

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

HEALTH POLICY
Senator Bean, Chair
Senator Sobel, Vice Chair

MEETING DATE: Tuesday, October 20, 2015
TIME: 12:30—2:30 p.m.
PLACE: Pat Thomas Committee Room, 412 Knott Building

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

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 108 Grimsley	Financial Arrangements Between Referring Health Care Providers and Providers of Health Care Services; Providing an exception to the prohibition against the referral by a health care provider of a patient for the provision of designated health services to an entity in which the provider has an investment interest; increasing the threshold of a qualifying corporation's asset valuation, etc. HP 09/16/2015 HP 10/20/2015 Temporarily Postponed BI FP	Temporarily Postponed
2	SB 152 Grimsley	Ordering of Medication; Revising the authority of a licensed physician assistant to order medication under the direction of a supervisory physician for a specified patient; authorizing an advanced registered nurse practitioner to order medication for administration to a specified patient; authorizing a licensed practitioner to authorize a licensed physician assistant or advanced registered nurse practitioner to order controlled substances for a specified patient under certain circumstances, etc. HP 10/20/2015 Favorable AHS AP	Favorable Yeas 9 Nays 0
3	SB 234 Gaetz (Similar H 139)	Dental Care; Establishing a joint local and state dental care access account initiative, subject to the availability of funding; authorizing the creation of dental care access accounts; providing criteria for the selection of dentists for participation in the initiative; providing for the establishment of accounts; requiring the Department of Health to implement an electronic benefit transfer system; authorizing the department to transfer state funds remaining in a closed account at a specified time and to return unspent funds from local sources, etc. HP 10/20/2015 Favorable AHS AP	Favorable Yeas 9 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Health Policy

Tuesday, October 20, 2015, 12:30—2:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 320 Richter (Similar H 391)	Public Records/Medical Technicians or Paramedics Personal Identifying Information; Creating an exemption from public records requirements for certain identifying and location information of current or former emergency medical technicians or paramedics certified under ch. 401, F.S., and the spouses and children of such emergency medical technicians or paramedics, under specified circumstances; providing for future legislative review and repeal of the exemption under the Open Government Sunset Review Act; providing a statement of public necessity, etc. HP 10/20/2015 Favorable GO RC	Favorable Yeas 9 Nays 0
5	SB 378 Bean	Cardiac Advisory Council for Children's Services Councils; Requiring the Department of Health to appoint a cardiac advisory council for specified purposes; specifying the duties and composition of the council; providing appointments and term limits for the council; prohibiting an employee of the department from serving on the council; prohibiting council members from receiving compensation; providing an exception for per diem and travel expenses; requiring council meetings to be conducted by teleconference where that capability is available, etc. HP 10/20/2015 Fav/CS GO AP	Fav/CS Yeas 9 Nays 0
6	Consideration of proposed bill: SPB 7020	OGSR/Florida Health Choices Program/Florida Health Choices, Inc.; Amending provisions relating to an exemption from public records requirements for personal identifying information of an enrollee or participant in the Florida Health Choices Program, for client and customer lists of a buyer's representative held by the Florida Health Choices, Inc., and for proprietary confidential business information held by the corporation, and relating to a penalty for unlawful disclosure of confidential and exempt information; saving the exemption from repeal under the Open Government Sunset Review Act, etc.	Submitted as Committee Bill Yeas 9 Nays 0
7	Briefing on Improving Access to Controlled Substances by Legitimately-prescribed Patients		Presented
8	Presentation on Preliminary HEDIS Quality Scores for Statewide Medicaid Managed Care		Presented

COMMITTEE MEETING EXPANDED AGENDA

Health Policy

Tuesday, October 20, 2015, 12:30—2:30 p.m.

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 108

INTRODUCER: Health Policy Committee and Senator Grimsley

SUBJECT: Financial Arrangements Between Referring Health Care Providers and Providers of Health Care Services

DATE: November 17, 2015 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Stovall	HP	Fav/CS
2.	_____	_____	BI	_____
3.	_____	_____	FP	_____

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

I. Summary:

CS/SB 108 amends s. 456.053, F.S., the Patient Self-Referral Act (Act), to allow physicians to refer patients for clinical laboratory services incidental to renal dialysis to providers in which the physician has an investment interest. Specifically, the bill:

- Allows all physicians to refer patients for clinical lab services incidental to renal dialysis to a provider in which the physician has an investment interest if the physician’s investment interest falls within an exception allowed for non-designated health services; and
- Allows nephrologists to refer patients for clinical lab services incidental to renal dialysis to a provider in which the nephrologist has an investment interest regardless of type of investment interest the nephrologist may have

The bill also makes technical and conforming changes including exempting investment interests in rural providers of such services from the definition of “investment interest” under the act. This change is made to conform with the removal of such services from the definition of “designated health services.”

The act takes effect upon becoming a law.

II. Present Situation:

The Patient Self-Referral Act of 1992

Section 456.053, F.S., entitled the “Patient Self-Referral Act of 1992” was enacted by the Legislature to safeguard the people of Florida from unnecessary and costly health care expenditures while providing guidance to health care providers on prohibited patient referrals.¹

A health care provider to whom the Act applies is a physician licensed under ch. 458, 459, 460, or 461, F.S., or any health care provider licensed under ch. 463 or 466, F.S. Allopathic, osteopathic, chiropractic, and podiatric physicians, certified optometrists, and dentists are health care providers under the Act.

The Act has differing limitations and prohibitions on patient referrals depending on the type of health care service to be provided as follows:

- A health care provider may not refer a patient for the provision of designated health services² to an entity in which the health care provider is an investor³ or has an investment interest.^{4,5}
- A health care provider may not refer a patient for the provision of any other health care services or items (non-designated health services) to an entity in which the health care provider is an investor unless:⁶
 - For entities whose shares are publicly traded:
 - The provider’s investment interest is in registered securities purchased over a national exchange or over-the-counter market; and
 - The entity’s total assets at the end of the last fiscal quarter exceed \$50 million;
 - For entities whose shares are not publicly traded:
 - No more than 50 percent of the value of the investment interests are held by investors in a position to make referrals to the entity;
 - The terms of an investment interest offered to an investor are the same regardless of whether the investor is in a position to make referrals;

¹ Section 456.053(2), F.S.

² Section 456.053(3)(c), F.S., defines “designated health services” as clinical laboratory services, physical therapy services, comprehensive rehabilitative services, diagnostic-imaging services, and radiation therapy services.³ Section 456.053(3)(l), F.S., defines “investor” as a person or entity owning a legal or beneficial ownership or investment interest, directly or indirectly, including, without limitation, through an immediate family member, trust, or another entity related to the investor within the meaning of 42 C.F.R. s. 413.17, in an entity.

³ Section 456.053(3)(l), F.S., defines “investor” as a person or entity owning a legal or beneficial ownership or investment interest, directly or indirectly, including, without limitation, through an immediate family member, trust, or another entity related to the investor within the meaning of 42 C.F.R. s. 413.17, in an entity.

⁴ Section 456.053(3)(k), F.S., defines “investment interest” to include an equity or debt security issued by an entity, including, without limitation, shares of stock in a corporation, units or other interests in a partnership, bonds, debentures, notes, or other equity interests or debt instrument. Certain investment interests are excepted from the definition including an investment interest in a sole provider of health care services in a rural area; an investment interest in the form of certain notes, bonds, debentures, or other debt instruments that matured prior to Oct. 1, 1996; an investment interest in real property resulting in a landlord-tenant relationship between the entity and the referring healthcare provider unless the rent is determined by the volume of referrals; and an investment interest in an entity which owns or leases and operates a hospital or nursing home.

⁵ Section 456.053(5)(a), F.S. Offices providing radiation therapy services are exempt from these requirements if they were in business before April 1, 1991. (*See* s. 456.053(5)(i), F.S.).

⁶ Section 456.053(5)(b), F.S.

- The terms offered to an investor are not related to the previous or expected volume of referrals; and
- There is no requirement that an investor refer patients to the entity as a condition for becoming or remaining an investor.
- Entities accepting outside referrals for diagnostic imaging must meet additional conditions including conditions for the physician make-up of the solo or group practice as well as physician performance of diagnostic imaging services, conditions on billing practices, restrictions on contracting with outside providers, and conditions on reporting accepted outside referrals to the Agency for Health Care Administration (AHCA).⁷

A health care provider who has an investment interest in an entity to which he or she refers a patient must disclose such interest to the patient on a written form that details the patient's right to obtain the services elsewhere along with at least two alternative sources from which the patient could receive the services.⁸

A health care provider found to have violated the Act could be subject to one or more disciplinary actions or penalties including:

- A penalty of up to \$100,000 for each arrangement if a health care provider or other entity enters into an arrangement that has the principal purpose of assuring referrals between the provider and the entity.⁹
- Discipline by his or her appropriate board and hospitals are subject to penalties imposed by the AHCA.¹⁰
- Being charged with a first degree misdemeanor and subject to additional penalties and disciplinary action by his or her respective board if a health care provider fails to comply with the notice provisions of the Act and s. 456.052, F.S.¹¹

A claim for payment for a service provided pursuant to a referral prohibited by the Act may not be made and any such payments received must be refunded. Additionally, any person who knows or should know that such a claim is prohibited and who presents or causes to be presented such a claim, is subject to a fine of up to \$15,000 per service to be imposed and collected by that person's regulatory board.¹²

The Federal Stark Law

Generally similar to the Act, the federal Stark Law¹³ (Stark) prohibits physicians from referring patients to receive designated health services that are payable by Medicare or Medicaid from entities with which the physician or an immediate family member has a financial relationship, unless an exception applies.¹⁴ Under Stark, designated health services include:

⁷ Section 456.053(4), F.S.

⁸ Sections 456.053(5)(j) and 456.052, F.S.

⁹ Section 456.053(5)(f), F.S.

¹⁰ Section 456.053(5)(g), F.S.

¹¹ Section 456.052(3), F.S.

¹² Section 456.053(5)(c)-(e), F.S.

¹³ 42 U.S.C. s. 1395nn.

¹⁴ U.S. Dept. of Health & Human Services, Office of the Inspector General: *A Roadmap for New Physicians: Fraud and Abuse Laws*, available at <http://oig.hhs.gov/compliance/physician-education/01laws.asp>, (last visited Nov. 17, 2015).

- clinical laboratory services;
- physical therapy, occupational therapy, and outpatient speech-language pathology services;
- radiology and certain other imaging services;
- radiation therapy services and supplies;
- durable medical equipment and supplies;
- parenteral and enteral nutrients, equipment, and supplies;
- prosthetics, orthotics, and prosthetic devices and supplies;
- home health services;
- outpatient prescription drugs; and
- inpatient and outpatient hospital services.¹⁵

The Stark law is a strict liability statute, which means proof of specific intent to violate the law is not required. Stark prohibits the submission, or causing the submission, of claims in violation of the law's restrictions on referrals. Penalties for physicians who violate Stark include fines as well as exclusion from participation in the Federal health care programs.¹⁶

Exceptions to the Stark's self-referral prohibitions include:

- Exceptions for certain services including:
 - Most referrals of a patient for physician's services and in-office ancillary services provided by the same physician or another physician in the same group practice; and
 - Referrals for services furnished by an organization that has a contract with a health maintenance organization or a prepaid health plan.¹⁷
- Exceptions related to ownership or investment interests including:
 - Ownership of investment securities that are publically traded and held in a corporation with equity exceeding \$75 million on average during the previous three fiscal years and which were purchased on terms generally available to the public; and
 - Ownership of shares in an investment company if the company has total assets exceeding \$75 million on average during the previous three fiscal years.¹⁸
 - Ownership of certain hospitals including hospitals in Puerto Rico, in rural areas, and certain hospitals in which the referring physician is authorized to perform services.¹⁹
- Exceptions related to other compensation arrangements including:
 - The rental of office space or equipment with terms that are consistent with fair market value and without consideration of any past or future referrals made between the parties;
 - Bona fide employment relationships with remuneration that does not take into account the volume or value of referrals by the referring physician;
 - Personal services arrangements with terms that do not exceed fair market value and do not take into account the volume or value of any referrals or other business generated between the parties;

¹⁵ 42 U.S.C. s. 1395nn(h)(6). When compared to Florida law, it can be seen that the list of designated health services under Stark includes the services listed as designated health services under the Act but also includes additional services not included in Florida law.

¹⁶ See supra note 15.

¹⁷ 42 U.S.C. s. 1395nn(b).

¹⁸ 42 U.S.C. s. 1395nn(c).

¹⁹ 42 U.S.C. s. 1395nn(d).

- Physician incentive plans if no specific payment is made to reduce or limit medically necessary services provided with respect to a specific individual enrolled with the entity;
- Remuneration provided by a hospital to a physician that is unrelated to designated health services;
- Physician recruitment bonuses paid by a hospital that do not take into account the volume or value of referrals;
- Certain isolated transactions;
- Certain group practice arrangements made with hospitals that began before December 19, 1989; and
- Payments made by a physician for laboratory services or other items or services if paid at fair market value.²⁰

Additional Restrictions on Agreements between Referring Health Care Providers and Providers of Health Care Services

Federal and State Anti-Kickback Statutes

Both Florida and Federal law include a prohibition on providing any sort of kickback for the referral of patients from a health care provider to a licensed facility. Section 395.0185, F.S., prohibits any person from paying a commission, bonus, kickback, or rebate or engaging in any form of split-fee arrangement with a physician, surgeon, organization, or person for patients referred to a licensed facility. The AHCA is required to enforce the provisions of the law and, if the violator is not licensed by the AHCA, the law authorizes the AHCA to impose a fine of up to \$1,000 nonetheless, and to recommend disciplinary action to the appropriate licensing board. Section 456.054, F.S., prohibits a health care provider or provider of health care services to offer, pay, solicit, or receive a kickback, directly or indirectly, overtly or covertly, in cash or in kind, for referring or soliciting patients.²¹

Federal law also prohibits such payments for the referral of an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made under a Federal health care program.²² Violating the federal anti-kickback statute makes the violator guilty of a felony which is punishable by a fine of up to \$25,000 or up to 5 years in prison. However, there are several exceptions to the federal statute including, but not limited to:

- Discounts properly disclosed and appropriately reflected in the costs claimed and charges made by the provider or entity;
- Payments between employers and employees for employment in the provision of covered items or services;
- Certain amounts paid to vendors;
- Waivers of co-insurance; and
- The waiver of any cost-sharing provisions by a pharmacy.

²⁰ 42 U.S.C. s. 1395nn(e).

²¹ Violations of this section are considered patient brokering and are punishable as provided in s. 817.505, F.S., which can include criminal penalties (felony of the third degree) and other civil, administrative, or criminal penalties.

²² 42 U.S.C. s. 1320a-7b(b)(2)(A).

