinic,  
188 the clinic is subject to the administrative penalties specified  
189 in s. 400.995 and applicable criminal penalties.

190 Section 3. This act shall take effect July 1, 2014.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES: Children, Families, and Elder Affairs, Chair Ethics and Elections, Vice Chair Health Policy, Vice Chair Appropriations Appropriations Subcommittee on Health and Human Services Appropriations Subcommittee on Transportation, Tourism, and Economic Development Regulated Industries Rules

SELECT COMMITTEE: Select Committee on Patient Protection and Affordable Care Act, Vice Chair

SENATOR ELEANOR SOBEL 33rd District

February 6, 2014

Senator Aaron Bean, Chair Health Policy 302 Senate Office Building 404 South Monroe Street Tallahassee, Florida 32399

Dear Chair Bean:

This letter is to request that SB 746 relating to Health Care Clinics be placed on the agenda of the next scheduled meeting of the Health Policy Committee.

The proposed legislation would change the language of F.S. 400.9905, so that facilities that accept cash only would also be included in the definition of health care clinics. The current language leaves these facilities out, creating a perverse situation whereby employees of such facilities can prescribe illegal amounts of anabolic steroids and Human Growth Hormone with impunity. This bill would mean that such facilities would be subject to the same regulations, inspections, and penalties as other health care clinics in the state.

Thank you for your consideration of this request.

Respectfully,

Eleanor Sobel

Eleanor Sobel State Senator, 33rd District

REPLY TO:

- The "Old" Library, First Floor, 2600 Hollywood Blvd., Hollywood, Florida 33020 (954) 924-3693 FAX: (954) 924-3695 410 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5033

Senate's Website: www.flsenate.gov

DON GAETZ President of the Senate

GARRETT RICHTER President Pro Tempore



THE FLORIDA SENATE APPEARANCE RECORD

3/11/14 Meeting Date (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting(s))

Topic Waive in Support Bill Number 746 Name Chris Nuland Amendment Barcode Job Title FL chapter of American College of Physicians Address 519 E. Park. Tallahassee FL 32301 Phone (850) 556-1461 E-mail nulandlaw@aol.com

Speaking: For Against Information Representing FL Chapter of American College of Physicians Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. This form is part of the public record for this meeting. S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/11/2014

Meeting Date

Topic \_\_\_\_\_

Bill Number 746  
*(if applicable)*

Name BRIAN PITTS

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

*Street*

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/20/11)



**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.)

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Prepared By: The Professional Staff of the Committee on Health Policy

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BILL: SB 734

INTRODUCER: Senators Sobel and Abruzzo

SUBJECT: Cancer Control and Research

DATE: March 6, 2014

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Stovall	HP	<b>Favorable</b>
2.			AHS	
3.			AP	

---

**I. Summary:**

SB 734 reduces the number of members on the Cancer Control and Research Advisory Council (council) from 35 to 15 and revises which organizations are represented on the council as well how council members and the chairperson of the council are appointed. The bill also revises the duties of the council by eliminating the Florida Cancer Control Research Fund and by eliminating the council's responsibility for recommending the awarding of grants and contracts to private entities and government agencies for cancer control, prevention, education, or research. The council is tasked with recommending to the State Surgeon General a statewide research plan.

**II. Present Situation:**

The Florida Cancer Control and Research Advisory Council was established by the Legislature in 1979 to advise the Legislature, Governor, and State Surgeon General on how to reduce the cancer burden in Florida.<sup>1</sup> The council is housed within the H. Lee Moffitt Cancer Center and Research Institute, Inc. (Moffitt).<sup>2</sup> The council:

- Advises the Board of Governors, the State Surgeon General, and the Legislature on cancer control and research in Florida;
- Annually approves the Florida Cancer Plan;
- Provides recommendations for the Florida Cancer Plan to include the coordination and integration of plans concerned with cancer control and research provided by other stakeholders;
- Formulates and recommends to the State Surgeon General:
  - A plan for the care and treatment of persons suffering from cancer,

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<sup>1</sup> What is CCRAB?, Florida Cancer Control and Research Advisory Council, found at <http://www.ccrab.org/>, last visited on Mar. 7, 2014.

<sup>2</sup> s. 1004.435(4), F.S.

- Standard requirements for organization, equipment, and conduct of cancer units or departments in hospitals and clinics, and
- The designation of cancer units following a survey of needs and facilities for treatment of cancer throughout the state;
- Recommends grant awards and contracts to qualified recipients;<sup>3</sup>
- Develops educational materials and programs; and
- Recommends rules and methods of implementing or enforcing laws concerned with cancer control, research, and education.

The council consists of 35 members including appointees by the Speaker of the House of Representatives, the President of the Senate, and the Governor and other persons representing the: American Cancer Society, Florida Tumor Registrars Association, Sylvester Comprehensive Cancer Center of the University of Miami, Department of Health (DOH), University of Florida Shands Cancer Center, Agency for Health Care Administration, Florida Nurses Association, Florida Osteopathic Medical Association, American College of Surgeons, School of Medicine of the University of Miami, College of Medicine of the University of Florida, NOVA Southeastern College of Osteopathic Medicine, College of Medicine of the University of South Florida, College of Public Health of the University of South Florida, Florida Society of Clinical Oncology, Florida Obstetric and Gynecologic Society, Florida Ovarian Cancer Alliance Speaks Organization, Florida Medical Association, Florida Pediatric Society, Florida Radiological Society, Florida Society of Pathologists, Moffitt, Florida Dental Association, Florida Hospital Association, Association of Community Cancer Centers, statutory teaching hospitals, Florida Association of Pediatric Tumor Programs, Inc., Cancer Information Services, Florida Agricultural and Mechanical University Institute of Public Health, Florida Society of Oncology Social Workers, and consumer advocates from the general public.

In 2013, the Legislature passed 2013-50, L.O.F., which created the Cancer Center of Excellence Award and amended s. 1004.435(4), F.S., to require the council, along with the Biomedical Research Advisory Council (BRAC), to develop performance measures, a rating system, a rating standard, and an application for the Cancer Center of Excellence Award. The council is required to select by majority vote seven members to form a joint committee with six members of the BRAC in order to implement the Cancer Center of Excellence Award.

### III. Effect of Proposed Changes:

**Section 1** of the bill amends s. 1004.435, F.S., to:

- Revise the membership of the council down from 35 members to 15 members<sup>4</sup> consisting of:

<sup>3</sup> According to a phone conversation with Susan Fleming at the DOH on Mar. 10, 2014, the Florida Cancer Control Research Fund, with which the council was supposed to grant the awards and contracts, was never implemented or funded.

<sup>4</sup> Organizations that are no longer included in council membership include: The Florida Tumor Registration Association, the Agency for Health Care Administration, the American College of Surgeons, the University of Miami College of Medicine, the University of Florida College of Medicine, the NOVA Southeastern College of Osteopathic Medicine, the University of South Florida College of Public Health, the Florida Society of Clinical Oncology, the Florida Obstetric and Gynecologic Society, the Florida Ovarian Cancer Alliance Speaks organization, the Florida Pediatric Society, the Florida Radiological Society, the Florida Society of Pathologists, the Florida Dental Association, the Association of Community Cancer Centers, the Florida Association of Pediatric Tumor Programs, Inc., a statutory teaching hospital affiliated with a community-based cancer center, the Cancer Information Service, the Florida Agricultural and Mechanical University Institute of Public Health, and the Florida Society of Oncology Social Workers.

- One member appointed by the State Surgeon General;
- One member appointed by the CEO, or the CEO's designee, of:
  - The American Cancer Society;
  - The Sylvester Comprehensive Cancer Center of the University of Miami;
  - The University of Florida Shands Cancer Center;
  - The Florida Nurses Association who specializes in the field of oncology;
  - The Florida Osteopathic Medical Association who specializes in the field of oncology;
  - The Florida Medical Association who specializes in the field of oncology;
  - The H. Lee Moffitt Cancer Center and Research Institute;
  - The Florida Hospital Association, who specializes in the field of oncology; and,
  - The Association of Community Cancer Centers.
- One member, appointed by the Governor, who specializes in pediatric oncology;
- One member, appointed by the President of the Senate, who specializes in oncology clinical care and research;
- One member, appointed by the Speaker of the House of Representatives, who is a current or former cancer patient or caregiver;
- One member of the House of Representatives appointed by the Speaker of the House of Representatives; and,
- One member of the Senate, appointed by the President of the Senate;
- Require that at least four of the members of the council are minority persons;<sup>5</sup>
- Grant each member the option to be reappointed after a 4-year term;
- Require that the council itself, rather than the Governor, select the chairperson of the council;
- Revise the necessary number of members required for a quorum down from 16 to 8.
- Require the institution the member represents, or Moffitt if the member does not represent an institution, to reimburse the member for travel expenses;
- Require the council to recommend to the State Surgeon General a statewide research plan in addition to the plan for the care and treatment of persons suffering from cancer that is currently required.
- Strike language:
  - Requiring the council recommend the awarding of grants and contracts to qualified associations or government agencies;
  - Requiring the council to create summaries of the treatment options available to persons suffering from breast and prostate cancer;
  - Allowing the DOH, to furnish financial aid to Florida citizens who are afflicted with cancer; and,
  - Creating the Florida Cancer Control Research Fund.

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<sup>5</sup> Defined in s. 288.703, F.S., to mean a lawful, permanent resident of Florida who is an African American, a person having origins in any of the black racial groups of the African Diaspora, regardless of cultural origin; a Hispanic American, a person of Spanish or Portuguese culture with origins in Spain, Portugal, Mexico, South America, Central America, or the Caribbean, regardless of race; an Asian American, a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands, including the Hawaiian Islands before 1778; a Native American, a person who has origins in any of the Indian Tribes of North America before 1835, upon presentation of proper documentation thereof as established by rule of the Department of Management Services; or, an American woman.

**Sections 2 and 3** of the bill amend ss. 458.324 and 459.0125, F.S., to conform those sections to the changes made in section 1 of the bill relating to summaries of treatment alternatives and to make other technical revisions.

**Section 4** of the bill establishes an effective date of July 1, 2014.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Organizations represented on the council will be required to pay their representative's travel expenses.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 1004.435, 458.324 and 459.0125

**IX. Additional Information:**

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

None.

- B. **Amendments:**

None.

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

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By Senator Sobel

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1 A bill to be entitled  
 2 An act relating to cancer control and research;  
 3 amending s. 1004.435, F.S.; revising definitions;  
 4 revising the membership of the Florida Cancer Control  
 5 and Research Advisory Council; requiring that the  
 6 council chairperson be selected by the council;  
 7 authorizing renewal of member terms; revising the  
 8 compensation of council members; requiring a statewide  
 9 research plan; deleting the duties of the council,  
 10 Board of Governors, and State Surgeon General relating  
 11 to the awarding of grants and contracts for cancer-  
 12 related programs; deleting council duties relating to  
 13 the development of written summaries of treatment  
 14 alternatives; deleting financial aid provisions and  
 15 the Florida Cancer Control and Research Fund; amending  
 16 ss. 458.324, and 459.0125, F.S.; conforming provisions  
 17 to changes made by the act; making technical changes;  
 18 providing an effective date.

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

20 Section 1. Paragraphs (d) and (e) of subsection (3) and  
 21 subsections (4) through (6) of section 1004.435, Florida  
 22 Statutes, are amended to read:

23 1004.435 Cancer control and research.—

24 (3) DEFINITIONS.—The following words and phrases when used  
 25 in this section have, unless the context clearly indicates  
 26 otherwise, the meanings given to them in this subsection:

27 (d) "Fund" means the Florida Cancer Control and Research  
 28  
 29

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30 Fund established by this section.  
 31 (e) "Qualified nonprofit association" means any  
 32 association, incorporated or unincorporated, that has received  
 33 tax-exempt status from the Internal Revenue Service.  
 34 (4) FLORIDA CANCER CONTROL AND RESEARCH ADVISORY COUNCIL;  
 35 CREATION; COMPOSITION.—  
 36 (a) There is created within the H. Lee Moffitt Cancer  
 37 Center and Research Institute, Inc., the Florida Cancer Control  
 38 and Research Advisory Council. The council shall consist of 15  
 39 35 members, which includes the chairperson, all of whom must be  
 40 residents of this state. The State Surgeon General or his or her  
 41 designee within the Department of Health shall be one of the 15  
 42 members. All Members, except those appointed by the Governor,  
 43 the Speaker of the House of Representatives, or and the  
 44 President of the Senate, must be appointed by the chief  
 45 executive officer of the institution or organization  
 46 represented, or his or her designee Governor. At least one of  
 47 the members appointed by the Governor must be 60 years of age or  
 48 older. One member must be a representative of the American  
 49 Cancer Society; one member must be a representative of the  
 50 Florida Tumor Registrars Association; one member must be a  
 51 representative of the Sylvester Comprehensive Cancer Center of  
 52 the University of Miami; one member must be a representative of  
 53 the Department of Health; one member must be a representative of  
 54 the University of Florida Shands Cancer Center; one member must  
 55 be a representative of the Agency for Health Care  
 56 Administration; one member must be a representative of the  
 57 Florida Nurses Association who specializes in the field of  
 58 oncology; one member must be a representative of the Florida

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59 Osteopathic Medical Association who specializes in the field of  
 60 oncology; one member must be a representative of the American  
 61 College of Surgeons; one member must be a representative of the  
 62 School of Medicine of the University of Miami; one member must  
 63 be a representative of the College of Medicine of the University  
 64 of Florida; one member must be a representative of NOVA  
 65 Southeastern College of Osteopathic Medicine; one member must be  
 66 a representative of the College of Medicine of the University of  
 67 South Florida; one member must be a representative of the  
 68 College of Public Health of the University of South Florida; one  
 69 member must be a representative of the Florida Society of  
 70 Clinical Oncology; one member must be a representative of the  
 71 Florida Obstetric and Gynecologic Society who has had training  
 72 in the specialty of gynecologic oncology; one member must be a  
 73 representative of the Florida Ovarian Cancer Alliance Speaks  
 74 (FOCAS) organization; one member must be a representative of the  
 75 Florida Medical Association who specializes in the field of  
 76 oncology; one member must be a member of the Florida Pediatric  
 77 Society; one member must be a representative of the Florida  
 78 Radiological Society; one member must be a representative of the  
 79 Florida Society of Pathologists; one member must be a  
 80 representative of the H. Lee Moffitt Cancer Center and Research  
 81 Institute, Inc.; one member must be a representative of the  
 82 Florida Hospital Association who specializes in the field of  
 83 oncology; one member must be a representative of the Association  
 84 of Community Cancer Centers; one member, who shall be appointed  
 85 by the Governor, must specialize in pediatric oncology research  
 86 or clinical care; one member, who shall be appointed by the  
 87 President of the Senate, must specialize in oncology clinical