Anti-Trust Laws

Additionally, both Florida and Federal law prohibit price-fixing and unfair trade practices which may be applicable to certain relationships between referring health care providers and providers of health care services. The Florida Deceptive and Unfair Trade Practices Act²³ generally prohibits unfair methods of competition, as well as deceptive acts or practices, in the conduct of trade or commerce. Also, Federal anti-trust laws, including the Sherman Act, generally prohibit unreasonable restraints on fair trade created by contract, combination, or conspiracy.²⁴

Clinical Laboratory Services Incidental to Renal Dialysis

Renal dialysis is a treatment used to replace the work of failing kidneys. There are two types of dialysis, hemodialysis and peritoneal dialysis,²⁵ which both filter the body's blood to rid it of harmful wastes, extra salt, and water. Dialysis can be performed in a hospital, in a dialysis unit that is not part of a hospital, or at home. Although dialysis is expensive, Medicare pays 80 percent of the costs for most people.²⁶ Additionally, as of January 1, 2011, Medicare requires that all services associated with the renal dialysis be paid in a bundle payment with the dialysis, including laboratory services.²⁷ Currently such laboratory services fall under the definition of "designated health services" and a physician may not refer a patient for such services to a provider in which the physician has an investment interest without violating the Patient Self-Referral Act.²⁸ Laboratory services that typically are bundled with renal dialysis include a basic metabolic panel, an electrolyte panel, a renal function panel, and numerous others.²⁹

III. Effect of Proposed Changes:

CS/SB 108 amends s. 456.053, F.S., the Patient Self-Referral Act, to allow physicians to refer patients for clinical laboratory services incidental to renal dialysis to providers in which the physician has an investment interest. Specifically, the bill:

- Creates an exception to the definition of "designated health services"³⁰ for clinical laboratory services incidental to renal dialysis. This allows all physicians who refer patients for clinical lab services incidental to renal dialysis to refer such patients to a provider in which the physician has an investment interest if the investment interest falls within the exceptions allowed for non-designated health services;³¹ and
- Exempts referrals of patients by a nephrologist for such services from the definition of "referral" which allows nephrologists to refer patients for clinical lab services incidental to

²³ Section 501.204, F.S.

²⁴ Federal Trade Commission, *The Antitrust Laws*, available at: <https://www.ftc.gov/tips-advice/competition-guidance/guide-antitrust-laws/antitrust-laws>, (last visited Nov. 17, 2015).

²⁵ For an explanation of the two types of dialysis, see <https://www.kidney.org/atoz/content/dialysisinfo>. (Last visited Nov. 17, 2015).

²⁶ Id.

²⁷ End Stage Renal Disease Prospective Payment System, p. 5, available at <https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/downloads/End-Stage-Renal-Disease-Prospective-Payment-System-ICN905143.pdf> (last visited Nov. 17, 2015).

²⁸ See supra note 2.

²⁹ For a full list see <https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/ESRDpayment/Downloads/Consolidated-Billing-ESRD-PPS-2015-CR-9127.pdf> (Last visited Nov. 17, 2015).

³⁰ See supra note 2.

³¹ These exceptions are discussed on page two of the analysis.

renal dialysis to a provider in which the nephrologist has an investment interest regardless of type of investment interest the nephrologist may have.

These referrals remain subject to the limitations placed on patient self-referral by the federal Stark Law.

The bill also makes technical and conforming changes including exempting investment interests in the sole provider of clinical laboratory services incidental to renal dialysis in a rural area from the definition of “investment interest” under the act. This change is made to conform with the removal of such services from the definition of “designated health services.”

The act takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

CS/SB 108 may have a positive fiscal impact on prescribers and providers of clinical laboratory services incidental to renal dialysis who are currently restricted from referring patients, or accepting patient referrals, if an investment interest exists.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 456.053 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 November 17, 2015:

The CS amends SB 108 to replace the provisions of the original bill with new provisions allowing physicians to refer patients for clinical laboratory services incidental to renal dialysis to providers in which they have certain types of investment interests. These new provisions include:

- Creating an exception to the definition of “designated health services” for clinical laboratory services incidental to renal dialysis;
- Exempting referrals of patients by a nephrologist for such services from the definition of “referral”; and
- Exempting investment interests in rural providers of such services from the definition of “investment interest” under the act.

The CS/SB 108 also makes technical and conforming changes.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
11/13/2015	.	
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The Committee on Health Policy (Grimsley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraphs (c), (k), and (o) of subsection (3)
of section 456.053, Florida Statutes, are amended to read:

456.053 Financial arrangements between referring health
care providers and providers of health care services.—

(3) DEFINITIONS.—For the purpose of this section, the word,
phrase, or term:



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11 (c) "Designated health services" means, ~~for purposes of~~
12 ~~this section,~~ clinical laboratory services, other than clinical
13 laboratory services incidental to renal dialysis, physical
14 therapy services, comprehensive rehabilitative services,
15 diagnostic-imaging services, and radiation therapy services.

16 (k) "Investment interest" means equities ~~an equity~~ or debt
17 securities ~~security~~ issued by an entity, including, without
18 limitation, shares of stock in a corporation, units or other
19 interests in a partnership, bonds, debentures, notes, or other
20 equity interests or debt instruments. The following investment
21 interests are ~~shall be~~ excepted from this definition:

22 1. An investment interest in an entity that is the sole
23 provider of designated health services or clinical laboratory
24 services incidental to renal dialysis in a rural area. ~~†~~

25 2. An investment interest in notes, bonds, debentures, or
26 other debt instruments issued by an entity that ~~which~~ provides
27 designated health services, as an integral part of a plan by the
28 ~~such~~ entity to acquire such investor's equity investment
29 interest in the entity, provided that the interest rate is
30 consistent with fair market value, and that the maturity date of
31 the notes, bonds, debentures, or other debt instruments issued
32 by the entity to the investor is not later than October 1, 1996.

33 3. An investment interest in real property which results
34 ~~resulting~~ in a landlord-tenant relationship between the health
35 care provider and the entity in which the equity interest is
36 held, unless the rent is determined, in whole or in part, by the
37 business volume or profitability of the tenant or exceeds fair
38 market value. ~~† or~~

39 4. An investment interest in an entity that ~~which~~ owns or



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40 leases and operates a hospital licensed under chapter 395 or a
41 nursing home facility licensed under chapter 400.

42 (o) "Referral" means any referral of a patient by a health
43 care provider for health care services, including, without
44 limitation, ~~÷~~

45 ~~1.~~ the forwarding of a patient by a health care provider to
46 another health care provider or to an entity that ~~which~~ provides
47 or supplies designated health services or any other health care
48 item or service; or

49 ~~2.~~ the request or establishment of a plan of care by a
50 health care provider, which includes the provision of designated
51 health services or other health care items or services. An
52 order, a recommendation, or a plan of care for the services or
53 supplies listed in the following subparagraphs does ~~item or~~
54 service.

55 ~~3.~~ ~~The following orders, recommendations, or plans of care~~
56 ~~shall~~ not constitute a referral if it is issued or made by the a
57 health care provider designated in the applicable subparagraph:

58 1.a. By a radiologist for Diagnostic-imaging services, if
59 issued or made by a radiologist or

60 ~~b.~~ by a physician specializing in the provision of
61 radiation therapy services for such diagnostic-imaging services.

62 2.c. By a medical oncologist for Drugs and solutions to be
63 prepared and administered intravenously to a such oncologist's
64 patient, and as well as for the supplies and equipment used in
65 connection with the preparation and intravenous administration
66 of such drugs and solutions, therewith to treat the such patient
67 for cancer and related the complications, if issued or made by a
68 medical oncologist thereof.



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69 ~~3.d. By a cardiologist for~~ Cardiac catheterization
70 services, if issued or made by a cardiologist.

71 ~~4.e. By a pathologist for~~ Diagnostic clinical laboratory
72 tests and pathological examination services, if issued or made
73 by a pathologist and the tests or services are furnished by or
74 under the supervision of the ~~such~~ pathologist pursuant to a
75 consultation requested by another physician.

76 ~~5.f. All services and supplies for which an order,~~
77 recommendation, or plan of care is issued or made by a health
78 care provider who is the sole provider or member of a group
79 practice for designated health services or other health care
80 items or services that are prescribed or provided solely for
81 such ~~referring~~ health care provider's or group practice's own
82 patients, ~~and that are~~ provided or performed by or under the
83 direct supervision of such ~~referring~~ health care provider or
84 group practice. ~~;~~ ~~provided,~~ However, ~~that~~ effective July 1, 1999,
85 a physician licensed under ~~pursuant to~~ chapter 458, chapter 459,
86 chapter 460, or chapter 461 may refer a patient to a sole
87 provider or group practice for diagnostic imaging services,
88 excluding radiation therapy services, for which the sole
89 provider or group practice billed both the technical and the
90 professional fee for or on behalf of the patient, if the
91 referring physician has no investment interest in the practice.
92 The diagnostic imaging service referred to a group practice or
93 sole provider must be a diagnostic imaging service normally
94 provided within the scope of practice to the patients of the
95 group practice or sole provider. The group practice or sole
96 provider may accept no more than 15 percent of its ~~their~~
97 patients receiving diagnostic imaging services from outside



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98 referrals, excluding radiation therapy services.

99 ~~6.g. By a health care provider for~~ Services provided at by
100 an ambulatory surgical center licensed under chapter 395, or
101 services related to sleep-related testing, if issued or made by
102 any health care provider licensed in this state.

103 ~~7.h. By a urologist for~~ Lithotripsy services, if issued or
104 made by a urologist.

105 ~~8.i. By a dentist for~~ Dental services performed by an
106 employee of or a health care provider or an employee of a health
107 care provider who is an independent contractor of a with the
108 dentist or group practice of which the dentist is a member, if
109 issued or made by the dentist.

110 ~~9.j. By a physician for~~ Infusion therapy services for to a
111 patient of a that physician or a member of the that physician's
112 group practice, if issued or made by the physician.

113 ~~10.k. By a nephrologist for~~ Renal dialysis services,
114 including clinical laboratory services incidental to renal
115 dialysis, and supplies, if issued or made by a nephrologist
116 except laboratory services.

117 ~~11.l. All services and supplies for which an order,~~
118 recommendation, or plan of care is issued or made by a health
119 care provider whose principal professional practice consists of
120 treating patients in their private residences for services ~~to be~~
121 rendered in such private residences, excluding except for
122 services rendered by a home health agency licensed under chapter
123 400. For purposes of this subparagraph sub-subparagraph, the
124 term "private residences" includes patients' private homes,
125 independent living centers, and assisted living facilities, but
126 does not include skilled nursing facilities.



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127 ~~m. By a health care provider For Sleep-related testing.~~

128 Section 2. This act shall take effect July 1, 2016.

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 everything before the enacting clause

133 and insert:

134 A bill to be entitled

135 An act relating to financial arrangements between

136 referring health care providers and providers of

137 health care services; amending s. 456.053, F.S.;

138 exempting clinical laboratory services incidental to

139 renal dialysis from the definition of "designated

140 health services"; providing that the definition of

141 "investment interest" does not include investment

142 interests in an entity that is the sole provider of

143 clinical laboratory services incidental to renal

144 dialysis in a rural area; excluding orders,

145 recommendations, or plans of care by a nephrologist

146 for clinical laboratory services incidental to renal

147 dialysis from the definition of "referral"; providing

148 an effective date.



859122

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
11/17/2015	.	
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The Committee on Health Policy (Grimsley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraphs (c), (k), and (o) of subsection (3) of section 456.053, Florida Statutes, are amended to read:

456.053 Financial arrangements between referring health care providers and providers of health care services.—

(3) DEFINITIONS.—For the purpose of this section, the word, phrase, or term:



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11 (c) "Designated health services" means, ~~for purposes of~~
12 ~~this section,~~ clinical laboratory services, other than clinical
13 laboratory services incidental to renal dialysis, physical
14 therapy services, comprehensive rehabilitative services,
15 diagnostic-imaging services, and radiation therapy services.

16 (k) "Investment interest" means equities ~~an equity~~ or debt
17 securities ~~security~~ issued by an entity, including, without
18 limitation, shares of stock in a corporation, units or other
19 interests in a partnership, bonds, debentures, notes, or other
20 equity interests or debt instruments. The following investment
21 interests are ~~shall be~~ excepted from this definition:

22 1. An investment interest in an entity that is the sole
23 provider of designated health services or clinical laboratory
24 services incidental to renal dialysis in a rural area. ~~†~~

25 2. An investment interest in notes, bonds, debentures, or
26 other debt instruments issued by an entity that ~~which~~ provides
27 designated health services, as an integral part of a plan by the
28 ~~such~~ entity to acquire such investor's equity investment
29 interest in the entity, provided that the interest rate is
30 consistent with fair market value, and that the maturity date of
31 the notes, bonds, debentures, or other debt instruments issued
32 by the entity to the investor is not later than October 1, 1996.

33 3. An investment interest in real property which results
34 ~~resulting~~ in a landlord-tenant relationship between the health
35 care provider and the entity in which the equity interest is
36 held, unless the rent is determined, in whole or in part, by the
37 business volume or profitability of the tenant or exceeds fair
38 market value. ~~† or~~

39 4. An investment interest in an entity that ~~which~~ owns or



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40 leases and operates a hospital licensed under chapter 395 or a
41 nursing home facility licensed under chapter 400.

42 (o) "Referral" means any referral of a patient by a health
43 care provider for health care services, including, without
44 limitation:

45 1. The forwarding of a patient by a health care provider to
46 another health care provider or to an entity which provides or
47 supplies designated health services or any other health care
48 item or service; or

49 2. The request or establishment of a plan of care by a
50 health care provider, which includes the provision of designated
51 health services or other health care item or service.

52 3. The following orders, recommendations, or plans of care
53 shall not constitute a referral by a health care provider:

54 a. By a radiologist for diagnostic-imaging services.

55 b. By a physician specializing in the provision of
56 radiation therapy services for such services.

57 c. By a medical oncologist for drugs and solutions to be
58 prepared and administered intravenously to such oncologist's
59 patient, as well as for the supplies and equipment used in
60 connection therewith to treat such patient for cancer and the
61 complications thereof.

62 d. By a cardiologist for cardiac catheterization services.

63 e. By a pathologist for diagnostic clinical laboratory
64 tests and pathological examination services, if furnished by or
65 under the supervision of such pathologist pursuant to a
66 consultation requested by another physician.

67 f. By a health care provider who is the sole provider or
68 member of a group practice for designated health services or



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69 other health care items or services that are prescribed or
70 provided solely for such referring health care provider's or
71 group practice's own patients, and that are provided or
72 performed by or under the direct supervision of such referring
73 health care provider or group practice; provided, however, that
74 effective July 1, 1999, a physician licensed pursuant to chapter
75 458, chapter 459, chapter 460, or chapter 461 may refer a
76 patient to a sole provider or group practice for diagnostic
77 imaging services, excluding radiation therapy services, for
78 which the sole provider or group practice billed both the
79 technical and the professional fee for or on behalf of the
80 patient, if the referring physician has no investment interest
81 in the practice. The diagnostic imaging service referred to a
82 group practice or sole provider must be a diagnostic imaging
83 service normally provided within the scope of practice to the
84 patients of the group practice or sole provider. The group
85 practice or sole provider may accept no more than 15 percent of
86 their patients receiving diagnostic imaging services from
87 outside referrals, excluding radiation therapy services.

88 g. By a health care provider for services provided by an
89 ambulatory surgical center licensed under chapter 395.

90 h. By a urologist for lithotripsy services.

91 i. By a dentist for dental services performed by an
92 employee of or health care provider who is an independent
93 contractor with the dentist or group practice of which the
94 dentist is a member.

95 j. By a physician for infusion therapy services to a
96 patient of that physician or a member of that physician's group
97 practice.



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98 k. By a nephrologist for renal dialysis services, and
99 supplies, or clinical laboratory services incidental to renal
100 dialysis ~~except laboratory services.~~

101 l. By a health care provider whose principal professional
102 practice consists of treating patients in their private
103 residences for services to be rendered in such private
104 residences, except for services rendered by a home health agency
105 licensed under chapter 400. For purposes of this sub-
106 subparagraph, the term "private residences" includes patients'
107 private homes, independent living centers, and assisted living
108 facilities, but does not include skilled nursing facilities.

109 m. By a health care provider for sleep-related testing.

110 Section 2. This act shall take effect July 1, 2016.

111
112 ===== T I T L E A M E N D M E N T =====

113 And the title is amended as follows:

114 Delete everything before the enacting clause
115 and insert:

116 A bill to be entitled
117 An act relating to financial arrangements between
118 referring health care providers and providers of
119 health care services; amending s. 456.053, F.S.;
120 exempting clinical laboratory services incidental to
121 renal dialysis from the definition of "designated
122 health services"; providing that the definition of
123 "investment interest" does not include investment
124 interests in an entity that is the sole provider of
125 clinical laboratory services incidental to renal
126 dialysis in a rural area; excluding orders,



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127 recommendations, or plans of care by a nephrologist
128 for clinical laboratory services incidental to renal
129 dialysis from the definition of "referral"; providing
130 an effective date.

By Senator Grimsley

21-00131-16

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1 A bill to be entitled
 2 An act relating to financial arrangements between
 3 referring health care providers and providers of
 4 health care services; amending s. 456.053, F.S.;
 5 providing an exception to the prohibition against the
 6 referral by a health care provider of a patient for
 7 the provision of designated health services to an
 8 entity in which the provider has an investment
 9 interest; increasing the threshold of a qualifying
 10 corporation's asset valuation; providing an effective
 11 date.
 12
 13 Be It Enacted by the Legislature of the State of Florida:
 14
 15 Section 1. Subsection (5) of section 456.053, Florida
 16 Statutes, is amended to read:
 17 456.053 Financial arrangements between referring health
 18 care providers and providers of health care services.—
 19 (5) PROHIBITED REFERRALS AND CLAIMS FOR PAYMENT.—Except as
 20 provided in this section:
 21 (a) A health care provider may not refer a patient for the
 22 provision of designated health services to an entity in which
 23 the health care provider is an investor or has an investment
 24 interest unless the provider's investment interest is in
 25 registered securities purchased on a national exchange or over-
 26 the-counter market and issued by a publicly held corporation:
 27 1. Whose shares are traded on a national exchange or over-
 28 the-counter market;
 29 2. Whose total assets at the end of the corporation's most

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30 recent fiscal quarter exceeded \$75 million; and
 31 3. Which does not loan funds or guarantee a loan to a
 32 health care provider who is in a position to make referrals to
 33 the corporation if the provider uses any part of such loan to
 34 obtain the investment interest.
 35
 36 This paragraph may not be deemed to otherwise serve as a safe
 37 harbor or contravene any other provision of state law
 38 prohibiting or regulating referrals, kickbacks, rebates, or
 39 patient brokering. A health care provider's investment interests
 40 in registered securities of publicly held corporations must be
 41 purchased on a national exchange or over-the-counter market
 42 under normal terms and conditions without discount, incentive,
 43 gifts, or future options.
 44 (b) A health care provider may not refer a patient for the
 45 provision of any other health care item or service to an entity
 46 in which the health care provider is an investor unless:
 47 1. The provider's investment interest is in registered
 48 securities purchased on a national exchange or over-the-counter
 49 market and issued by a publicly held corporation:
 50 a. Whose shares are traded on a national exchange or on the
 51 over-the-counter market; and
 52 b. Whose total assets at the end of the corporation's most
 53 recent fiscal quarter exceeded \$75 million ~~\$50 million~~; or
 54 2. With respect to an entity other than a publicly held
 55 corporation described in subparagraph 1., and a referring
 56 provider's investment interest in such entity, each of the
 57 following requirements are met:
 58 a. No more than 50 percent of the value of the investment

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59 interests are held by investors who are in a position to make
60 referrals to the entity.

61 b. The terms under which an investment interest is offered
62 to an investor who is in a position to make referrals to the
63 entity are no different from the terms offered to investors who
64 are not in a position to make such referrals.

65 c. The terms under which an investment interest is offered
66 to an investor who is in a position to make referrals to the
67 entity are not related to the previous or expected volume of
68 referrals from that investor to the entity.

69 d. There is no requirement that an investor make referrals
70 or be in a position to make referrals to the entity as a
71 condition for becoming or remaining an investor.

72 3. With respect to either such entity or publicly held
73 corporation:

74 a. The entity or corporation does not loan funds to or
75 guarantee a loan for an investor who is in a position to make
76 referrals to the entity or corporation if the investor uses any
77 part of such loan to obtain the investment interest.

78 b. The amount distributed to an investor representing a
79 return on the investment interest is directly proportional to
80 the amount of the capital investment, including the fair market
81 value of any preoperational services rendered, invested in the
82 entity or corporation by that investor.

83 (c)4- Each board and, in the case of hospitals, the Agency
84 for Health Care Administration, shall encourage the use by
85 licensees of the declaratory statement procedure to determine
86 the applicability of this section or any rule adopted pursuant
87 to this section as it applies solely to the licensee. Boards

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88 shall submit to the Agency for Health Care Administration the
89 name of any entity in which a provider investment interest has
90 been approved pursuant to this section.

91 (d)~~(e)~~ A claim for payment may not ~~No claim for payment may~~
92 be presented by an entity to any individual, third-party payor,
93 or other entity for a service furnished pursuant to a referral
94 prohibited under this section.

95 (e)~~(d)~~ If an entity collects any amount that was billed in
96 violation of this section, the entity shall refund such amount
97 on a timely basis to the payor or individual, whichever is
98 applicable.

99 (f)~~(e)~~ Any person who ~~that~~ presents or causes to be
100 presented a bill or a claim for service that such person knows
101 or should know is for a service for which payment may not be
102 made under paragraph (d) ~~(e)~~, or for which a refund has not been
103 made under paragraph (e) ~~(d)~~, shall be subject to a civil
104 penalty of not more than \$15,000 for each such service to be
105 imposed and collected by the appropriate board.

106 (g)~~(f)~~ Any health care provider or other entity that enters
107 into an arrangement or scheme, such as a cross-referral
108 arrangement, which the physician or entity knows or should know
109 has a principal purpose of assuring referrals by the physician
110 to a particular entity which, if the physician directly made
111 referrals to such entity, would be in violation of this section,
112 shall be subject to a civil penalty of not more than \$100,000
113 for each such circumvention arrangement or scheme to be imposed
114 and collected by the appropriate board.

115 (h)~~(g)~~ A violation of this section by a health care
116 provider shall constitute grounds for disciplinary action to be

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117 taken by the applicable board pursuant to s. 458.331(2), s.
 118 459.015(2), s. 460.413(2), s. 461.013(2), s. 463.016(2), or s.
 119 466.028(2). Any hospital licensed under chapter 395 found in
 120 violation of this section shall be subject to s. 395.0185(2).

121 ~~(i)(b)~~ A Any hospital licensed under chapter 395 may not
 122 discriminate ~~that discriminates~~ against or otherwise penalize
 123 ~~penalizes~~ a health care provider for compliance with this
 124 subsection act.

125 ~~(j)(i)~~ The provision of paragraph (a) does ~~shall~~ not apply
 126 to referrals to the offices of radiation therapy centers managed
 127 by an entity or subsidiary or general partner thereof, which
 128 performed radiation therapy services at those same offices prior
 129 to April 1, 1991, and does ~~shall~~ not apply ~~also~~ to referrals for
 130 radiation therapy to be performed at no more than one additional
 131 office of any entity qualifying for the foregoing exception
 132 which, prior to February 1, 1992, had a binding purchase
 133 contract on and a nonrefundable deposit paid for a linear
 134 accelerator to be used at the additional office. The physical
 135 site of the radiation treatment centers affected by this
 136 provision may be relocated as a result of the following factors:
 137 acts of God; fire; strike; accident; war; eminent domain actions
 138 by any governmental body; or refusal by the lessor to renew a
 139 lease. A relocation for the foregoing reasons is limited to
 140 relocation of an existing facility to a replacement location
 141 within the county of the existing facility upon written
 142 notification to the Office of Licensure and Certification.

143 ~~(k)(j)~~ A health care provider who has an investment
 144 interest in an entity to which he or she refers one or more
 145 patients for the provision of designated health services in

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146 compliance with ~~meets~~ the requirements of paragraph ~~paragraph~~
 147 (a), paragraph (b), or paragraph (j) ~~and (i)~~ must disclose his
 148 or her investment interest to his or her patients as provided in
 149 s. 456.052.

150 Section 2. This act shall take effect July 1, 2016.

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The Florida Senate

Committee Agenda Request

To: Senator Aaron Bean, Chair
Committee on Health Policy

Subject: Committee Agenda Request

Date: September 4, 2015

I respectfully request that **Senate Bill #108**, relating to Financial Arrangements Between Referring Health Care Providers and Providers of Health Care Services, be placed on the:

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

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

Senator Denise Grimsley
Florida Senate, District 21

cc: Sandra Stovall, Staff Director
Celia Georgiades, Committee Administrative Assistant

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 152

INTRODUCER: Senator Grimsley

SUBJECT: Ordering of Medication

DATE: October 14, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stovall	Stovall	HP	Favorable
2.			AHS	
3.			AP	

I. Summary:

SB 152 provides express authority for an advanced registered nurse practitioner to order *any* medication for administration to a patient in a hospital, ambulatory surgical center, or mobile surgical facility within the framework of an established protocol. The bill provides express authority in ch. 893, F.S., the Florida Comprehensive Drug Abuse Prevention and Control Act, for a supervisory physician to authorize a physician assistant or an advanced registered nurse practitioner to order controlled substances for administration to a patient in a hospital, ambulatory surgical center, or mobile surgical facility.

II. Present Situation:

Regulation of Physician Assistants in Florida

Chapter 458, F.S., sets forth the provisions for the regulation of the practice of medicine by the Board of Medicine. Chapter 459, F.S., similarly sets forth the provisions for the regulation of the practice of osteopathic medicine by the Board of Osteopathic Medicine. Physician assistants (PAs) are regulated by both boards. Licensure of PAs is overseen jointly by the boards through the Council on Physician Assistants.¹

Physician assistants are trained and required by statute to work under the supervision and control of medical physicians or osteopathic physicians.² The Board of Medicine and the Board of Osteopathic Medicine have adopted rules that set out the general principles a supervising

¹ The council consists of three physicians who are members of the Board of Medicine; one physician who is a member of the Board of Osteopathic Medicine; and a physician assistant appointed by the State Surgeon General. (See ss. 458.347(9) and 459.022(9), F.S.)

² Sections 458.347(4) and 459.022(4), F.S.

physician must use in developing the scope of practice of the PA under both direct³ and indirect⁴ supervision. A supervising physician's decision to permit a PA to perform a task or procedure under direct or indirect supervision must be based on reasonable medical judgment regarding the probability of morbidity and mortality to the patient. The supervising physician must be certain that the PA is knowledgeable and skilled in performing the tasks and procedures assigned.⁵ Each physician or group of physicians supervising a licensed PA must be qualified in the medical areas in which the PA is to perform and must be individually or collectively responsible and liable for the performance and the acts and omissions of the PA.⁶

Current law allows a supervisory physician to delegate to a licensed PA the authority to prescribe or dispense any medication used in the physician's practice, except controlled substances, general anesthetics, and radiographic contrast materials.⁷ However, Florida law does allow a supervisory physician to delegate authority to a PA to order any medication, which would include controlled substances, general anesthetics, and radiographic contrast materials, for a patient of the physician during the patient's stay in a facility licensed under ch. 395, F.S.⁸

Regulation of Advanced Registered Nurse Practitioners in Florida

Chapter 464, F.S., governs the licensure and regulation of nurses in Florida. Nurses are licensed by the Department of Health and are regulated by the Board of Nursing.⁹

An advanced registered nurse practitioner (ARNP) is a licensed nurse who is certified in advanced or specialized nursing.¹⁰ Florida recognizes three types of ARNP: nurse practitioner (NP), certified registered nurse anesthetist (CRNA), and certified nurse midwife (CNM).¹¹ To be

³ "Direct supervision" requires the physician to be on the premises and immediately available. (*See* Fla. Admin. Code R. 64B8-30.001(4) and 64B15-6.001(4).)

⁴ "Indirect supervision" refers to the easy availability of the supervising physician to the physician assistant, which includes the ability to communicate by telecommunications, and requires the physician to be within reasonable physical proximity. (*See* Fla. Admin. Code R. 64B8-30.001(5) and 64B15-6.001(5).)

⁵ Fla. Admin. Code R. 64B8-30.012(2) and 64B15-6.010(2).

⁶ Sections 458.347(3) and 459.022(3), F.S.

⁷ Sections 458.347(4)(e) and (f)1 and 459.022(4)(e), F.S.

⁸ *See* s. 395.002(16), F.S. The facilities licensed under ch. 395, F.S., are hospitals, ambulatory surgical centers, and mobile surgical facilities.

⁹ The Board of Nursing is comprised of 13 members appointed by the Governor and confirmed by the Senate who serve 4-year terms. Seven of the 13 members must be nurses who reside in Florida and have been engaged in the practice of professional nursing for at least 4 years. Of those seven members, one must be an advanced registered nurse practitioner, one a nurse educator at an approved nursing program, and one a nurse executive. Three members of the BON must be licensed practical nurses who reside in the state and have engaged in the practice of practical nursing for at least 4 years. The remaining three members must be Florida residents who have never been licensed as nurses and are in no way connected to the practice of nursing, any health care facility, agency, or insurer. Additionally, one member must be 60 years of age or older. (*See* s. 464.004(2), F.S.)

¹⁰ "Advanced or specialized nursing practice" is defined as the performance of advanced-level nursing acts approved by the Board of Nursing which, by virtue of postbasic specialized education, training and experience, are appropriately performed by an advanced registered nurse practitioner. (*See* s. 464.003(2), F.S.)

¹¹ Section 464.003(3), F.S. Florida certifies clinical nurse specialists as a category distinct from advanced registered nurse practitioners. (*See* ss. 464.003(7) and 464.0115, F.S.)

certified as an ARNP, a nurse must hold a current license as a registered nurse¹² and submit proof to the Board of Nursing that he or she meets one of the following requirements:¹³

- Satisfactory completion of a formal postbasic educational program of specialized or advanced nursing practice;
- Certification by an appropriate specialty board;¹⁴ or
- Graduation from a master's degree program in a nursing clinical specialty area with preparation in specialized practitioner skills.

Advanced or specialized nursing acts may only be performed under protocol of a supervising physician or dentist.¹⁵ Within the established framework of the protocol, an ARNP may:¹⁶

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

The statute further describes additional acts that may be performed within an ARNP's specialty certification (CRNA, CNM, and NP).¹⁷

Advanced registered nurse practitioners must meet financial responsibility requirements, as determined by rule of the Board of Nursing, and the practitioner profiling requirements.¹⁸ The Board of Nursing requires professional liability coverage of at least \$100,000 per claim with a minimum annual aggregate of at least \$300,000 or an unexpired irrevocable letter of credit in the same amounts payable to the ARNP.¹⁹

Florida law does not authorize ARNPs to prescribe controlled substances.²⁰ However, s. 464.012(4)(a), F.S., provides express authority for a CRNA to order certain controlled substances "to the extent authorized by established protocol approved by the medical staff of the facility in which the anesthetic service is performed."

Definitions related to the Ordering of Medicinal Drugs

Chapter 464, F.S., does not contain a definition of the terms "order" or "prescribe." Chapter 465, F.S., relating to pharmacy, defines "prescription" as "any order for drugs or medicinal supplies written or transmitted by any means of communication by a duly licensed practitioner authorized by the laws of the state to prescribe such drugs or medicinal supplies and intended to be

¹² Practice of professional nursing. (See s. 464.003(20), F.S.)

¹³ Section 464.012(1), F.S.

¹⁴ Specialty boards expressly recognized by the Board of Nursing include: Council on Certification of Nurse Anesthetists, or Council on Recertification of Nurse Anesthetists; American College of Nurse Midwives; American Nurses Association (American Nurses Credentialing Center); National Certification Corporation for OB/GYN, Neonatal Nursing Specialties; National Board of Pediatric Nurse Practitioners and Associates; National Board for Certification of Hospice and Palliative Nurses; American Academy of Nurse Practitioners; Oncology Nursing Certification Corporation; American Association of Critical-Care Nurses Adult Acute Care Nurse Practitioner Certification. (See Fla. Admin. Code R. 64B9-4.002(2)).