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88 care or research; one member, who shall be appointed by the  
 89 Speaker of the House of Representatives, must be a current or  
 90 former cancer patient or a current or former caregiver to a  
 91 cancer patient three members must be representatives of the  
 92 general public acting as consumer advocates; one member must be  
 93 a member of the House of Representatives appointed by the  
 94 Speaker of the House of Representatives; and one member must be  
 95 a member of the Senate appointed by the President of the Senate;  
 96 one member must be a representative of the Florida Dental  
 97 Association; one member must be a representative of the Florida  
 98 Hospital Association; one member must be a representative of the  
 99 Association of Community Cancer Centers; one member shall be a  
 100 representative from a statutory teaching hospital affiliated  
 101 with a community-based cancer center; one member must be a  
 102 representative of the Florida Association of Pediatric Tumor  
 103 Programs, Inc.; one member must be a representative of the  
 104 Cancer Information Service; one member must be a representative  
 105 of the Florida Agricultural and Mechanical University Institute  
 106 of Public Health; and one member must be a representative of the  
 107 Florida Society of Oncology Social Workers. Of the members of  
 108 the council appointed by the Governor, At least four members 10  
 109 must be individuals who are minority persons as defined under by  
 110 s. 288.703.

111 (b) The terms of the members shall be 4 years from their  
 112 respective dates of appointment with the option of  
 113 reappointment.

114 (c) A chairperson shall be selected by the council  
 115 appointed by the Governor for a term of 2 years. The chairperson  
 116 shall appoint an executive committee of at least no fewer than

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117 three persons to serve at the pleasure of the chairperson. This  
 118 committee ~~shall will~~ prepare material for the council but make  
 119 no final decisions.

120 (d) The council shall meet at least no less than  
 121 semiannually at the call of the chairperson or, in his or her  
 122 absence or incapacity, at the call of the State Surgeon General.  
 123 Eight Sixteen members constitute a quorum for the purpose of  
 124 exercising ~~all of~~ the powers of the council. A vote of the  
 125 majority of the members present is sufficient for all actions of  
 126 the council.

127 (e) The council members ~~shall~~ serve without pay. Pursuant  
 128 to ~~the provisions of s. 112.061, a~~ the council member members  
 129 may be entitled to be reimbursed for ~~per diem and~~ travel  
 130 expenses by the institution or organization he or she  
 131 represents. A member who is not affiliated with an institution  
 132 or organization shall be reimbursed for travel expenses by the  
 133 H. Lee Moffitt Cancer Center and Research Institute, Inc.

134 ~~(f) No member of the council shall participate in any~~  
 135 ~~discussion or decision to recommend grants or contracts to any~~  
 136 ~~qualified nonprofit association or to any agency of this state~~  
 137 ~~or its political subdivisions with which the member is~~  
 138 ~~associated as a member of the governing body or as an employee~~  
 139 ~~or with which the member has entered into a contractual~~  
 140 ~~arrangement.~~

141 ~~(f)(g)~~ The council may prescribe, amend, and repeal bylaws  
 142 governing the manner in which the business of the council is  
 143 conducted.

144 ~~(g)(h)~~ The council shall advise the Board of Governors, the  
 145 State Surgeon General, and the Legislature with respect to

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146 cancer control and research in this state.

147 ~~(h)(i)~~ The council shall annually approve ~~each year~~ a  
 148 program for cancer control and research to be known as the  
 149 "Florida Cancer Plan," which shall be consistent with the State  
 150 Health Plan and integrated and coordinated with existing  
 151 programs in this state.

152 ~~(i)(j)~~ The council shall formulate and recommend to the  
 153 State Surgeon General a statewide research plan and a plan for  
 154 the care and treatment of persons suffering from cancer and  
 155 shall recommend the establishment of standard requirements for  
 156 the organization, equipment, and conduct of cancer units or  
 157 departments in hospitals and clinics in this state. The council  
 158 may recommend to the State Surgeon General the designation of  
 159 cancer units following a survey of the needs and facilities for  
 160 treatment of cancer in the various localities throughout the  
 161 state. The State Surgeon General shall consider the plan in  
 162 developing departmental priorities and funding priorities and  
 163 standards under chapter 395.

164 ~~(j)(k)~~ The council shall include is responsible for  
 165 ~~including~~ in the Florida Cancer Plan recommendations for the  
 166 coordination and integration of medical, nursing, paramedical,  
 167 lay, and other plans concerned with cancer control and research.  
 168 The council shall form committees shall be formed by the council  
 169 so that the following areas will be established as entities for  
 170 actions:

171 1. Cancer plan evaluation: tumor registry, data retrieval  
 172 systems, and epidemiology of cancer in the state and its  
 173 relation to other areas.

174 2. Cancer prevention.



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175 3. Cancer detection.

176 4. Cancer patient management, including treatment,  
177 rehabilitation, terminal care, and other patient-oriented  
178 activities.

179 5. Lay and professional cancer education; ~~lay and~~  
180 ~~professional~~.

181 6. Unproven methods of cancer therapy, including quackery  
182 and unorthodox therapies.

183 7. Investigator-initiated project research.

184 ~~(l) In order to implement in whole or in part the Florida~~  
185 ~~Cancer Plan, the council shall recommend to the Board of~~  
186 ~~Governors or the State Surgeon General the awarding of grants~~  
187 ~~and contracts to qualified profit or nonprofit associations or~~  
188 ~~governmental agencies in order to plan, establish, or conduct~~  
189 ~~programs in cancer control or prevention, cancer education and~~  
190 ~~training, and cancer research.~~

191 ~~(m) If funds are specifically appropriated by the~~  
192 ~~Legislature, the council shall develop or purchase standardized~~  
193 ~~written summaries, written in layperson's terms and in language~~  
194 ~~easily understood by the average adult patient, informing actual~~  
195 ~~and high-risk breast cancer patients, prostate cancer patients,~~  
196 ~~and men who are considering prostate cancer screening of the~~  
197 ~~medically viable treatment alternatives available to them in the~~  
198 ~~effective management of breast cancer and prostate cancer;~~  
199 ~~describing such treatment alternatives; and explaining the~~  
200 ~~relative advantages, disadvantages, and risks associated~~  
201 ~~therewith. The breast cancer summary, upon its completion, shall~~  
202 ~~be printed in the form of a pamphlet or booklet and made~~  
203 ~~continuously available to physicians and surgeons in this state~~

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204 ~~for their use in accordance with s. 458.324 and to osteopathic~~  
205 ~~physicians in this state for their use in accordance with s.~~  
206 ~~459.0125. The council shall periodically update both summaries~~  
207 ~~to reflect current standards of medical practice in the~~  
208 ~~treatment of breast cancer and prostate cancer. The council~~  
209 ~~shall develop and implement educational programs, including~~  
210 ~~distribution of the summaries developed or purchased under this~~  
211 ~~paragraph, to inform citizen groups, associations, and voluntary~~  
212 ~~organizations about early detection and treatment of breast~~  
213 ~~cancer and prostate cancer.~~

214 ~~(k)(n)~~ The council shall have the responsibility to advise  
215 the Board of Governors and the State Surgeon General on methods  
216 of enforcing and implementing laws already enacted and concerned  
217 with cancer control, research, and education.

218 ~~(l)(e)~~ The council may recommend to the Board of Governors  
219 or the State Surgeon General rules not inconsistent with law as  
220 it may deem necessary for the performance of its duties and the  
221 proper administration of this section.