¹⁵ Section 464.003(2), F.S.

¹⁶ Section 464.012(3), F.S.

¹⁷ Section 464.012(4), F.S.

¹⁸ Sections 456.0391 and 456.041, F.S.

¹⁹ Fla. Admin. Code R. 64B9-4.002(5).

²⁰ Sections 893.02(21) and 893.05(1), F.S.

dispensed by a pharmacist.²¹ “Dispense” is defined as “the transfer of possession of one or more doses of a medicinal drug by a pharmacist to the ultimate consumer or her or his agent.”²² “Administration” is defined as “the obtaining and giving of a single dose of medicinal drugs by a legally authorized person to a patient for her or his consumption.”²³ Chapter 893, F.S., relating to drug abuse prevention and control, contains similar definitions.²⁴

ARNP Petition for Declaratory Statement

On January 22, 2014, a petition for declaratory statement²⁵ was filed with the Board of Nursing which asked “Can ARNPs legally order narcotics for patients we treat in the institution with written protocols from our attending Doctors [sic]?”²⁶ The petition noted that prior to January 1, 2014, ARNPs ordered controlled substances for patients. Effective January 1, 2014, the hospital disallowed the practice and required all ARNPs to get an order from a physician. The hospital cited passage of legislation in 2013 which clarified the authority of physician assistants to order controlled substances, but did not address the authority of ARNPs.²⁷ The Board of Nursing dismissed the petition finding that it failed to comply with the requirements of chapter 120 and that it sought an opinion regarding the scope of practice of a category of licensees based on an employer’s policies.

Drug Enforcement Agency Registration

An individual practitioner²⁸ who is an agent or employee of another practitioner (other than a mid-level practitioner)²⁹ registered to dispense controlled substances, may, when acting in the normal course of business or employment, administer or dispense (other than by issuance of a prescription) controlled substances if and to the extent authorized by state law, under the registration of the employer or principal practitioner in lieu of being registered himself or herself.³⁰

Health care practitioners who are agents or employees of a hospital or other institution, may, when acting in the usual course of business or employment, administer, dispense, or prescribe controlled substances under the registration of the hospital or other institution in which he or she is employed, in lieu of individual registration, provided that:

- The dispensing, administering, or prescribing is in the usual course of professional practice;

²¹ Section 465.003(14), F.S.

²² Section 465.003(6), F.S.

²³ Section 465.003(1), F.S.

²⁴ See ss. 893.02(1), 893.02(7), and 893.02(22), F.S.

²⁵ A declaratory statement is an agency’s opinion regarding the applicability of a statutory provision, rule, or agency order to a petitioner’s set of circumstances. (*See* s. 120.565(1), F.S.)

²⁶ Petition for Declaratory Statement filed by Carolann Robley ARNP, MSN, BC, FNP (on file with the Senate Committee on Health Policy).

²⁷ *See* ch. 2013-127, Laws of Fla.

²⁸ “Practitioner” means a physician, dentist, veterinarian, scientific investigator, pharmacy, hospital, or other person licensed, registered, or otherwise permitted, by the United States of the jurisdiction in which he practices or does research, to distribute, dispense, conduct research with respect to, administer, or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research. See 21 U.S.C. s. 802(21) (2011).

²⁹ Examples of mid-level practitioners include, but are not limited to: nurse practitioners, nurse midwives, nurse anesthetists, clinical nurse specialists, and physician assistants.

³⁰ 21 C.F.R. 1301.22.

- The practitioner is authorized to do so by the state in which he or she practices;
- The hospital or other institution has verified that the practitioner is permitted to administer, dispense, or prescribe controlled substances within the state;
- The practitioner acts only within the scope of employment in the hospital or other institution;
- The hospital or other institution authorizes the practitioner to administer, dispense, or prescribe under its registration and assigns a specific internal code number for each practitioner; and
- The hospital or other institution maintains a current list of internal codes and the corresponding practitioner.³¹

III. Effect of Proposed Changes:

SB 152 expressly authorizes an advanced registered nurse practitioner (ARNP) to order any medication, including a controlled substance, for administration to a patient in a hospital, ambulatory surgical center, or mobile surgical facility within the framework of an established protocol. This authority is comparable to the express authority previously granted by the Legislature to physician assistants (PAs).

The bill also provides express authority in ch. 893, F.S., for a supervisory physician to authorize a PA or ARNP to order controlled substances for administration to a patient in a hospital, ambulatory surgical center, or mobile surgical facility.

The bill conforms ss. 458.347(4)(g) and 459.022(4)(f), F.S., relating to the authority of a PA to order medications, to changes made elsewhere in the act, but does not alter the authority of supervisory physicians or PAs.

The bill clarifies the distinction between a prescription and an order for administration by amending the definition of “prescription” in ch. 465 and ch. 893, F.S., to exclude an order that is dispensed for administration and making conforming changes in s. 893.04, F.S. The bill also revises the definition of “administer” in ch. 893, F.S., to include the term “administration.”

The bill reenacts various sections of Florida law as required to incorporate amendments made in the act.

The bill takes effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

³¹ *Id.*; See also U.S. Department of Justice, Drug Enforcement Administration, *Practitioner’s Manual*, 27 (2006), available at: http://www.deadiversion.usdoj.gov/pubs/manuals/pract/pract_manual012508.pdf (last visited Sept. 17, 2015).

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Physicians who use advanced registered nurse practitioners to serve hospitalized patients, physicians who supervise ARNPs with a hospital practice, and hospitals that employ ARNPs may see increased efficiencies if ARNPs can order controlled substances directly under a supervisory protocol without the need for obtaining a physician's order. These efficiencies include time savings for the practitioners and ARNPs and better utilization of potentially limited space, such as emergency room beds where patients might otherwise wait while a supervising physician is located.

C. Government Sector Impact:

The impact described in Section V. B., above, would also apply to public hospitals and physicians employed in public hospitals.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 458.347, 459.022, 464.012, 465.003, 893.02, 893.04, and 893.05.

This bill reenacts the following sections of the Florida Statutes: 400.462, 401.445, 409.906, 766.103, 409.9201, 458.331, 459.015, 465.014, 465.015, 465.016, 465.022, 465.023, 465.1901, 499.003, 831.30, 112.0455, 381.986, 440.102, 499.0121, 768.36, 810.02, 812.014, 856.015, 944.47, 951.22, 985.711, 1003.57, 1006.09, and 893.0551.

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.

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

By Senator Grimsley

21-00029-16

2016152__

1 A bill to be entitled
 2 An act relating to the ordering of medication;
 3 amending ss. 458.347 and 459.022, F.S.; revising the
 4 authority of a licensed physician assistant to order
 5 medication under the direction of a supervisory
 6 physician for a specified patient; amending s.
 7 464.012, F.S.; authorizing an advanced registered
 8 nurse practitioner to order medication for
 9 administration to a specified patient; amending s.
 10 465.003, F.S.; revising the term "prescription" to
 11 exclude an order for drugs or medicinal supplies
 12 dispensed for administration; amending s. 893.02,
 13 F.S.; revising the term "administer" to include the
 14 term "administration"; revising the term
 15 "prescription" to exclude an order for drugs or
 16 medicinal supplies dispensed for administration;
 17 amending s. 893.04, F.S.; conforming provisions to
 18 changes made by act; amending s. 893.05, F.S.;
 19 authorizing a licensed practitioner to authorize a
 20 licensed physician assistant or advanced registered
 21 nurse practitioner to order controlled substances for
 22 a specified patient under certain circumstances;
 23 reenacting ss. 400.462(26), 401.445(1), 409.906(18),
 24 and 766.103(3), F.S., to incorporate the amendments
 25 made to ss. 458.347 and 459.022, F.S., in references
 26 thereto; reenacting ss. 401.445(1) and 766.103(3),
 27 F.S., to incorporate the amendment made to s. 464.012,
 28 F.S., in references thereto; reenacting ss.
 29 409.9201(1) (a), 458.331(1) (pp), 459.015(1) (rr),

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30 465.014(1), 465.015(2) (c), 465.016(1) (s),
 31 465.022(5) (j), 465.023(1) (h), 465.1901, 499.003(43),
 32 and 831.30(1), F.S., to incorporate the amendment made
 33 to s. 465.003, F.S., in references thereto; reenacting
 34 ss. 112.0455(5) (i), 381.986(7) (b), 440.102(1) (1),
 35 458.331(1) (pp), 459.015(1) (rr), 465.015(3),
 36 465.016(1) (s), 465.022(5) (j), 465.023(1) (h),
 37 499.0121(14), 768.36(1) (b), 810.02(3) (f),
 38 812.014(2) (c), 856.015(1) (c), 944.47(1) (a), 951.22(1),
 39 985.711(1) (a), 1003.57(1) (i), and 1006.09(8), F.S., to
 40 incorporate the amendment made to s. 893.02, F.S., in
 41 references thereto; reenacting s. 893.0551(3) (e),
 42 F.S., to incorporate the amendment made to s. 893.04,
 43 F.S., in a reference thereto; reenacting s.
 44 893.0551(3) (d), F.S., to incorporate the amendment
 45 made to s. 893.05, F.S., in a reference thereto;
 46 providing an effective date.

47
 48 Be It Enacted by the Legislature of the State of Florida:

49
 50 Section 1. Paragraph (g) of subsection (4) of section
 51 458.347, Florida Statutes, is amended to read:
 52 458.347 Physician assistants.—
 53 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—
 54 (g) A supervisory physician may delegate to a licensed
 55 physician assistant the authority to, and the licensed physician
 56 assistant acting under the direction of the supervisory
 57 physician may, order any medication medications for
 58 administration to the supervisory physician's patient during his

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59 ~~or her care in a facility licensed under chapter 395,~~
 60 ~~notwithstanding any provisions in chapter 465 or chapter 893~~
 61 ~~which may prohibit this delegation. For the purpose of this~~
 62 ~~paragraph, an order is not considered a prescription. A licensed~~
 63 ~~physician assistant working in a facility that is licensed under~~
 64 ~~chapter 395 may order any medication under the direction of the~~
 65 ~~supervisory physician.~~

66 Section 2. Paragraph (f) of subsection (4) of section
 67 459.022, Florida Statutes, is amended to read:

68 459.022 Physician assistants.—

69 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

70 (f) A supervisory physician may delegate to a licensed
 71 physician assistant the authority to, and the licensed physician
 72 assistant acting under the direction of the supervisory
 73 physician may, order any medication medications for
 74 administration to the supervisory physician's patient during his
 75 ~~or her care in a facility licensed under chapter 395,~~
 76 ~~notwithstanding any provisions in chapter 465 or chapter 893~~
 77 ~~which may prohibit this delegation. For the purpose of this~~
 78 ~~paragraph, an order is not considered a prescription. A licensed~~
 79 ~~physician assistant working in a facility that is licensed under~~
 80 ~~chapter 395 may order any medication under the direction of the~~
 81 ~~supervisory physician.~~

82 Section 3. Paragraph (a) of subsection (3) of section
 83 464.012, Florida Statutes, is amended to read:

84 464.012 Certification of advanced registered nurse
 85 practitioners; fees.—

86 (3) An advanced registered nurse practitioner shall perform
 87 those functions authorized in this section within the framework

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88 of an established protocol that is filed with the board upon
 89 biennial license renewal and within 30 days after entering into
 90 a supervisory relationship with a physician or changes to the
 91 protocol. The board shall review the protocol to ensure
 92 compliance with applicable regulatory standards for protocols.
 93 The board shall refer to the department licensees submitting
 94 protocols that are not compliant with the regulatory standards
 95 for protocols. A practitioner currently licensed under chapter
 96 458, chapter 459, or chapter 466 shall maintain supervision for
 97 directing the specific course of medical treatment. Within the
 98 established framework, an advanced registered nurse practitioner
 99 may:

100 (a) Monitor and alter drug therapies and order any
 101 medication for administration to a patient in a facility
 102 licensed under chapter 395.

103 Section 4. Subsection (14) of section 465.003, Florida
 104 Statutes, is amended to read:

105 465.003 Definitions.—As used in this chapter, the term:

106 (14) "Prescription" includes any order for drugs or
 107 medicinal supplies written or transmitted by any means of
 108 communication by a ~~duly~~ licensed practitioner authorized by the
 109 laws of this ~~the~~ state to prescribe such drugs or medicinal
 110 supplies and intended to be dispensed by a pharmacist, except
 111 for an order that is dispensed for administration. The term also
 112 includes an orally transmitted order by the lawfully designated
 113 agent of such practitioner; ~~The term also includes~~ an order
 114 written or transmitted by a practitioner licensed to practice in
 115 a jurisdiction other than this state, but only if the pharmacist
 116 called upon to dispense such order determines, in the exercise

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2016152__

117 of her or his professional judgment, that the order is valid and
 118 necessary for the treatment of a chronic or recurrent illness;
 119 ~~and. The term "prescription" also includes~~ a pharmacist's order
 120 for a product selected from the formulary created pursuant to s.
 121 465.186. Prescriptions may be retained in written form or the
 122 pharmacist may cause them to be recorded in a data processing
 123 system, provided that such order can be produced in printed form
 124 upon lawful request.

125 Section 5. Subsections (1) and (22) of section 893.02,
 126 Florida Statutes, are amended to read:

127 893.02 Definitions.—The following words and phrases as used
 128 in this chapter shall have the following meanings, unless the
 129 context otherwise requires:

130 (1) "Administer" or "administration" means the direct
 131 application of a controlled substance, whether by injection,
 132 inhalation, ingestion, or any other means, to the body of a
 133 person or animal.

134 (22) "Prescription" ~~means and~~ includes any an order for
 135 drugs or medicinal supplies which is written, signed, or
 136 ~~transmitted by any word of mouth, telephone, telegram, or other~~
 137 ~~means of communication by a duly licensed practitioner~~
 138 authorized licensed by the laws of this the state to prescribe
 139 such drugs or medicinal supplies, is issued in good faith and in
 140 the course of professional practice, is intended to be ~~filled,~~
 141 ~~compounded, or dispensed by a another person authorized licensed~~
 142 by the laws of this the state to do so, and meets meeting the
 143 requirements of s. 893.04.

144 (a) The term also includes an order for drugs or medicinal
 145 supplies ~~se~~ transmitted or written by a physician, dentist,

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146 veterinarian, or other practitioner licensed to practice in a
 147 state other than Florida, but only if the pharmacist called upon
 148 to fill such an order determines, in the exercise of his or her
 149 professional judgment, that the order was issued pursuant to a
 150 valid patient-physician relationship, that it is authentic, and
 151 that the drugs or medicinal supplies ~~se~~ ordered are considered
 152 necessary for the continuation of treatment of a chronic or
 153 recurrent illness.

154 (b) The term does not include an order that is dispensed
 155 for administration by a licensed practitioner authorized by the
 156 laws of this state to administer such drugs or medicinal
 157 supplies.

158 (c) ~~However,~~ If the physician writing the prescription is
 159 not known to the pharmacist, the pharmacist shall obtain proof
 160 to a reasonable certainty of the validity of the said
 161 prescription.

162 (d) A prescription ~~order~~ for a controlled substance may
 163 ~~shall~~ not be issued on the same prescription blank with another
 164 prescription ~~order~~ for a controlled substance that which is
 165 named or described in a different schedule or with another, ~~nor~~
 166 ~~shall any prescription order for a controlled substance be~~
 167 ~~issued on the same prescription blank as a prescription order~~
 168 for a medicinal drug, as defined in s. 465.003(8), that is which
 169 ~~does not fall within the definition of a controlled substance as~~
 170 ~~defined in this act.~~

171 Section 6. Paragraphs (a), (d), and (f) of subsection (2)
 172 of section 893.04, Florida Statutes, are amended to read:

173 893.04 Pharmacist and practitioner.—

174 (2) (a) A pharmacist may not dispense a controlled substance

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175 listed in Schedule II, Schedule III, or Schedule IV to any
 176 patient or patient's agent without first determining, in the
 177 exercise of her or his professional judgment, that the
 178 ~~prescription order~~ is valid. The pharmacist may dispense the
 179 controlled substance, in the exercise of her or his professional
 180 judgment, when the pharmacist or pharmacist's agent has obtained
 181 satisfactory patient information from the patient or the
 182 patient's agent.

183 (d) Each ~~written~~ prescription written ~~prescribed~~ by a
 184 practitioner in this state for a controlled substance listed in
 185 Schedule II, Schedule III, or Schedule IV must include ~~both~~ a
 186 written and a numerical notation of the quantity of the
 187 controlled substance prescribed and a notation of the date in
 188 numerical, month/day/year format, or with the abbreviated month
 189 written out, or the month written out in whole. A pharmacist
 190 may, upon verification by the prescriber, document any
 191 information required by this paragraph. If the prescriber is not
 192 available to verify a prescription, the pharmacist may dispense
 193 the controlled substance, but may insist that the person to whom
 194 the controlled substance is dispensed provide valid photographic
 195 identification. If a prescription includes a numerical notation
 196 of the quantity of the controlled substance or date, but does
 197 not include the quantity or date written out in textual format,
 198 the pharmacist may dispense the controlled substance without
 199 verification by the prescriber of the quantity or date if the
 200 pharmacy previously dispensed another prescription for the
 201 person to whom the prescription was written.

202 (f) A pharmacist may not knowingly dispense fill a
 203 prescription that has been forged for a controlled substance

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204 listed in Schedule II, Schedule III, or Schedule IV.

205 Section 7. Subsection (1) of section 893.05, Florida
 206 Statutes, is amended to read:

207 893.05 Practitioners and persons administering controlled
 208 substances in their absence.—

209 (1) (a) A practitioner, in good faith and in the course of
 210 his or her professional practice only, may prescribe,
 211 administer, dispense, mix, or otherwise prepare a controlled
 212 substance, or the practitioner may cause the controlled
 213 substance ~~same~~ to be administered by a licensed nurse or an
 214 intern practitioner under his or her direction and supervision
 215 only.

216 (b) Pursuant to s. 458.347(4)(g), s. 459.022(4)(f), or s.
 217 464.012(3), as applicable, a practitioner who supervises a
 218 licensed physician assistant or advanced registered nurse
 219 practitioner may authorize the licensed physician assistant or
 220 advanced registered nurse practitioner to order controlled
 221 substances for administration to a patient in a facility
 222 licensed under chapter 395.

223 (c) A veterinarian may ~~se~~ prescribe, administer, dispense,
 224 mix, or prepare a controlled substance for use on animals only,
 225 and may cause the controlled substance ~~it~~ to be administered by
 226 an assistant or orderly under the veterinarian's direction and
 227 supervision only.

228 (d) A certified optometrist licensed under chapter 463 may
 229 not administer or prescribe a controlled substance listed in
 230 Schedule I or Schedule II of s. 893.03.

231 Section 8. Subsection (26) of s. 400.462, subsection (1) of
 232 s. 401.445, subsection (18) of s. 409.906, and subsection (3) of

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233 s. 766.103, Florida Statutes, are reenacted for the purpose of
 234 incorporating the amendments made by this act to ss. 458.347 and
 235 459.022, Florida Statutes, in references thereto.

236 Section 9. Subsection (1) of s. 401.445 and subsection (3)
 237 of s. 766.103, Florida Statutes, are reenacted for the purpose
 238 of incorporating the amendment made by this act to s. 464.012,
 239 Florida Statutes, in references thereto.

240 Section 10. Paragraph (a) of subsection (1) of s. 409.9201,
 241 paragraph (pp) of subsection (1) of s. 458.331, paragraph (rr)
 242 of subsection (1) of s. 459.015, subsection (1) of s. 465.014,
 243 paragraph (c) of subsection (2) of s. 465.015, paragraph (s) of
 244 subsection (1) of s. 465.016, paragraph (j) of subsection (5) of
 245 s. 465.022, paragraph (h) of subsection (1) of s. 465.023, s.
 246 465.1901, subsection (43) of s. 499.003, and subsection (1) of
 247 s. 831.30, Florida Statutes, are reenacted for the purpose of
 248 incorporating the amendments made by this act to s. 465.003,
 249 Florida Statutes, in references thereto.

250 Section 11. Paragraph (i) of subsection (5) of s. 112.0455,
 251 paragraph (b) of subsection (7) of s. 381.986, paragraph (l) of
 252 subsection (1) of s. 440.102, paragraph (pp) of subsection (1)
 253 of s. 458.331, paragraph (rr) of subsection (1) of s. 459.015,
 254 subsection (3) of s. 465.015, paragraph (s) of subsection (1) of
 255 s. 465.016, paragraph (j) of subsection (5) of s. 465.022,
 256 paragraph (h) of subsection (1) of s. 465.023, subsection (14)
 257 of s. 499.0121, paragraph (b) of subsection (1) of s. 768.36,
 258 paragraph (f) of subsection (3) of s. 810.02, paragraph (c) of
 259 subsection (2) of s. 812.014, paragraph (c) of subsection (1) of
 260 s. 856.015, paragraph (a) of subsection (1) of s. 944.47,
 261 subsection (1) of s. 951.22, paragraph (a) of subsection (1) of

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262 s. 985.711, paragraph (i) of subsection (1) of s. 1003.57, and
 263 subsection (8) of s. 1006.09, Florida Statutes, are reenacted
 264 for the purpose of incorporating the amendments made by this act
 265 to s. 893.02, Florida Statutes, in references thereto.

266 Section 12. Paragraph (e) of subsection (3) of s. 893.0551,
 267 Florida Statutes, is reenacted for the purpose of incorporating
 268 the amendments made by this act to s. 893.04, Florida Statutes,
 269 in a reference thereto.

270 Section 13. Paragraph (d) of subsection (3) of s. 893.0551,
 271 Florida Statutes, is reenacted for the purpose of incorporating
 272 the amendments made by this act to s. 893.05, Florida Statutes,
 273 in a reference thereto.

274 Section 14. This act shall take effect July 1, 2016.

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The Florida Senate

Committee Agenda Request

To: Senator Aaron Bean, Chair
Committee on Health Policy

Subject: Committee Agenda Request

Date: September 21, 2015

I respectfully request that **Senate Bill #132**, relating to Direct Primary Care, **Senate Bill #152**, relating to Ordering of Medication, **Senate Bill #236**, relating to Certificates of Need for Rural Hospitals, and **Senate Bill #238**, relating to Medical Assistant Certification be placed on the:

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

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

Senator Denise Grimsley
Florida Senate, District 21

THE FLORIDA SENATE
APPEARANCE RECORD

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

10/20/15

Meeting Date

SB 152

Bill Number (if applicable)

Topic Ordering of Med.

Amendment Barcode (if applicable)

Name Brittney Burch

Job Title Policy Director

Address 136 S. Bronough St.
Street

Phone 521 - 1200

Tall. FL 32301
City State Zip

Email bburch@flchamber.com

Speaking: For Against Information

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

Representing Florida Chamber of Commerce

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

10/20/15

Meeting Date

SB 152

Bill Number (if applicable)

Topic ORDERING OF MEDS (SB152)

Amendment Barcode (if applicable)

Name Rich Rasmussen

Job Title Vice President

Address 306 E. College Ave

Phone

Street

Tallahassee FL 32301

Email

City

State

Zip

Speaking: [X] For [] Against [] Information

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

Representing

Appearing at request of Chair: [] Yes [] No

Lobbyist registered with Legislature: [X] Yes [] No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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10/20/15

Meeting Date

152

Bill Number (if applicable)

Topic Ordering Medication

Amendment Barcode (if applicable)

Name Barbara Lumpkin

Job Title CONSULTANT

Address 468 Green Spring Cir
Street

Phone 407 227 7705

Winter Springs FL 32708
City State Zip

Email barbaralumpkin@bellsouth.net

Speaking: For Against Information

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

Representing Baptist Health South Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD



10/20/2015 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)
Meeting Date

152
Bill Number (if applicable)

Topic Ordering of Medication

Amendment Barcode (if applicable)

Name Stan Whittaker

Job Title Chairman

Address 6294 NW Torrey A pk Rd
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Bristol FL 32321
City State Zip

Email STANWHITTE@AOL.COM

Speaking: For Against Information

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

Representing FL Association of Nurse Practitioners

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD



10/20/15

Meeting Date

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

SB 152

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Jeff Scott

Job Title _____

Address 1430 Piedmont Dr. E

Phone 850 224-6796

Street

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Email jscott@flmedical.org

City

State

Zip

Speaking: For Against Information

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

Representing Florida Medical Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

10/20/18

Meeting Date

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

152

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Chris Nuland

Job Title _____

Address 1000 Riverside Ave

Phone 904-233-3051

Street

Jacksonville, FL 32204

Email nulandlawcad.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Chapter, American College of Physicians

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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10-20-15
Meeting Date

152
Bill Number (if applicable)

Topic Ordering of medication

Amendment Barcode (if applicable)

Name Lori Killinger

Job Title Attorney

Address 315 S. Calhoun St.

Phone 850 222 5702

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Tallahassee

City

FL

State

32308

Zip

Email Lkillinger@llw.com

Speaking: For Against Information

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

Representing FL Association of Nurse Anesthetists

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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10/20/15
Meeting Date

152
Bill Number (if applicable)

Topic Ordering of Medication

Amendment Barcode (if applicable)

Name Corinne Nixon

Job Title Lobbyist

Address 119 E. Park Ave
Street

Phone (850) 766-5795

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City State Zip

Email corinne.nixon@gmail.com

Speaking: For Against Information

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

Representing Florida Academy of Physician Assistants

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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10/20/15
Meeting Date

152
Bill Number (if applicable)

Topic Ordering of Medication

Amendment Barcode (if applicable)

Name JACK MURRAY

Job Title _____

Address 201 W. COLLEGE AVE., #304
Street

Phone 950-577-5127

TLH FL 32301
City State Zip

Email jmurray@aarp.org

Speaking: For Against Information

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

Representing AARP

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)

10/20

Meeting Date

152
Bill Number (if applicable)

Topic Ordering

Amendment Barcode (if applicable)

Name Alisa LaPorte

Job Title Lobbyist

Address _____

Phone 443-1319

Street

City

State

Zip

Talkhassee

Email alisa@gotopsail.com

Speaking: For Against Information

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

Representing Florida Nurses Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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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)

10/20/2015
Meeting Date

152
Bill Number (if applicable)



Topic _____

Amendment Barcode (if applicable)

Name BRIAN PITTS

Job Title Trustee

Address 1119 Newton Ave S
Street

Phone 727/897-9291

St Petersburg FL 33705
City State Zip

Email justice2jesus@yahoo.com

Speaking: For Against Information

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

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.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 234

INTRODUCER: Senators Gaetz and Hays

SUBJECT: Dental Care

DATE: October 19, 2015

REVISED: 10/20/15

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Lloyd</u>	<u>Stovall</u>	<u>HP</u>	Favorable
2.	<u></u>	<u></u>	<u>AHS</u>	<u></u>
3.	<u></u>	<u></u>	<u>AP</u>	<u></u>

I. Summary:

SB 234 authorizes the creation of joint state and local dental care access accounts to promote local economic development and to encourage Florida-licensed dentists to practice in dental health professional shortage areas or medically underserved areas, or serve a medically underserved population, subject to the availability of funds.

The bill directs the Department of Health (DOH) to create individual benefit accounts through an electronic benefits transfer system for each dentist who satisfies the requirements of participation. A qualifying dentist must be actively employed by a public health program in a targeted area or demonstrate a commitment to opening a dental practice that serves at least 1,200 patients and obtaining local financial support from the community where the dentist will practice in that targeted area.

Funds from the account may be used to repay dental school loans; purchase property, facilities, or equipment for a dental office; or pay for transitional expenses relating to relocating or opening a dental practice. Subject to availability, a practitioner may receive funds for up to five years. An account may be terminated under certain conditions and any unspent funds returned to the donor or redistributed to other available applicants.

The DOH estimates first-year implementation expenditures of \$306,064 and recurring maintenance and support costs of \$277,296.

The bill is effective July 1, 2016.

II. Present Situation:

Health Professional Shortage Areas

Health Professional Shortage Areas (HPSAs) are designated by the Health Resources and Services Administration (HRSA) within the U.S. Department of Health and Human Services according to criteria developed in accordance with section 332 of the Public Health Services Act. HPSA designations are used to identify areas and population groups within the United States that are experiencing a shortage of health professionals.

There are three categories of HPSA designation: (1) primary medical; (2) dental; and (3) mental health. For each discipline category, there are three types of HPSA designations based on the area or population group that is experiencing the shortage: (1) geographic area; (2) population group; and (3) facility.¹

A geographic HPSA indicates that the entire area may experience barriers in accessing care, while a population HPSA indicates that a particular subpopulation of an area (e.g., homeless or low-income) may be underserved. Finally, a facility HPSA is a unique facility that primarily cares for an underserved population.

The primary factor used to determine a HPSA designation is the number of health professionals relative to the population with consideration of high need. The threshold for a dental HPSA is a population-to-provider ratio of at least 5,000 to 1 (or 4,000 to 1 in high need communities).²

Medically Underserved Area

Medically Underserved Areas (MUA) are also designated by the U.S. Department of Health and Human Services. These areas are designated using one of three methods and can consist of a whole county, a group of contiguous counties, or census tracts.³

The first method, the Index of Medical Underservice (IMU), calculates a score based on the ratio of primary medical care physicians per 1,000 in population, percentage of the population with incomes below the federal poverty level, infant mortality rate, and percentage of population aged 65 or older.

The second method, Medically Underserved Populations (MUP), is based on data collected under the MUA process and reviews the ratio of primary care physicians serving the population seeking the designation. A MUP is a group of people who encounter economic or cultural barriers to primary health care services.

The third process, Exceptional MUP Designations, includes those population groups which do not meet the criteria of an IMU but may be considered for designation because of unusual

¹ U.S. Department of Health and Human Services, Health Resources and Services Administration, *Shortage Designation: Health Professional Shortage Areas & Medically Underserved Areas/Population* <http://www.hrsa.gov/shortage/> (last visited Sept. 21, 2015).

² *Id.*

³ *Id.*

conditions with a request by the governor or another senior executive level official and a local state health official.⁴

The Dental Workforce

Nationally, the pool of dentists to serve the growing population of Americans is shrinking. The American Dental Association has found that 6,000 dentists retire each year in the U.S., while there are only 4,000 dental school graduates each year to replace them. The projected shortage of dentists is even greater in rural America. Of the approximately 150,000 general dentists in practice in the U.S., only 14 percent practice in rural areas, 7.7 percent practice in large rural areas, 3.7 percent practice in small rural areas, and 2.2 percent practice in isolated rural areas. In 2003, there were 2,235 federally designated dental health professional shortage areas (HPSAs).⁵ Today, the number of dental HPSAs has increased to over 4,900.