222 ~~(m)(p)~~ The council shall formulate and put into effect a  
223 continuing educational program for the prevention of cancer and  
224 its early diagnosis and disseminate to hospitals, cancer  
225 patients, and the public information concerning the proper  
226 treatment of cancer.

227 ~~(n)(q)~~ The council shall be physically located at the H.  
228 Lee Moffitt Cancer Center and Research Institute, Inc., at the  
229 University of South Florida.

230 ~~(o)(r)~~ The council shall select, by majority vote, seven  
231 members of the council who, ~~must combine~~ with six members of the  
232 Biomedical Research Advisory Council, shall ~~to~~ form a joint

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233 committee to develop performance measures, a rating system, a  
 234 rating standard, and an application form for the Cancer Center  
 235 of Excellence Award created in s. 381.925.

236 (p) ~~(e)~~ On ~~February 15 of each year,~~ The council shall  
 237 report to the Governor and ~~to~~ the Legislature on February 15 of  
 238 each year.

239 (5) RESPONSIBILITIES OF ~~THE BOARD OF GOVERNORS, THE H. LEE~~  
 240 ~~MOFFITT CANCER CENTER AND RESEARCH INSTITUTE, INC., AND THE~~  
 241 ~~STATE SURGEON GENERAL.~~

242 ~~(a) The Board of Governors or the State Surgeon General,~~  
 243 ~~after consultation with the council, shall award grants and~~  
 244 ~~contracts to qualified nonprofit associations and governmental~~  
 245 ~~agencies in order to plan, establish, or conduct programs in~~  
 246 ~~cancer control and prevention, cancer education and training,~~  
 247 ~~and cancer research.~~

248 ~~(b)~~ The H. Lee Moffitt Cancer Center and Research  
 249 Institute, Inc., shall provide such staff, information, and  
 250 other assistance as reasonably necessary for the completion of  
 251 the responsibilities of the council.

252 ~~(c) The department may furnish to citizens of this state~~  
 253 ~~who are afflicted with cancer financial aid to the extent of the~~  
 254 ~~appropriation provided for that purpose in a manner which in its~~  
 255 ~~opinion will afford the greatest benefit to those afflicted and~~  
 256 ~~may make arrangements with hospitals, laboratories, or clinics~~  
 257 ~~to afford proper care and treatment for cancer patients in this~~  
 258 ~~state.~~

259 ~~(6) FLORIDA CANCER CONTROL AND RESEARCH FUND.~~

260 ~~(a) There is created the Florida Cancer Control and~~  
 261 ~~Research Fund consisting of funds appropriated therefor from the~~

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262 ~~General Revenue Fund and any gifts, grants, or funds received~~  
 263 ~~from other sources.~~

264 ~~(b) The fund shall be used exclusively for grants and~~  
 265 ~~contracts to qualified nonprofit associations or governmental~~  
 266 ~~agencies for the purpose of cancer control and prevention,~~  
 267 ~~cancer education and training, cancer research, and all expenses~~  
 268 ~~incurred in connection with the administration of this section~~  
 269 ~~and the programs funded through the grants and contracts~~  
 270 ~~authorized by the State Board of Education or the State Surgeon~~  
 271 ~~General.~~

272 Section 2. Subsections (1) and (2) of section 458.324,  
 273 Florida Statutes, are amended to read:

274 458.324 Breast cancer; information on treatment  
 275 alternatives.—

276 (1) DEFINITION.—As used in this section, the term  
 277 "medically viable," as applied to treatment alternatives, means  
 278 modes of treatment generally considered by the medical  
 279 profession to be within the scope of current, acceptable  
 280 standards, ~~including treatment alternatives described in the~~  
 281 ~~written summary prepared by the Florida Cancer Control and~~  
 282 ~~Research Advisory Council in accordance with s. 1004.435(4)(m).~~

283 (2) COMMUNICATION OF TREATMENT ALTERNATIVES.—

284 (a) Each physician treating a patient who is, or in the  
 285 judgment of the physician is at high risk of being, diagnosed as  
 286 having breast cancer shall inform such patient of the medically  
 287 viable treatment alternatives available to such patient; shall  
 288 describe such treatment alternatives; and shall explain the  
 289 relative advantages, disadvantages, and risks associated with  
 290 the treatment alternatives to the extent deemed necessary to

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291 allow the patient to make a prudent decision regarding such  
 292 treatment options. In compliance with this subsection,<sup>+</sup>  
 293 ~~(a) the physician may, in his or her discretion:~~  
 294 ~~1. orally communicate such information directly to the~~  
 295 ~~patient or the patient's legal representative;~~  
 296 ~~2. Provide the patient or the patient's legal~~  
 297 ~~representative with a copy of the written summary prepared in~~  
 298 ~~accordance with s. 1004.435(4) (m) and express a willingness to~~  
 299 ~~discuss the summary with the patient or the patient's legal~~  
 300 ~~representative; or~~  
 301 ~~3. Both communicate such information directly and provide a~~  
 302 ~~copy of the written summary to the patient or the patient's~~  
 303 ~~legal representative for further consideration and possible~~  
 304 ~~later discussion.~~  
 305 (b) In providing such information, the physician shall  
 306 consider ~~take into consideration~~ the emotional and physical  
 307 state of the patient, ~~the physical state of the patient,~~ and the  
 308 patient's ability to understand the information.  
 309 (c) The physician may, ~~in his or her discretion and~~ without  
 310 restriction, recommend any mode of treatment which is in his or  
 311 her judgment the best treatment for the patient.  
 312  
 313 ~~Nothing in~~ This subsection ~~does not shall~~ reduce other  
 314 provisions of law regarding informed consent.  
 315 Section 3. Subsections (1) and (2) of section 459.0125,  
 316 Florida Statutes, are amended to read:  
 317 459.0125 Breast cancer; information on treatment  
 318 alternatives.-  
 319 (1) DEFINITION.-As used in this section, the term

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

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320 "medically viable," as applied to treatment alternatives, means  
 321 modes of treatment generally considered by the medical  
 322 profession to be within the scope of current, acceptable  
 323 standards, ~~including treatment alternatives described in the~~  
 324 ~~written summary prepared by the Florida Cancer Control and~~  
 325 ~~Research Advisory Council in accordance with s. 1004.435(4) (m).~~  
 326 (2) COMMUNICATION OF TREATMENT ALTERNATIVES.-  
 327 (a) It is the obligation of every physician treating a  
 328 patient who is, or in the judgment of the physician is at high  
 329 risk of being, diagnosed as having breast cancer to inform such  
 330 patient of the medically viable treatment alternatives available  
 331 to such patient; to describe such treatment alternatives; and to  
 332 explain the relative advantages, disadvantages, and risks  
 333 associated with the treatment alternatives to the extent deemed  
 334 necessary to allow the patient to make a prudent decision  
 335 regarding such treatment options. In compliance with this  
 336 subsection,<sup>+</sup>  
 337 ~~(a) the physician may, in her or his discretion:~~  
 338 ~~1. orally communicate such information directly to the~~  
 339 ~~patient or the patient's legal representative;~~  
 340 ~~2. Provide the patient or the patient's legal~~  
 341 ~~representative with a copy of the written summary prepared in~~  
 342 ~~accordance with s. 1004.435(4) (m) and express her or his~~  
 343 ~~willingness to discuss the summary with the patient or the~~  
 344 ~~patient's legal representative; or~~  
 345 ~~3. Both communicate such information directly and provide a~~  
 346 ~~copy of the written summary to the patient or the patient's~~  
 347 ~~legal representative for further consideration and possible~~  
 348 ~~later discussion.~~

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349 (b) In providing such information, the physician shall  
350 consider ~~take into consideration~~ the emotional and physical  
351 state of the patient, ~~the physical state of the patient,~~ and the  
352 patient's ability to understand the information.

353 (c) The physician may, ~~in her or his discretion and~~ without  
354 restriction, recommend any mode of treatment which is in the  
355 physician's judgment the best treatment for the patient.

356

357 ~~Nothing in~~ This subsection does not ~~shall~~ reduce other  
358 provisions of law regarding informed consent.

359 Section 4. This act shall take effect July 1, 2014.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR ELEANOR SOBEL  
33rd District

March 5, 2014

Senator Aaron Bean, Chair  
Health Policy  
302 Senate Office Building  
404 South Monroe Street  
Tallahassee, Florida 32399

Dear Chair Bean:

This letter is to request that **SB 734** relating to the **Florida Cancer Control and Research Advisory Council (CCRAB)** be placed on the agenda of the next scheduled meeting of the committee.

The proposed legislation would **revise the membership of the Florida Cancer Control and Research Advisory Council (15 from 35 to reach a quorum)**. It also requires a statewide research plan. Further, it deletes the duties of the Council, Board of Governors, and State Surgeon General relating to the awarding of grants and contracts for cancer-related programs, and deletes the Council duties relating to the development of written summaries of treatment alternatives. Lastly, it deletes the financial aid provisions and the Florida Cancer Control and Research Fund.

Thank you for your consideration of this request.

Respectfully,

Eleanor Sobel  
State Senator, 33rd District

Cc: Celia Georgiades, Sandra Stovall

REPLY TO:

- The "Old" Library, First Floor, 2600 Hollywood Blvd., Hollywood, Florida 33020 (954) 924-3693 FAX: (954) 924-3695
- 410 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5033

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

DON GAETZ  
President of the Senate

GARRETT RICHTER  
President Pro Tempore



THE FLORIDA SENATE

APPEARANCE RECORD

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

3/11/2014  
Meeting Date

Topic Cancer control + Research Bill Number ~~734~~ 734  
(if applicable)

Name Heather Yumars Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title Director of Government Relations

Address 2019 Central Blvd Suite 10 Phone 251-211  
Street

Tallahassee FL 32308 E-mail heather.yumars@  
City State Zip cancer.org

Speaking:  For  Against  Information  
Representing American Cancer Society

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

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

This form is part of the public record for this meeting. S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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



3/11/2014

Meeting Date

Topic \_\_\_\_\_

Bill Number 734  
*(if applicable)*

Name BRIAN PITTS

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

*Street*

SAINT PETERSBURG      FLORIDA      33705

*City*

*State*

*Zip*

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking:     For     Against     Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair:     Yes     No

Lobbyist registered with Legislature:     Yes     No

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

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

S-001 (10/20/11)

**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.)

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Prepared By: The Professional Staff of the Committee on Health Policy

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**BILL:** CS/SB 488

**INTRODUCER:** Health Policy Committee and Senator Ring

**SUBJECT:** Out-of-network Physician Charges

**DATE:** March 11, 2014      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peterson	Stovall	HP	<b>Fav/CS</b>
2.	_____	_____	CF	_____
3.	_____	_____	AHS	_____
4.	_____	_____	AP	_____

---

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

---

**I. Summary:**

CS/SB 488 requires facilities licensed under ch. 395, F.S., to provide written notice to patients at admission that the patient may incur out-of-network physician charges. The bill also amends the Florida Patient’s Bill of Rights and Responsibilities to make patients responsible for reviewing the notice.

**II. Present Situation:**

**The Florida Patient’s Bill of Rights and Responsibilities**

The Florida Patient’s Bill of Rights and Responsibilities<sup>1</sup> is intended to promote better communication and eliminate misunderstandings between the patient and health care provider or health care facility.<sup>2</sup> The rights of patients include: standards related to individual dignity; information about the provider, facility, diagnosis, treatments, risks, etc.; financial information and disclosure; access to health care; experimental research; and patient’s knowledge of rights and responsibilities. Patient responsibilities include giving the provider accurate and complete information regarding the patient’s health, comprehending the course of treatment and following

---

<sup>1</sup> Section 381.026, F.S.

<sup>2</sup> A health care facility is a facility licensed under ch. 395, F.S., (a hospital, ambulatory surgical center, or mobile surgical facility) and a health care provider means a physician, osteopathic physician, or a podiatric physician licensed under chapters 458, 459, or 461, respectively.

the treatment plan, keeping appointments, fulfilling financial obligations, and following the facility's rules and regulations affecting patient care and conduct.

Currently under the financial information and disclosure provisions:

- A health care provider or a health care facility, upon request, must provide a patient with full and necessary counseling on available financial resources for the patient's health care.
- A health care provider or health care facility must disclose to a Medicare-eligible patient when requested whether the provider or facility accepts Medicare payment as full payment for medical services and treatment rendered in the provider's office or health care facility;
- A health care provider or health care facility is required to furnish to a person, upon request, an estimate of charges for medical services before providing the services. In addition, a health care provider or health care facility must provide an uninsured person, before planned nonemergency medical services, a reasonable estimate of the charges for the medical services and information regarding the provider's or facility's discount or charity policies for which the uninsured person may be eligible. These estimates are required to be written in a language that is comprehensible to an ordinary layperson. However, the provider or facility may exceed the estimates or make additional charges based on changes in the patient's condition or treatment needs;
- A licensed facility must place a notice in its reception area that financial information related to that facility is available on the Agency for Health Care Administration's (AHCA) website.<sup>3</sup> The facility may indicate that the pricing information is based on a compilation of charges for the average patient and that an individual patient's charges may vary; and,
- A patient has the right to receive an itemized bill and explanation of the charges upon request.

Health care providers and health care facilities are required to make available to patients a summary of their rights and responsibilities. The applicable regulatory board or the AHCA may impose an administrative fine when a provider or facility fails to make the summary available.<sup>4</sup> There are no penalties provided in statute related to patient responsibilities.

### **Health Care Facility Regulation**

Hospitals, ambulatory surgical centers, and mobile surgical facilities are health care facilities licensed under and regulated by part I of ch. 395, F.S.<sup>5</sup>

A health care facility is required to provide, within 7 days of a written request, a good faith estimate of reasonably anticipated charges for the facility to treat the patient's condition. Upon request, the facility must also provide revisions to the estimate. The facility is required to place a notice in the reception area that this information is available. A facility that fails to provide the

---

<sup>3</sup> The Florida Center for Health Information and Policy Analysis within the AHCA is responsible for collecting, compiling, analyzing, and disseminating health-related data and statistics. The information is published on the FloridaHealthFinder website at <http://www.floridahealthfinder.gov>. This website currently discloses and allows price comparisons for certain inpatient and outpatient procedures in licensed health care facilities and certain prescription drugs. Long-range plans include the availability of similar price comparisons for physician services. See s. 408.05(3)(k), F.S.

<sup>4</sup> Section 381.0261, F.S.

<sup>5</sup> Section 395.002(16), F.S.



estimate as required may be fined \$500 for each instance of the facility's failure to provide the requested information.<sup>6</sup>

### III. Effect of Proposed Changes:

**Section 1** amends the Florida Patient's Bill of Rights and Responsibilities to make patients responsible for reviewing a document presented by a health care facility upon admission informing the patient that he or she may be charged for out-of-network physician services.

**Section 2** requires a facility licensed under ch. 395, F.S., to provide a patient with a document notifying the patient that he or she may be charged for out-of-network physician services. The patient may sign the document acknowledging that he or she has reviewed the information, or, if the patient refuses to sign, a representative of the licensed facility may sign to verify that the information was presented.