While the dental workforce is projected to grow by 6 percent between 2012 and 2025, it is not expected to meet the overall national demand. Florida is listed as the second neediest state with 1,152 fewer dentists than required to serve the population.⁶ Similar to the national trend, most dentists in Florida are concentrated in the more populous areas of the state, while rural areas, especially the central Panhandle counties and interior counties of south Florida, have a noticeable lack of dentists.⁷ This is true for both general dentistry as well as for dental specialists. Additionally, over 20 percent of Florida licensed dentists that responded to the 2011-2012 *Florida Workforce Survey of Dentists* (survey) currently do not practice in Florida.⁸

Most dentists – 77.8 percent – practice in general dentistry.⁹ In many rural communities, the county health department may be the primary provider of health care services, including dental care. Florida currently has 220 designated dental HPSAs, which have only enough dentists to serve 17 percent of the population living within them. For 2012, HRSA estimated that 853 additional dentists were required to meet the total need. This puts Florida among the states with the highest proportion of their populations that are deemed underserved. By 2025, Florida's need grows to 1,152 dentists.¹⁰

⁴ U.S. Department of Health and Human Services, Health Resources and Services Administration, *Medically Underserved Areas/Populations* <http://www.hrsa.gov/shortage/mua/index.html> (last visited Sept. 21, 2015).

⁵ National Rural Health Association, *Issue Paper: Recruitment and Retention of a Quality Health Workforce in Rural Areas*, (November 2006) (on file with the Senate Committee on Health Policy).

⁶ U.S. Department of Health and Human Services, Health Resources and Services Administration, *National and State Level Projections of Dentists and Dental Hygienists in the U.S., 2012-2015*, pp.-3-4 (February 2015) <http://bhpr.hrsa.gov/healthworkforce/supplydemand/dentistry/nationalstatelevelprojectionsdentists.pdf> (last visited Oct. 20, 2015).

⁷ Florida Dept. of Health, *Report on the 2011-2012 Workforce Survey of Dentists*, p. 6 (April 2014) <http://www.floridahealth.gov/programs-and-services/community-health/dental-health/workforce-reports/florida-workforce-survey-of-dentists-2011-2012.pdf> (last visited Sept. 21, 2015). In 2009, the DOH developed this workforce survey for dentists. The survey was administered on a voluntary basis in conjunction with biennial renewal of dental licenses and 87 percent of dentists with an active Florida license responded to the survey; a drop of 2 percent points from the 2009-2010 survey.

⁸ *Id.* at 46.

⁹ *Id.*

¹⁰ *Supra* note 6, at 9.

The American Dental Association has also studied this issue and found that while there may be a sufficient number of dentists overall, there may be an inadequate number among certain populations or in certain geographic areas.¹¹ Children are acutely affected by the shortage of dentists to serve low income patients. In 2012, 26 percent of Medicaid-enrolled children in Florida received one or more dental care services, according data from the Agency for Health Care Administration (AHCA).¹² The survey noted a noticeable participation difference between private-practice dentists and those who practice in a safety-net setting. Of those in a private-office setting, only 13.7 percent report seeing Medicaid enrollees while over 60 percent of safety-net providers report Medicaid participation.¹³

In 2011, the Legislature passed HB 7107¹⁴ creating the Statewide Medicaid Managed Care (SMMC) program as part IV of ch. 409, F.S. The program has two primary components: Managed Medical Assistance program (MMA) and Long Term Care program. To implement MMA, the law required the AHCA to create an integrated managed care program for the delivery of delivery of Medicaid primary and acute care, including dental. Medicaid recipients who are enrolled in MMA receive their dental services through managed care plans. Although most dental services are designated as a required benefit only for Medicaid recipients under age 21, many of the managed care plans also provide, as an enhanced benefit, dental services for adults.

The Cost of Dental Education

Among U.S. dental schools, the cost of a four-year degree has risen dramatically over the last 10 years – by 93 percent for in-state residents (from about \$89,000 to \$171,000) and by 82 percent for out-of-state residents (from \$128,000 to \$234,000). Dental school debt has increased proportionately. The average debt for dental school graduates in 2014 was \$247,227.¹⁵

In 2013, Congress enacted the *Bipartisan Student Loan Certainty Act of 2013* (Public Law 113-28) that tied student loan interest rates to the 10-year Treasury Note. For graduate and professional student loans, the interest rate is tied to 10-year Treasury Note plus 3.6 percent, but may not exceed 9.5 percent in any given year.¹⁶ In June 2014, President Obama directed the Secretary of Education through a Presidential Memorandum to propose regulations to allow additional students who borrowed to cap their payments at 10 percent of their income, by December 31, 2015.¹⁷ The Presidential Memorandum called the plan, “*Pay as You Earn Plan.*”¹⁸

¹¹ Bradley Munson, B.A., and Marko Vujcic, Ph.D.: Health Policy Institute Research Brief, American Dental Association, *Supply of Dentists in the United States Likely to Grow*, p.2. (October 2014) http://www.ada.org/~media/ADA/Science%20and%20Research/HPI/Files/HPIBrief_1014_1.ashx (last visited Sept. 21, 2015).

¹² *Supra* note 7, at 8.

¹³ *Supra* note 7, at 35.

¹⁴ See chapter 2011-134, Laws of Fla.

¹⁵ American Dental Education Association, *Federal Student Loans*, <http://cqrcengage.com/adea/federalStudentLoan> (last visited Sept. 21, 2015).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ The White House, Office of the Press Secretary, *Presidential Memorandum - Federal Student Loan Repayments* (June 9, 2014) <https://www.whitehouse.gov/the-press-office/2014/06/09/presidential-memorandum-federal-student-loan-repayments> (last visited Sept. 21, 2015).

Some studies indicate that increasing education costs and the prospect of indebtedness after dental school graduation could further erode access to care for vulnerable, underserved populations.¹⁹ At least three studies, including a 2011 Florida Senate Report,²⁰ have recommended consideration of loan forgiveness programs as one strategy for addressing dental workforce shortage concerns.²¹

Florida does not have a current state program to address the dental health professional shortage areas or medically underserved areas. According to the DOH, there are 16 vacant positions (out of 82 or 19.5 percent) for dentists in the DOH.²² Additionally, according to the Health Resources and Services Administration, there are 16 vacant dentist positions in Florida Dental Health Professional Shortage Areas as of September 16, 2015.²³

Florida Health Services Corps

In 1992, the Legislature created the Florida Health Services Corps (FHSC), administered by the DOH, to encourage medical professionals to practice in locations that are underserved because of a shortage of qualified professionals.²⁴ The FHSC was defined²⁵ as a program that offered scholarships to allopathic, osteopathic, chiropractic, podiatric, dental, physician assistant, and nursing students, and loan repayment assistance and travel and relocation expenses to allopathic and osteopathic residents and physicians, chiropractic physicians, podiatric physicians, nurse practitioners, dentists, and physician assistants, in return for service in a public health care

¹⁹American Dental Education Association, *A Report of the ADEA Presidential Task Force on the Cost of Higher Education and Student Borrowing*, pp. 17-18 (March 2013) http://www.adea.org/uploadedFiles/ADEA/Content_Conversion_Final/publications/Documents/ADEACostandBorrowingReportMarch2013.pdf (last viewed Sept. 21, 2015). See also U.S. Dept. of Health and Human Services, Health Resources and Services Administration, *Financing Dental Education: Public Policy Interests, Issues and Strategic Considerations*, p. 39 (2005) <http://bhpr.hrsa.gov/healthworkforce1/reports/financedentaledu.pdf> (last visited Sept. 21, 2015).

²⁰ Comm. on Health Regulation, The Florida Senate, *Review Eligibility of Dentist Licensure in Florida and Other Jurisdictions*, p.15 (Interim Report 2012-127) (Sept. 2011) <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-127hr.pdf> (last visited Sept. 21, 2015). The report concluded, in part: “Florida may become more competitive in its recruitment of dentists in rural areas and may enhance Florida’s dental care for underserved populations if it offers a loan forgiveness program. The program could require dentists seeking loan assistance to serve in a rural area (the Panhandle or central, south Florida) and require dentists to serve a certain percentage of Medicaid recipients or participate in the provider network of managed care entities participating in the Medicaid program for a particular period of time. Considering the current lack of state resources, it may be beneficial to limit the number of dentists that may apply to the loan forgiveness program and target resources to areas with the most need for general dentists or specialists.” At the time, Florida was one of only eight states that did not have a state loan forgiveness program. According to the American Dental Association, it is one of only 11 states: Alabama, Arkansas, Connecticut, Florida, Georgia, Hawaii, Idaho, Indiana, Montana, Texas, and Utah as of July 2014. <http://www.ada.org/-/media/ADA/Education%20and%20Careers/Files/dental-student-loan-repayment-resource.ashx> (Last visited Mar. 2, 2015).

²¹American Dental Education Association, *supra* note 19, at 26; *Financing Dental Education*, *supra* note 19, at 40.

²² Florida Dept. of Health, *Senate Bill Analysis SB 234*, p. 2, (Sept. 24, 2015) (on file with the Senate Health Policy Committee).

²³ *Id.*

²⁴ Chapter 92-33, s. 111, Laws of Fla. (creating s. 381.0302, F.S., effective July 1, 1992).

²⁵ Section 381.0302(2)(b)1., F.S. (2011).

program²⁶ or in a medically underserved area.²⁷ Membership in the FHSC could be extended to any health care practitioner who provided uncompensated care to medically indigent patients.²⁸ All FHSC members were required to enroll in Medicaid and to accept all patients referred by the DOH pursuant to the program agreement.²⁹ In exchange for this service, an FHSC member was made an agent of the state and granted sovereign immunity under s. 768.28(9), F.S., when providing uncompensated care to medically indigent patients referred for treatment by the DOH.³⁰

The statute authorized the DOH to provide loan repayment assistance and travel and relocation reimbursement to allopathic and osteopathic medical residents with primary care specialties during their last two years of residency training or upon completion of residency training, and to physician assistants and nurse practitioners with primary care specialties, in return for an agreement to serve a minimum of two years in the FHSC. During the period of service, the maximum amount of annual financial payments was limited to no more than the annual total of loan repayment assistance and tax subsidies authorized by the National Health Services Corps (NHSC) loan repayment program.³¹

During the 20 years the program was authorized by law, it was funded only three times. A total of \$3,684,000 was appropriated in the 1994-1995 fiscal year, 1995-1996 fiscal year, and 1996-1997 fiscal year for loan assistance payments to all categories of eligible health care practitioners. Of that amount, \$971,664 was directed to 18 dentists for an average award of \$25,570 per year of service in the program.³² The 2007 Legislature attempted to reinvigorate the program by appropriating \$700,000 to fund loan repayment assistance for dentists only.³³ However, the appropriation and a related substantive bill were vetoed by the governor.³⁴ The Legislature repealed the program in 2012.³⁵

²⁶ “Public health program” was defined to include a county health department, a children’s medical services program, a federally funded community health center, a federally funded migrant health center, or other publicly funded or nonprofit health care program designated by the department. Section 381.0302(2)(e), F.S. (2011).

²⁷ “Medically underserved area” was defined to include: a geographic area, a special population, or a facility that has a shortage of health professionals as defined by federal regulations; a county health department, community health center, or migrant health center; or a geographic area or facility designated by rule of the department that has a shortage of health care practitioners who serve Medicaid and other low-income patients. Section 381.0302(2)(c), F.S. (2011).

²⁸ “Medically indigent person” was defined as a person who lacks public or private health insurance, is unable to pay for care, and is a member of a family with income at or below 185 percent of the federal poverty level. Section 381.0302(2)(d), F.S. (2011).

²⁹ Section 381.0302(10), F.S. (2011).

³⁰ Section 381.0302(11), F.S. (2011).

³¹ Section 381.0302(6), F.S. (2011).

³² E-mail from Karen Lundberg, Florida Dept. of Health, to Joe Anne Hart, Florida Dental Association (Sept. 16, 2005) (on file with the Senate Committee on Health Policy).

³³ Chapter 2007-72, Laws of Fla. The funding was contained in Specific Appropriations 677A of the General Appropriation Act, but later vetoed pursuant to the Governor’s line item veto authority.

³⁴ *Journal of the Florida Senate*, at 3 (June 12, 2007).

³⁵ Chapter 2012-184, s. 45, Laws of Fla.

National Health Service Corps

The NHSC programs provide scholarships and educational loan repayment to primary care providers³⁶ who agree to practice in areas that are medically underserved. NHSC loan repayment program (LRP) participants fulfill their service requirement by working at NHSC-approved sites in HPSAs. The NHSC-approved sites are community-based health care facilities that provide comprehensive outpatient, ambulatory, primary health care services. Eligible dental facilities must be located in a dental HPSA and offer comprehensive primary dental health services. NHSC-approved sites (with the exception of correctional facilities and free clinics) are required to provide services for free or on a sliding fee scale (SFS) or discounted fee schedule for low-income individuals. The SFS or discounted fee schedule is based upon the Federal Poverty Guidelines, and patient eligibility is determined by annual income and family size.³⁷

The LRP provides funds to participants to repay their outstanding qualifying educational loans. Maximum loan reimbursement under the program is \$50,000 for a two-year, full-time practice or up to \$15,000 for a two-year, half-time clinical practice, although participants may be eligible to continue loan repayment beyond the initial term.^{38,39} Participants who breach their LRP agreement are subject to monetary damages, which are the sum of the amount of assistance received by the participant representing any period of obligated service not completed, a penalty, and interest. Loan repayments are exempt from federal income and employment taxes and are not included as wages when determining benefits under the Social Security Act.⁴⁰ As of September 2015, there were 47 full-time-equivalent NHSC dentists in Florida.⁴¹

A second NHSC program, the State Loan Repayment Program (SLRP) offers cost-sharing grants to states to operate their own state educational loan repayment programs for primary care providers, including dental professionals, working in HPSAs within the state. The SLRP varies from state-to-state and may differ in eligible categories of providers, practice sites, length of required service commitment, and the amount of loan repayment assistance offered. However, there are certain statutory requirements SLRP grantees must meet. There is a minimum two-year service commitment with an additional one-year commitment for each year of additional support requested. Any SLRP program participant must practice at an eligible site located in a federally-designated HPSA. Like the NHSC loan repayment program awards, assistance provided through an SLRP is not taxable.

³⁶ Primary care physicians, nurse practitioners, certified nurse midwives, physician assistants, dentists, dental hygienists, and behavioral and mental health providers, including health service psychologists, licensed clinical social workers, marriage and family therapists, psychiatrist nurse specialists, and licensed professional counselors.

³⁷ U.S. Dept. of Health and Human Services, Health Resources and Services Administration, *National Health Service Corps Site Reference Guide*, (April 14, 2014) <http://nhsc.hrsa.gov/downloads/sitereference.pdf> (last visited Mar. 2, 2015).

³⁸ The definition of part-time and full-time vary by discipline. The guidelines for both can be found in the *Fiscal Year 2015 Application and Program Guidance* packet beginning on 19 <http://www.nhsc.hrsa.gov/loanrepayment/lrpapplicationguidance.pdf> (last viewed Feb, 27, 2015).

³⁹ U.S. Department of Health and Human Services, Loan Repayment Program - *Fiscal Year 2015 Application and Program Guidance*, pp. 4-5 (January 2015) <http://www.nhsc.hrsa.gov/loanrepayment/lrpapplicationguidance.pdf> (last viewed Feb. 27, 2015).

⁴⁰ U.S. Dept. of Health and Human Services, Health Resources and Services Administration, *National Health Service Corps 101* (on file in the Senate Committee on Health Policy).

⁴¹ E-mail from Debbie Reich, Supervisor, State Primary Care Office, Health Statistics and Performance Management, Florida Dept. of Health (Sept. 22, 2015) (on file with the Senate Committee on Health Policy).

In addition, the SLRP requires a \$1 state match for every \$1 provided under the federal grant. While the SLRP does not limit award amounts, the maximum award amount per provider that the federal government will support through its grant is \$50,000 per year, with a minimum service commitment of two years.