**Section 3** provides an effective date of January 1, 2015.

### IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

### V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Privately-owned hospitals will incur an indeterminate cost to prepare, present, and request signatures on forms containing the required information.

C. Government Sector Impact:

Publicly-owned hospitals will incur an indeterminate cost to prepare, present, and request signatures on forms containing the required information.

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<sup>6</sup> Section 395.301(7), F.S.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 381.026 and 395.301.

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

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

**CS by Health Policy on March 11, 2014:**

- Revises the language in the Patient Bill of Rights to specify that the document regarding the potential for out-of-network physician charges is presented to the patient by a health care facility.
- Moves the language related to the hospital's duty to notify a patient of the potential for out-of-network charges to a different subsection of the same section of law

**B. Amendments:**

None.



216436

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/11/2014	.	
	.	
	.	
	.	

---

The Committee on Health Policy (Braynon) recommended the following:

**Senate Amendment**

Delete lines 99 - 124  
and insert:

A patient is responsible for reviewing a document presented by a health care facility upon admission for treatment informing the patient that he or she may be charged for out-of-network physician services.

A patient is responsible for assuring that the financial obligations of his or her health care are fulfilled as promptly



216436

11 as possible.

12 A patient is responsible for following health care facility  
13 rules and regulation affecting patient care and conduct.

14  
15 Section 2. Subsection (12) of section 395.301, Florida  
16 Statutes, is created to read:

17 395.301 Itemized patient bill; form and content prescribed  
18 by the agency.—

19 (12) Before services are rendered, a patient shall be  
20 presented with a document informing the patient that he or she  
21 may be charged for out-of-network physician services. The  
22 patient may sign the document, thereby indicating that he or she  
23 has reviewed the information contained therein, or, if the  
24 patient declines to sign, the licensed facility employee who  
25 presents the document to the patient may sign the document to  
26 verify that the patient was presented with the information.

By Senator Ring

29-00734-14

2014488\_\_

1 A bill to be entitled  
 2 An act relating to out-of-network physician charges;  
 3 amending s. 381.026, F.S., relating to the Florida  
 4 Patient's Bill of Rights and Responsibilities;  
 5 providing that a patient is responsible for reviewing  
 6 a document informing the patient that he or she may be  
 7 charged for out-of-network physician services;  
 8 amending s. 395.301, F.S.; requiring a patient of a  
 9 licensed facility to be presented with a document  
 10 regarding charges for out-of-network physician  
 11 services; providing an effective date.  
 12  
 13 Be It Enacted by the Legislature of the State of Florida:  
 14  
 15 Section 1. Subsection (6) of section 381.026, Florida  
 16 Statutes, is amended to read:  
 17 381.026 Florida Patient's Bill of Rights and  
 18 Responsibilities.—  
 19 (6) SUMMARY OF RIGHTS AND RESPONSIBILITIES.—~~A~~ Any health  
 20 care provider who treats a patient in an office or any health  
 21 care facility licensed under chapter 395 which ~~that~~ provides  
 22 emergency services and care or outpatient services and care to a  
 23 patient, or admits and treats a patient, shall adopt and make  
 24 available to the patient, in writing, a statement of the rights  
 25 and responsibilities of patients, including the following:  
 26  
 27 SUMMARY OF THE FLORIDA PATIENT'S BILL  
 28 OF RIGHTS AND RESPONSIBILITIES  
 29

Page 1 of 5

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

29-00734-14

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30 Florida law requires that your health care provider or  
 31 health care facility recognize your rights while you are  
 32 receiving medical care and that you respect the health care  
 33 provider's or health care facility's right to expect certain  
 34 behavior on the part of patients. You may request a copy of the  
 35 full text of this law from your health care provider or health  
 36 care facility. A summary of your rights and responsibilities  
 37 follows:  
 38 A patient has the right to be treated with courtesy and  
 39 respect, with appreciation of his or her individual dignity, and  
 40 with protection of his or her need for privacy.  
 41 A patient has the right to a prompt and reasonable response  
 42 to questions and requests.  
 43 A patient has the right to know who is providing medical  
 44 services and who is responsible for his or her care.  
 45 A patient has the right to know what patient support  
 46 services are available, including whether an interpreter is  
 47 available if he or she does not speak English.  
 48 A patient has the right to know what rules and regulations  
 49 apply to his or her conduct.  
 50 A patient has the right to be given by the health care  
 51 provider information concerning diagnosis, planned course of  
 52 treatment, alternatives, risks, and prognosis.  
 53 A patient has the right to refuse any treatment, except as  
 54 otherwise provided by law.  
 55 A patient has the right to be given, upon request, full  
 56 information and necessary counseling on the availability of  
 57 known financial resources for his or her care.  
 58 A patient who is eligible for Medicare has the right to

Page 2 of 5

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

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59 know, upon request and in advance of treatment, whether the  
60 health care provider or health care facility accepts the  
61 Medicare assignment rate.

62 A patient has the right to receive, upon request, prior to  
63 treatment, a reasonable estimate of charges for medical care.

64 A patient has the right to receive a copy of a reasonably  
65 clear and understandable, itemized bill and, upon request, to  
66 have the charges explained.

67 A patient has the right to impartial access to medical  
68 treatment or accommodations, regardless of race, national  
69 origin, religion, handicap, or source of payment.

70 A patient has the right to treatment for an ~~any~~ emergency  
71 medical condition that will deteriorate from failure to provide  
72 treatment.

73 A patient has the right to know if medical treatment is for  
74 purposes of experimental research and to give his or her consent  
75 or refusal to participate in such experimental research.

76 A patient has the right to express grievances regarding a  
77 ~~any~~ violation of his or her rights, as stated in Florida law,  
78 through the grievance procedure of the health care provider or  
79 health care facility that ~~which~~ served him or her and to the  
80 appropriate state licensing agency.

81 A patient is responsible for providing to the health care  
82 provider, to the best of his or her knowledge, accurate and  
83 complete information about present complaints, past illnesses,  
84 hospitalizations, medications, and other matters relating to his  
85 or her health.

86 A patient is responsible for reporting unexpected changes  
87 in his or her condition to the health care provider.

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88 A patient is responsible for reporting to the health care  
89 provider whether he or she comprehends a contemplated course of  
90 action and what is expected of him or her.

91 A patient is responsible for following the treatment plan  
92 recommended by the health care provider.

93 A patient is responsible for keeping appointments and, when  
94 he or she is unable to do so for any reason, for notifying the  
95 health care provider or health care facility.

96 A patient is responsible for his or her actions if he or  
97 she refuses treatment or does not follow the health care  
98 provider's instructions.

99 A patient is responsible for reviewing a document presented  
100 upon admission for treatment informing the patient that he or  
101 she may be charged for out-of-network physician services.

102 A patient is responsible for assuring that the financial  
103 obligations of his or her health care are fulfilled as promptly  
104 as possible.

105 A patient is responsible for following health care facility  
106 rules and regulations affecting patient care and conduct.