Florida does not currently participate in SLRP.

III. Effect of Proposed Changes:

The bill creates the dental care access accounts initiative at the DOH. The initiative is conditioned on the availability of funds and is intended to encourage dentists to practice in dental health professional shortage areas or medically underserved areas or serve a medically underserved population. The bill defines several key terms:

- Dental health professional shortage area: A geographic area so designated by the Health Resources and Services Administration of the U.S. Department of Health and Human Services;
- Medically underserved area: A designated health professional shortage area that lacks an adequate number of dental health professionals to serve Medicaid and other low income patients; and
- Public health program: A county health department, the Children's Medical Services program, a federally qualified community health center, a federally-funded migrant health center, or other publicly-funded or not-for-profit health care program designated by the DOH.

The initiative will be developed by the DOH to benefit dentists licensed to practice in this state who demonstrate, as required by DOH rule:

- Active employment by a public health program in a dental health professional shortage area or a medically underserved area; or
- A commitment to opening a private practice in a dental health professional shortage area or medically underserved area by residing in the area, maintaining a Medicaid provider agreement, enrolling with one or more Medicaid managed care plans, expending capital to open an office to serve at least 1,200 patients, and obtaining community financial support.

The DOH is required to establish dental access accounts for dentists who meet the requirements in the bill and to implement an electronic benefits transfer system. Funds from the account may be used only for specific purposes, such as payment of student loans; investment in property, facilities, or equipment necessary to establish an office and payment of transitional expenses related to relocating or opening a dental practice.

Subject to available appropriations, the DOH is required to distribute funds to the dental access accounts in amounts not to exceed \$100,000 and no less than \$10,000. A state award may not exceed three times the amount contributed to an account in the same year from a local source. The DOH is authorized to accept funds for deposit from local sources.

If a dentist qualifies for an account on the basis of his or her employment with a public health program, the dentist's salary and associated employer expenditures may count as local match for

a state award if the salary and employer expenditures are not state funds. State funds may not be used to calculate amounts contributed from local sources.

Accounts may be terminated if the dentist no longer works for a public health program and does not open a dental practice in a designated area within 30 days of terminating employment, the dentist's practice is no longer located in a dental professional shortage area or a medically underserved area, the provider has been terminated from Medicaid, or the provider has participated in any fraudulent activity. The DOH is directed to close an account five years after the first deposit or upon a dentist's termination from the program.

Any remaining funds after five years or from terminated accounts may be awarded to another account or returned to the donor. A dentist is required to repay any funds withdrawn from the account after the occurrence of an event which requires account closure, if the dentist fails to maintain eligibility for the program through employment in a public health program or establishing a dental practice for a minimum of two years, or uses the funds for unauthorized purposes. The DOH is authorized to recover the withdrawn funds through disciplinary enforcement actions and other methods authorized by law.

The DOH is authorized to adopt rules for application procedures that:

- Limit the number of applicants;
- Incorporate a documentation process for evidence of sufficient capital expenditures in opening a dental practice, such as contracts or leases or other acquisitions of a practice location of at least 30 percent of the value of equipment or supplies necessary to operate a practice; and
- Give priority to those applicants practicing in the areas receiving higher rankings by the Department of Economic Opportunity.

The DOH may also establish by rule a process to verify that funds withdrawn from an account have been used for the purposes authorized.

The Department of Economic Opportunity shall rank the dental professional shortage areas and medically underserved areas based on the extent to which limited access to dental care is impeding economic development.

The DOH must develop a marketing plan for the dental care access account initiative with the University of Florida College of Dentistry, the Nova Southeastern College of Dental Medicine, the Lake Erie College of Osteopathic Medicine School of Dental Medicine, and the Florida Dental Association.

Beginning in January 2018, the DOH is required to issue a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives which must include:

- The number of patients served by dentists who receive funding under the bill;
- The number of Medicaid recipients served by dentists who receive funding under the bill;
- The average number of hours worked and patients served in a week by dentists who receive funding under the bill;

- The number of dentists in each dental health professional shortage area or medically underserved area who receive funding under the bill;
- The amount and source of local matching funds received by the DOH;
- The amount of state funds awarded to dentists under the bill; and
- A complete accounting of the use of funds, by categories identified by the DOH, including, but not limited to, loans, supplies, equipment, rental property payments, real property purchases, and salary and wages.

The DOH is directed under the bill to adopt rules to require dentists to report information to the DOH which is necessary for the DOH to fulfill the reporting requirement.

The bill's effective date is July 1, 2016.

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:

Under SB 234, Floridians living in those areas identified as medically underserved and have little to no access to dental care could benefit from this initiative as it could bring additional dental professionals to their communities. The initiative also permits the grantees to utilize the funds to transition or relocate to new areas and to build or renovate office space in rural communities, which would generate economic growth for small towns and cities.

The ability to maintain good oral health for adults and children enables workers to also be more productive and for children to participate more actively in school activities.

Additionally, dentists who qualify for loan repayment assistance will benefit from a reduction in their student loan debt.

C. Government Sector Impact:

This bill will create a fiscal impact to the DOH for the costs related to the implementation and management of the dental care access account initiative. The projected impact is \$306,064 for the 2016-2017 fiscal year with a recurring cost of \$277,296 beginning with Fiscal Year 2017-2018.

The initial cost for the electronic benefit transfer contract/vendor is estimated at \$100,000 for the first year and \$50,000 for the second year. The DOH reports that there is a current EBT system that could be used to implement this system, but it is unknown if it could accommodate all of the provisions of this bill. The EBT systems charge a nominal fee of approximately \$0.50 per participant per month as a maintenance fee. The DOH also anticipates a withdrawal fee of at least \$1 per transaction when a dentist makes a withdrawal from his or her account.

The number of dentists qualifying for this initiative is unknown.⁴² However, the DOH estimates at least 32 dentists could be served annually. The cost of the EBT system would have to be negotiated based on the number of dentists participating in the program.

The DOH also reports the bill will create a workload impact that current staff is unable to meet. Two additional staff members (2 FTEs) would be required to develop the application process and adopt rules. Staff will also be needed to monitor activity, dentist conduct, dentist membership status, and rulings by the Board of Dentistry on recipients.

The following are the estimated expenditures for the DOH:⁴³

Estimated Expenditures (General Revenue)	1st Year	2nd Year Annualization/Recurring
SALARIES		
1 FTE Health Care Program Analyst @ \$40,948 - pay grade 24	\$41,460	\$55,280
1 FTE Senior Management Analyst II @ \$46,381 - pay grade 26	\$47,114	\$62,818
EXPENSES		
2 FTEs Calculated with standard DOH professional package (limited travel) @ \$15742	\$31,484	\$23,486
2 docking stations (@ \$142 each)	\$294	\$0-
HUMAN RESOURCES SERVICES		
2 FTEs Calculated with standard DOH Central Office package @ \$356	\$712	\$712

⁴² Florida Dept. of Health, *Senate Bill Analysis 234*, pp.4-5, (Sept. 24, 2015) (on file with the Senate Committee on Health Policy).

⁴³ *Id.*, at p 2.

Estimated Expenditures (General Revenue)	1st Year	2nd Year Annualization/Recurring
Operating Capital Outlay		
Operating Capital Outlay	\$0.00	\$0.00
Contractual Services		
Estimate for the development, implementation and maintenance of an electronic benefit transfer (EBT) system	\$100,000	\$50,000
Marketing Campaign*	\$85,000	\$85,000
TOTAL ESTIMATED EXPENDITURES	\$306,064	\$277,296

*The DOH is also directed to develop a marketing plan with Florida-based dental schools.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 381.4019 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.

By Senator Gaetz

1-00273-16

2016234__

1 A bill to be entitled
 2 An act relating to dental care; creating s. 381.4019,
 3 F.S.; establishing a joint local and state dental care
 4 access account initiative, subject to the availability
 5 of funding; authorizing the creation of dental care
 6 access accounts; specifying the purpose of the
 7 initiative; defining terms; providing criteria for the
 8 selection of dentists for participation in the
 9 initiative; providing for the establishment of
 10 accounts; requiring the Department of Health to
 11 implement an electronic benefit transfer system;
 12 providing for the use of funds deposited in the
 13 accounts; requiring the department to distribute state
 14 funds to accounts, subject to legislative
 15 appropriations; authorizing the department to accept
 16 contributions from a local source for deposit in a
 17 designated account; limiting the number of years that
 18 an account may remain open; providing for the
 19 immediate closing of accounts under certain
 20 circumstances; authorizing the department to transfer
 21 state funds remaining in a closed account at a
 22 specified time and to return unspent funds from local
 23 sources; requiring a dentist to repay funds in certain
 24 circumstances; authorizing the department to pursue
 25 disciplinary enforcement actions and to use other
 26 legal means to recover funds; requiring the department
 27 to establish by rule application procedures and a
 28 process to verify the use of funds withdrawn from a
 29 dental care access account; requiring the department

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

1-00273-16

2016234__

30 to give priority to applications from dentists
 31 practicing in certain areas; requiring the Department
 32 of Economic Opportunity to rank dental health
 33 professional shortage areas and medically underserved
 34 areas; requiring the Department of Health to develop a
 35 marketing plan in cooperation with certain dental
 36 colleges and the Florida Dental Association; requiring
 37 the Department of Health to annually submit a report
 38 with certain information to the Governor and the
 39 Legislature; providing rulemaking authority to require
 40 the submission of information for such reporting;
 41 providing an effective date.

42
 43 Be It Enacted by the Legislature of the State of Florida:

44
 45 Section 1. Section 381.4019, Florida Statutes, is created
 46 to read:

47 381.4019 Dental care access accounts.—Subject to the
 48 availability of funds, the Legislature establishes a joint local
 49 and state dental care access account initiative and authorizes
 50 the creation of dental care access accounts to promote economic
 51 development by supporting qualified dentists who practice in
 52 dental health professional shortage areas or medically
 53 underserved areas or who treat a medically underserved
 54 population. The Legislature recognizes that maintaining good
 55 oral health is integral to overall health status and that the
 56 good health of residents of this state is an important
 57 contributing factor in economic development. Better health,
 58 including better oral health, enables workers to be more

Page 2 of 8

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59 productive, reduces the burden of health care costs, and enables
 60 children to improve in cognitive development.

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

62 (a) "Dental health professional shortage area" means a
 63 geographic area so designated by the Health Resources and
 64 Services Administration of the United States Department of
 65 Health and Human Services.

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

67 (c) "Medically underserved area" means a geographic area so
 68 designated by the Health Resources and Services Administration
 69 of the United States Department of Health and Human Services.

70 (d) "Public health program" means a county health
 71 department, the Children's Medical Services Network, a federally
 72 qualified community health center, a federally funded migrant
 73 health center, or other publicly funded or nonprofit health care
 74 program as designated by the department.

75 (2) The department shall develop and implement a dental
 76 care access account initiative to benefit dentists licensed to
 77 practice in this state who demonstrate, as required by the
 78 department by rule:

79 (a) Active employment by a public health program located in
 80 a dental health professional shortage area or a medically
 81 underserved area; or

82 (b) A commitment to opening a private practice in a dental
 83 health professional shortage area or a medically underserved
 84 area, as demonstrated by the dentist residing in the designated
 85 area, maintaining an active Medicaid provider agreement,
 86 enrolling in one or more Medicaid managed care plans, expending
 87 sufficient capital to make substantial progress in opening a

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88 dental practice that is capable of serving at least 1,200
 89 patients, and obtaining financial support from the local
 90 community in which the dentist is practicing or intending to
 91 open a practice.

92 (3) The department shall establish dental care access
 93 accounts as individual benefit accounts for each dentist who
 94 satisfies the requirements of subsection (2) and is selected by
 95 the department for participation. The department shall implement
 96 an electronic benefit transfer system that enables each dentist
 97 to spend funds from his or her account for the purposes
 98 described in subsection (4).

99 (4) Funds contributed from state and local sources to a
 100 dental care access account may be used for one or more of the
 101 following purposes:

102 (a) Repayment of dental school student loans.

103 (b) Investment in property, facilities, or equipment
 104 necessary to establish and operate a dental office consisting of
 105 no fewer than two operatories.

106 (c) Payment of transitional expenses related to the
 107 relocation or opening of a dental practice which are
 108 specifically approved by the department.

109 (5) Subject to legislative appropriation, the department
 110 shall distribute state funds as an award to each dental care
 111 access account. An individual award must be in an amount not
 112 more than \$100,000 and not less than \$10,000, except that a
 113 state award may not exceed 3 times the amount contributed to an
 114 account in the same year from local sources. If a dentist
 115 qualifies for a dental care access account under paragraph
 116 (2) (a), the dentist's salary and associated employer

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117 expenditures constitute a local match and qualify the account
 118 for a state award if the salary and associated expenditures do
 119 not come from state funds. State funds may not be included in a
 120 determination of the amount contributed to an account from local
 121 sources.

122 (6) The department may accept contributions of funds from a
 123 local source for deposit in the account of a dentist designated
 124 by the donor.

125 (7) The department shall close an account no later than 5
 126 years after the first deposit of state or local funds into that
 127 account or immediately upon the occurrence of any of the
 128 following:

129 (a) Termination of the dentist's employment with a public
 130 health program, unless, within 30 days of such termination, the
 131 dentist opens a private practice in a dental health professional
 132 shortage area or medically underserved area.

133 (b) Termination of the dentist's practice in a designated
 134 dental health professional shortage area or medically
 135 underserved area.

136 (c) Termination of the dentist's participation in the
 137 Florida Medicaid program.

138 (d) Participation by the dentist in any fraudulent
 139 activity.

140 (8) Any state funds remaining in a closed account may be
 141 awarded and transferred to another account concurrent with the
 142 distribution of funds under the next legislative appropriation
 143 for the initiative. The department shall return to the donor on
 144 a pro rata basis unspent funds from local sources which remain
 145 in a closed account.

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146 (9) If the department determines that a dentist has
 147 withdrawn account funds after the occurrence of an event
 148 specified in subsection (7), has used funds for purposes not
 149 authorized in subsection (4), or has not remained eligible for a
 150 dental care access account for a minimum of 2 years, the dentist
 151 shall repay the funds to his or her account. The department may
 152 recover the withdrawn funds through disciplinary enforcement
 153 actions and other methods authorized by law.

154 (10) The department shall establish by rule:

155 (a) Application procedures for dentists who wish to apply
 156 for a dental care access account. An applicant may demonstrate
 157 that he or she has expended sufficient capital to make
 158 substantial progress in opening a dental practice that is
 159 capable of serving at least 1,200 patients by documenting
 160 contracts for the purchase or lease of a practice location and
 161 providing executed obligations for the purchase or other
 162 acquisition of at least 30 percent of the value of equipment or
 163 supplies necessary to operate a dental practice. The department
 164 may limit the number of applicants selected and shall give
 165 priority to those applicants practicing in the areas receiving
 166 higher rankings pursuant to subsection (11). The department may
 167 establish additional criteria for selection which recognize an
 168 applicant's active engagement with and commitment to the
 169 community providing a local match.

170 (b) A process to verify that funds withdrawn from a dental
 171 care access account have been used solely for the purposes
 172 described in subsection (4).

173 (11) The Department of Economic Opportunity shall rank the
 174 dental health professional shortage areas and medically

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175 underserved areas of the state based on the extent to which
 176 limited access to dental care is impeding the areas' economic
 177 development, with a higher ranking indicating a greater
 178 impediment to development.

179 (12) The department shall develop a marketing plan for the
 180 dental care access account initiative in cooperation with the
 181 University of Florida College of Dentistry, the Nova
 182 Southeastern University College of Dental Medicine, the Lake
 183 Erie College of Osteopathic Medicine School of Dental Medicine,
 184 and the Florida Dental Association.