107 Section 2. Subsection (5) of section 395.301, Florida  
108 Statutes, is amended to read:

109 395.301 Itemized patient bill; form and content prescribed  
110 by the agency.-

111 (5) In ~~any~~ billing for services subsequent to the initial  
112 billing for such services, the patient, or the patient's  
113 survivor or legal guardian, may elect, at his or her option, to  
114 receive a copy of the detailed statement of specific services  
115 received and expenses incurred for each such item of service as  
116 provided in subsection (1). Before services are rendered, a

29-00734-14

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117 patient shall be presented with a document informing the patient  
118 that he or she may be charged for out-of-network physician  
119 services. The patient may sign the document, thereby indicating  
120 that he or she has reviewed the information contained therein,  
121 or, if the patient declines to sign, the licensed facility  
122 employee who presents the document to the patient may sign the  
123 document to verify that the patient was presented with the  
124 information.

125 Section 3. This act shall take effect January 1, 2015.



**THE FLORIDA SENATE**

Tallahassee, Florida 32399-1100

**COMMITTEES:**  
Governmental Oversight and Accountability, Chair  
Appropriations Subcommittee on Finance and Tax, Vice Chair  
Appropriations  
Appropriations Subcommittee on Transportation, Tourism, and Economic Development  
Banking and Insurance  
Commerce and Tourism  
Judiciary  
Rules

**JOINT COMMITTEES:**  
Joint Legislative Auditing Committee  
Joint Select Committee on Collective Bargaining

**SENATOR JEREMY RING**  
29th District

December 18, 2013

Honorable Senator Aaron Bean  
530 Knott Building  
404 South Monroe Street  
Tallahassee, FL 32399

Dear Chairman Bean,

I am writing to respectfully request your cooperation in placing Senate Bill 488, relating to out-of-network physician charges, on the Committee on Health Policy agenda at your earliest convenience. I would greatly appreciate the opportunity to discuss the bill at greater length before your committee.

Thank you in advance for your assistance. As always, please do not hesitate to contact me with any questions or comments you may have.

Very Truly Yours,

Jeremy Ring  
Senator District 29

cc: Sandra Stovall

ENTERED

REPLY TO:  
 5790 Margate Boulevard, Margate, Florida 33063 (954) 917-1392 FAX: (954) 917-1394  
 405 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5029

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**DON GAETZ**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

3/11/14  
Meeting Date

Topic Out of Network Charges Bill Number 488  
(if applicable)

Name Tammy Perdue Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title General Counsel

Address 516 N. Adams St Phone 850-224-7173

Tallahassee FL 32301 E-mail tperdue@aif.com  
City State Zip

Speaking:  For  Against  Information

Representing Associated Industries of Florida

Appearing at request of Chair:  Yes  No Lobbyist registered with Legislature:  Yes  No

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

**This form is part of the public record for this meeting.** S-001 (10/20/11)



# CourtSmart Tag Report

Room: KN 412  
Caption: Senate Health Policy

Case:  
Judge:

Type:

Started: 3/11/2014 4:09:40 PM  
Ends: 3/11/2014 5:56:51 PM Length: 01:47:12

4:09:56 PM Meeting Called to Order  
4:11:03 PM Roll Call  
4:11:25 PM Chair Bean delivers opening remarks  
4:11:40 PM (Tab 11) SB 488- Out-of-Network Physician Charges  
4:12:16 PM Sen. Ring explains bill  
4:12:27 PM Sen. Ring explains Technical AM Barcode 216436  
4:12:47 PM Tammy Perdue, Associated Industries of Florida waives in support  
4:13:12 PM Roll call on SB 488  
4:13:30 PM SB 488 reported favorably  
4:13:43 PM (Tab 8) SB 640- Public Health Trusts  
4:13:59 PM Sen. Braynon's aide, Ms. Leroy, explains bill  
4:14:13 PM Sen. Flores asks question  
4:14:24 PM Ms. Leroy responds  
4:14:32 PM Brian Pitts, Justice-2-Jesus, waives in support  
4:14:45 PM Ms. Leroy waives close  
4:14:53 PM Roll call on SB 640  
4:15:12 PM SB 640 reported favorably  
4:15:39 PM (Tab 2) SB 1068- Licensed Massage Therapists  
4:15:58 PM Tracy Cadell explains bill  
4:16:33 PM Ms. Cadell explains substitute amendment: Barcode 365518  
4:16:58 PM Substitute amendment 365518 is adopted  
4:17:05 PM Janet Madry, FL State Massage Ass. waives in support  
4:17:30 PM Paul Lambert, FL Chiropractic Ass. waives in support  
4:17:47 PM Brian Pitts, Justice-2-Jesus, waives in support  
4:17:51 PM Ms. Cadell waives close  
4:18:00 PM Sen. Grimsley moves that we consider 1068 committee substitute  
4:18:13 PM Roll call on SB 1068  
4:18:28 PM Recorded Favorably  
4:18:36 PM (Tab 3) SB 278- Pharmacy Technicians  
4:18:48 PM Sen. Grimsley explains the bill  
4:19:24 PM Sen. Grimsley explains the amendment, Barcode 133346  
4:20:23 PM Chair Bean comments  
4:21:05 PM Barcode 624798 amendment to the amendment explained by Sen. Joyner  
4:23:59 PM Sen. Joyner withdraws amendment  
4:24:16 PM Goar Alvarez, FL Pharmacy Ass. waives in support  
4:24:33 PM Michael Jackson, FL Pharmacy Ass. waives in support  
4:25:41 PM Bob Barrado, Florida Pharmacy Association, waives in support  
4:25:44 PM Michael Fischer, Florida Independent Pharmacy Network, waives in support  
4:25:49 PM Amy Birch, Florida Society of Health System Pharmacists, waives in support  
4:25:55 PM Larry Gonzalez, Florida Society of Health-System Pharmacists, waives in support  
4:25:58 PM Testimony by Patrick Barnes, FL Society of Health System Pharmacists  
4:26:51 PM Chair Bean asks for questions/debate/objections  
4:27:01 PM Barcode 133346 is adopted without objection  
4:27:32 PM Ramy Gabriel, FPA, waives in support  
4:27:47 PM Testimony by Jeenu Philip, FL Board of Pharmacy  
4:28:21 PM Chair Bean asks question  
4:28:25 PM Mr. Philip responds  
4:28:31 PM Chair Bean asks for questions  
4:28:43 PM Melissa Ramba, FL Retail Federation waives in support  
4:28:59 PM Dr. Jon Hickman, Walgreens, waives in support  
4:29:10 PM Testimony by Brian Pitts, Justice2-Jesus  
4:32:06 PM Tammy Perdue, Associated Industries of FL, waives in support

4:32:23 PM Chair Bean asks for debate  
4:32:53 PM Sen. Garcia asks question  
4:33:16 PM Sen. Grimsley waives close  
4:33:38 PM SB 278 is considered committee substitute  
4:33:47 PM Roll Call on SB 278  
4:33:57 PM Committee substitute for SB 278 recorded favorably  
4:34:23 PM (Tab 10) SB 734- Cancer Control and Research  
4:34:35 PM Sen. Sobel explains bill  
4:35:08 PM Chair Bean asks for questions  
4:35:16 PM Heather Youmons, American Cancer Society, waives in support  
4:36:03 PM Testimony by Brian Pitts, Justice-2-Jesus  
4:37:20 PM Chair Bean asks for debate/questions  
4:37:27 PM Sen. Sobel comments  
4:37:40 PM Chair Bean comments  
4:37:54 PM Sen. Sobel waives close  
4:37:58 PM Roll Call on SB 734  
4:38:15 PM SB 734 recorded favorably  
4:38:39 PM (Tab 9) SB 746- Health Care Clinic Act  
4:38:55 PM Sen. Sobel explains bill and Barcode 483624  
4:39:03 PM Chair Bean asks for questions  
4:39:09 PM Amendment is adopted  
4:39:14 PM Chris Nuland, FL Chapter of American College of Physicians, waives in support  
4:39:28 PM Brian Pitts, Justice-2-Jesus, waives in support  
4:39:36 PM Chair Bean asks for debate  
4:39:41 PM Sen. Galvano moves that we consider SB 746 as committee substitute  
4:39:56 PM Roll call on SB 746  
4:40:14 PM SB 746 recorded favorably  
4:40:20 PM Sen. Galvano and Brandes voting favorably for SB 488, SB 640, SB 1068  
4:41:00 PM (Tab 6) SB 722- Newborn Health Screening  
4:41:12 PM Sen. Garcia explains the bill  
4:41:36 PM Sen. Sobel explains Barcode 206024  
4:41:46 PM Chair Bean explains the amendment  
4:42:05 PM Sen. Sobel asks for questions  
4:42:10 PM Sen. Joyner asks a question  
4:42:35 PM Chair Bean responds  
4:42:56 PM Sen. Joyner asks follow-up question  
4:43:24 PM Chair Bean responds  
4:43:56 PM Jacqueline Fernandez, Univeristy of Miami, waives in support  
4:44:46 PM Testimony by Theresa Bulger, Florida Coalition  
4:46:01 PM Sen. Joyner asks question to Ms. Bulger  
4:46:26 PM Vijay Shandilya, waives in support  
4:46:39 PM S.V.P Singh, waives in support  
4:46:53 PM Greeta Shandilya, waives in support  
4:47:05 PM Testimony by Avani Shandilya, student  
4:49:07 PM Testimony by Patsy Eccles, FL School for Deaf and Blind  
4:50:02 PM Sen. Sobel asks for debate, without objection, show amendment adopted  
4:50:26 PM Testimony by Brian Pitts, Justice-2-Jesus  
4:54:07 PM Sen. Sobel asks for debate  
4:54:23 PM Sen. Garcia closes on bill  
4:55:01 PM Sen. Bean moves bill as committee substitute  
4:55:09 PM Roll call on SB 722  
4:55:28 PM SB 722 recorded favorably  
4:55:35 PM (Tab 7) SB 1122 Emergency Allergy Treatment  
4:55:47 PM Chair Bean explains the bill  
4:57:31 PM Sen. Sobel explains Barcode 852090, and introduces it  
4:57:53 PM Sen. Sobel explains Barcode 234942, adopts amendment  
4:58:10 PM Dr. Ray Wolf, Mylan Speciality L.P. waives in support  
4:58:35 PM Testimony by Dr. David Mckalip, neurosurgeon  
4:59:26 PM Sen. Sobel asks for debate  
4:59:30 PM Sen. Joyner makes comment  
4:59:42 PM Sen. Sobel responds  
4:59:50 PM Sen. Joyner asks question

5:00:22 PM Chair Bean responds  
5:01:23 PM Sen. Sobel asks for questions/testimony/debate  
5:01:36 PM Chair Bean waives close  
5:01:39 PM Roll Call on Sb 1122  
5:01:57 PM Show Bill Passing  
5:02:15 PM Chair Bean makes comment  
5:02:41 PM (Tab 1) SB 584- Medical Examiners  
5:02:57 PM Bill is explained by Mr. Roberts  
5:03:52 PM Sen. Sobel explains Barcode 802414  
5:05:34 PM Chair Bean asks for questions  
5:05:41 PM Sen. Flores asks a question  
5:05:48 PM Sen. Sobel responds  
5:06:08 PM Chair Bean comments  
5:06:14 PM Mr. Roberts responds  
5:07:05 PM Chair Bean asks for objections on Sobel amendment  
5:07:18 PM Todd Bon Larron, Palm Beach county, waives in support  
5:07:40 PM Testimony by Marty Cassini, Broward County Legislative Counsel  
5:08:14 PM Chair Bean asks for debate on amendment  
5:08:28 PM Sen. Brandes comments  
5:08:43 PM Sen. Garcia comments and agrees  
5:08:57 PM Sen. Grimsley comments and agrees  
5:09:28 PM Sen. Joyner comments in support  
5:10:51 PM Sen. Sobel closes on amendment  
5:11:19 PM Sen. Sobel withdraws amendment  
5:11:49 PM AARP waives in support  
5:12:08 PM Testimony by Kathy Bryant, FL Association of Counties  
5:15:02 PM Susan Harbin, FL Ass. of Counties respectfully opposes  
5:15:27 PM Testimony by Marty Cassini, Legislative Counsel  
5:16:16 PM Chair Bean asks for debate  
5:16:19 PM Sen. Flores comments  
5:17:11 PM Sen. Joyner comments  
5:18:55 PM Sen. Garcia and Brandes move to TP the bill  
5:19:15 PM Chair responds in regard to the TP  
5:19:26 PM Mr. Roberts close  
5:19:40 PM (Tab 4) SB 1364- Employee Health Care Access Act  
5:19:59 PM Sen. Bradley explains the bill  
5:20:51 PM Testimony by Tim Meenan, National Ass. of Insurance and Financial Advisors  
5:21:53 PM Testimony by Alisa Lapolt, Florida CHAIN  
5:24:19 PM Sen. Braynon asks question  
5:24:46 PM Sen. Bradley responds  
5:27:57 PM Sen. Braynon asks follow-up question  
5:28:49 PM Sen. Bradley responds  
5:30:01 PM Sen. Joyner comments  
5:30:34 PM Chair Bean asks for debate  
5:30:40 PM Sen. Garcia comments  
5:31:43 PM Sen. Braynon comments  
5:33:33 PM Rep. Cummings waives close  
5:33:46 PM Roll Call on SB 1364  
5:34:04 PM SB 1364 is recorded favorably  
5:34:14 PM (Tab 5) SB 1030 Medical-grade Marijuana and Cannabis  
5:34:54 PM Motion for time-certain vote at 5:55  
5:35:07 PM Sen. Bradley explains the bill  
5:36:59 PM Chair Bean asks for questions  
5:37:05 PM Chair Bean explains Barcode 480078  
5:37:52 PM Amendment is adopted  
5:38:38 PM Testimony by Holly Moseley, Caring 4 Florida  
5:40:28 PM Jodi James, Cannabis Action Network, waives in support  
5:40:48 PM Testimony by Marina Delany  
5:42:14 PM Chair Bean asks question  
5:42:20 PM Ms. Delany responds  
5:42:24 PM Chair Bean asks follow-up question  
5:42:29 PM Ms. Delany responds

5:43:16 PM Testimony by Rebecca Walters  
5:44:33 PM Testimony by Kim Dillard  
5:47:01 PM Louis Rotundu, FL Medical Cannabis waives in support  
5:47:25 PM Testimony by Robert Redmond  
5:49:12 PM Testimony by Marty Monroe, Breast Cancer Survivors  
5:52:39 PM Testimony by Michael Krehl  
5:53:20 PM Keri Rayborn Silver, FL Sheriffs Ass. waives in support  
5:53:34 PM Testimony by Goar Alvarez  
5:54:08 PM Chair Bean asks for other questions/debate  
5:54:19 PM Chair Bean asks question  
5:54:29 PM Sen. Bradley responds  
5:54:40 PM Sen. Sobel makes comment in debate  
5:55:40 PM Sen Bradley closes on bill  
5:56:08 PM Sen. Brandes moves the bill be considered committee substitute  
5:56:18 PM Roll Call on SB 1030  
5:56:30 PM Reported Favorably  
5:56:34 PM Sen. Garcia shows voting affirmatively in SB 1122  
5:56:45 PM Move to Rise