185 (13) (a) By January 1 of each year, beginning in 2018, the
 186 department shall issue a report to the Governor, the President
 187 of the Senate, and the Speaker of the House of Representatives
 188 which must include:

189 1. The number of patients served by dentists receiving
 190 funding under this section.

191 2. The number of Medicaid recipients served by dentists
 192 receiving funding under this section.

193 3. The average number of hours worked and patients served
 194 in a week by dentists receiving funding under this section.

195 4. The number of dentists in each dental health
 196 professional shortage area or medically underserved area
 197 receiving funding under this section.

198 5. The amount and source of local matching funds received
 199 by the department.

200 6. The amount of state funds awarded to dentists under this
 201 section.

202 7. A complete accounting of the use of funds by categories
 203 identified by the department, including, but not limited to,

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204 loans, supplies, equipment, rental property payments, real
 205 property purchases, and salary and wages.

206 (b) The department shall adopt rules to require dentists to
 207 report information to the department which is necessary for the
 208 department to fulfill its reporting requirement under this
 209 subsection.

210 Section 2. This act shall take effect July 1, 2016.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on Education, *Chair*
Appropriations
Education Pre-K - 12
Ethics and Elections
Health Policy
Higher Education
Rules

SENATOR DON GAETZ
1st District

Committee Request

To: Senator Aaron Bean, Chair
Health Policy Committee

Subject: Committee Agenda Request

Date: October 8, 2015

I respectfully request that Senate Bill 234, Dental Care, be placed on the Health Policy Committee agenda at your convenience. Thank you for your time and consideration.

Respectfully,

A handwritten signature in black ink, appearing to read "Don Gaetz", written in a cursive style.

Senator Don Gaetz

REPLY TO:

- 4300 Legendary Drive, Suite 230, Destin, FL 32541 (850) 897-5747 FAX: (888) 263-2259
- 420 Senate Office Building, 404 South Monroe Street, Tallahassee, FL 32399-1100 (850) 487-5001
- 5230 West U.S. Highway 98, Administration Building, 2nd Floor, Panama City, FL 32401 (850) 747-5856

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD



10/20/15

Meeting Date

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

234

Bill Number (if applicable)

Topic Dental Care

Amendment Barcode (if applicable)

Name Avery Coleman

Job Title _____

Address _____

Street

Phone 321.228.7339

City

State

Zip

Email avery@fachc.org

Speaking: For Against Information

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

Representing Florida Association of Community Health Centers

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

10/20/15
Meeting Date

234
Bill Number (if applicable)

Topic Dental Care

Amendment Barcode (if applicable)

Name JACK MÉRAY

Job Title _____

Address 200 W. COLLEGE AVE. # 304

Phone 950-577-5727

Street

THH

City

FL

State

32301

Zip

Email Jmeray@aarp.org

Speaking: For Against Information

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

Representing AARP

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

10/20/15
Meeting Date

SB 234
Bill Number (if applicable)

Topic Dentists

Amendment Barcode (if applicable)

Name Joe Anne Hart

Job Title Div. of Governmental Affairs

Address 118 E. Jefferson St
Street

Phone (850) 224-1089

Tall FL 32301
City State Zip

Email jahart@floridadental.org

Speaking: For Against Information

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

Representing Florida Dental Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD



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

10/20/15

Meeting Date

SB 234

Bill Number (if applicable)

Topic DENTIST

Amendment Barcode (if applicable)

Name RICK STEVENSON DDS

Job Title DENTIST

Address 6851 BELFORT OAKS PLACE

Phone 904 571-6048

Street

JACKSONVILLE

FL

32216

Email drwgs@bellsouth.net

City

State

Zip

Speaking: For Against Information

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

Representing FLORIDA DENTAL ASSOCIATION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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



10/20/2015

Meeting Date

234

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Brian Pitts

Job Title Trustee

Address 1119 Newton Ave S

Phone 727/897-9291

Street

St Petersburg

City

FL

State

33705

Zip

Email justice2jesus@yahoo.com

Speaking: For Against Information

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

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 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 320

INTRODUCER: Senator Richter

SUBJECT: Public Records/Medical Technicians or Paramedics Personal Identifying Information

DATE: October 13, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Stovall	HP	Favorable
2.			GO	
3.			RC	

I. Summary:

SB 320 amends s. 119.071, F.S., to exempt certain personal identifying information of any current or former emergency medical technician (EMT) or paramedic certified under ch. 401, F.S., and of his or her spouse and children. The bill requires that the EMT or paramedic must have made a reasonable effort to protect such information from being accessible through other public means for such information to qualify for the exemption.

The bill states that it is a public necessity to protect such information as EMTs and paramedics are public safety officers who often deal with violent, angry, or mentally unstable individuals and the release of the exempted information could place an EMT or paramedic in danger of being physically or emotionally harmed or stalked by a person who has a hostile reaction to his or her encounter with the EMT or paramedic.

The provisions of the bill are subject to the Open Government Sunset Review Act and will be automatically repealed on October 2, 2021, unless reenacted by the Legislature.

A two-thirds vote of each house is required for the passage of the bill.

II. Present Situation:

Public Records Law

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business of any public body, officer or employee of the state, including all three branches of state government, local governmental entities and any person acting on behalf of the government.²

¹ FLA. CONST., art. I, s. 24(a).

² FLA. CONST., art. I, s. 24(a).

In addition to the Florida Constitution, the Florida Statutes provide that the public may access legislative and executive branch records.³ Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.⁴ The Public Records Act states that

It is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁵

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁶ The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

The Legislature may create an exemption to public records requirements.⁹ An exemption must pass by a two-thirds vote of the House and the Senate.¹⁰ In addition, an exemption must explicitly lay out the public necessity justifying the exemption, and the exemption must be no broader than necessary to accomplish the stated purpose of the exemption.¹¹ A statutory exemption which does not meet these criteria may be unconstitutional and may not be judicially saved.¹²

³ The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature’s records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislatures are primarily located in s. 11.0431(2)-(3), F.S.

⁴ Public records laws are found throughout the Florida Statutes.

⁵ Section 119.01(1), F.S.

⁶ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” to mean as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ FLA. CONST., art. I, s. 24(c).

¹¹ FLA. CONST., art. I, s. 24(c).

¹² *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So.2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

When creating a public records exemption, the Legislature may provide that a record is ‘confidential and exempt’ or ‘exempt.’¹³ Records designated as ‘confidential and exempt’ may be released by the records custodian only under the circumstances defined by the Legislature. Records designated as ‘exempt’ may be released at the discretion of the records custodian.¹⁴

EMTs and Paramedics

EMTs and paramedics take care of sick or injured patients in an emergency medical setting. EMTs and paramedics often work closely with police and firefighters during an emergency situation. The typical duties of an EMT or paramedic include:

- Responding to 911 calls for emergency medical assistance;
- Assessing a patient’s condition and determining a course of treatment;
- Following guidelines learned in training or received from physicians who oversee their work;
- Using backboards and restraints to keep patients still and safe in an ambulance during transport;
- Helping transfer patients to the emergency department of a healthcare facility and report their observations and treatment to the staff;
- Creating a patient care report, documenting the medical care given to the patient; and
- Replacing used supplies and checking or cleaning equipment after use.¹⁵

In Florida EMTs and paramedics are certified by the Department of Health (DOH).¹⁶

Threats to EMTs and Paramedics

In their line of work, EMTs and paramedics are often first responders to the scenes of an emergency which may put them in contact with people who are distraught or mentally unstable. Also, although EMTs and paramedics often save patient’s lives, they cannot always guarantee a good outcome for the patient. Bad outcomes can lead to anger and blame being directed toward the EMT or paramedic who treated the patient. For example, a paramedic in Naples was threatened by an anonymous caller after the family of such a patient obtained the paramedic’s personal cell phone number through a public records request.¹⁷ Additionally, EMTs and paramedics may be subject to threats which are not related to an emergency situation. For example, an emergency medical services instructor at Daytona State College received threats from students on multiple occasions which referenced her home address that was obtained from the DOH’s Medical Quality Assurance license verification website.¹⁸

¹³ If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

¹⁴ A record classified as exempt from public disclosure may be disclosed under certain circumstances. *Williams v. City of Minneola*, 575 So. 2d 687 (Fla. 5th DCA 1991).

¹⁵ See <http://www.bls.gov/ooh/Healthcare/EMTs-and-paramedics.htm#tab-2>, (last visited on October 14, 2015).

¹⁶ EMT and Paramedic certification criteria are established in ch. 401, F.S.

¹⁷ Email conversation with Walter Kopka, Chief of Collier County Emergency Medical Services.

¹⁸ Email conversation with Patricia Maher, Associate Professor and Assistant Chair of EMS with Daytona State College.

III. Effect of Proposed Changes:

SB 320 amends s. 119.071, F.S., to exempt the home address, telephone number, and date of birth of any current or former emergency medical technician (EMT) or paramedic certified under ch. 401, F.S., and of his or her spouse and children. The bill also exempts the EMT's or paramedic's photograph, his or her spouse's and children's places of employment, and the names and locations of any schools or day care facilities attended by his or her children. The bill requires that the EMT or paramedic must have made a reasonable effort to protect such information from being accessible through other public means for such information to qualify for the exemption.

The bill states that it is a public necessity to protect such information as EMTs and paramedics are public safety officers who often deal with violent, angry, or mentally unstable individuals and the release of the exempted information could place an EMT or paramedic in danger of being physically or emotionally harmed or stalked by a person who has a hostile reaction to his or her encounter with the EMT or paramedic.

The provisions of the bill are subject to the Open Government Sunset Review Act and will be automatically repealed on Oct. 2, 2021, unless reenacted by the Legislature.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting in each house of the Legislature for passage of a newly-created or expanded public records or public meetings exemption. Because this bill creates a new public records exemption, it requires a two-thirds vote for passage.

Public Necessity Statement

Article I, s. 24(c) of the Florida Constitution requires a public necessity statement for a newly-created or expanded public records or public meetings exemption. This bill creates a new public records exemption; therefore, it includes a public necessity statement.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 119.071 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.

By Senator Richter

23-00371-16

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1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 119.071, F.S.; creating an exemption from public
 4 records requirements for certain identifying and
 5 location information of current or former emergency
 6 medical technicians or paramedics certified under ch.
 7 401, F.S., and the spouses and children of such
 8 emergency medical technicians or paramedics, under
 9 specified circumstances; providing for future
 10 legislative review and repeal of the exemption under
 11 the Open Government Sunset Review Act; providing a
 12 statement of public necessity; providing an effective
 13 date.
 14
 15 Be It Enacted by the Legislature of the State of Florida:
 16
 17 Section 1. Paragraph (d) of subsection (4) of section
 18 119.071, Florida Statutes, is amended to read:
 19 119.071 General exemptions from inspection or copying of
 20 public records.—
 21 (4) AGENCY PERSONNEL INFORMATION.—
 22 (d)1. For purposes of this paragraph, the term "telephone
 23 numbers" includes home telephone numbers, personal cellular
 24 telephone numbers, personal pager telephone numbers, and
 25 telephone numbers associated with personal communications
 26 devices.
 27 2.a.(I) The home addresses, telephone numbers, social
 28 security numbers, dates of birth, and photographs of active or
 29 former sworn or civilian law enforcement personnel, including

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30 correctional and correctional probation officers, personnel of
 31 the Department of Children and Families whose duties include the
 32 investigation of abuse, neglect, exploitation, fraud, theft, or
 33 other criminal activities, personnel of the Department of Health
 34 whose duties are to support the investigation of child abuse or
 35 neglect, and personnel of the Department of Revenue or local
 36 governments whose responsibilities include revenue collection
 37 and enforcement or child support enforcement; the home
 38 addresses, telephone numbers, social security numbers,
 39 photographs, dates of birth, and places of employment of the
 40 spouses and children of such personnel; and the names and
 41 locations of schools and day care facilities attended by the
 42 children of such personnel are exempt from s. 119.07(1).
 43 (II) The names of the spouses and children of active or
 44 former sworn or civilian law enforcement personnel and the other
 45 specified agency personnel identified in sub-sub-subparagraph
 46 (I) are exempt from s. 119.07(1) and s. 24(a), Art. I of the
 47 State Constitution.
 48 (III) Sub-sub-subparagraph (II) is subject to the Open
 49 Government Sunset Review Act in accordance with s. 119.15, and
 50 shall stand repealed on October 2, 2018, unless reviewed and
 51 saved from repeal through reenactment by the Legislature.
 52 b. The home addresses, telephone numbers, dates of birth,
 53 and photographs of firefighters certified in compliance with s.
 54 633.408; the home addresses, telephone numbers, photographs,
 55 dates of birth, and places of employment of the spouses and
 56 children of such firefighters; and the names and locations of
 57 schools and day care facilities attended by the children of such
 58 firefighters are exempt from s. 119.07(1).

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59 c. The home addresses, dates of birth, and telephone
60 numbers of current or former justices of the Supreme Court,
61 district court of appeal judges, circuit court judges, and
62 county court judges; the home addresses, telephone numbers,
63 dates of birth, and places of employment of the spouses and
64 children of current or former justices and judges; and the names
65 and locations of schools and day care facilities attended by the
66 children of current or former justices and judges are exempt
67 from s. 119.07(1).

68 d. (I) The home addresses, telephone numbers, social
69 security numbers, dates of birth, and photographs of current or
70 former state attorneys, assistant state attorneys, statewide
71 prosecutors, or assistant statewide prosecutors; the home
72 addresses, telephone numbers, social security numbers,
73 photographs, dates of birth, and places of employment of the
74 spouses and children of current or former state attorneys,
75 assistant state attorneys, statewide prosecutors, or assistant
76 statewide prosecutors; and the names and locations of schools
77 and day care facilities attended by the children of current or
78 former state attorneys, assistant state attorneys, statewide
79 prosecutors, or assistant statewide prosecutors are exempt from
80 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

81 (II) The names of the spouses and children of current or
82 former state attorneys, assistant state attorneys, statewide
83 prosecutors, or assistant statewide prosecutors are exempt from
84 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

85 (III) Sub-sub-subparagraph (II) is subject to the Open
86 Government Sunset Review Act in accordance with s. 119.15, and
87 shall stand repealed on October 2, 2018, unless reviewed and

Page 3 of 11

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88 saved from repeal through reenactment by the Legislature.

89 e. The home addresses, dates of birth, and telephone
90 numbers of general magistrates, special magistrates, judges of
91 compensation claims, administrative law judges of the Division
92 of Administrative Hearings, and child support enforcement
93 hearing officers; the home addresses, telephone numbers, dates
94 of birth, and places of employment of the spouses and children
95 of general magistrates, special magistrates, judges of
96 compensation claims, administrative law judges of the Division
97 of Administrative Hearings, and child support enforcement
98 hearing officers; and the names and locations of schools and day
99 care facilities attended by the children of general magistrates,
100 special magistrates, judges of compensation claims,
101 administrative law judges of the Division of Administrative
102 Hearings, and child support enforcement hearing officers are
103 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
104 Constitution if the general magistrate, special magistrate,
105 judge of compensation claims, administrative law judge of the
106 Division of Administrative Hearings, or child support hearing
107 officer provides a written statement that the general
108 magistrate, special magistrate, judge of compensation claims,
109 administrative law judge of the Division of Administrative
110 Hearings, or child support hearing officer has made reasonable
111 efforts to protect such information from being accessible
112 through other means available to the public.

113 f. The home addresses, telephone numbers, dates of birth,
114 and photographs of current or former human resource, labor
115 relations, or employee relations directors, assistant directors,
116 managers, or assistant managers of any local government agency

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117 or water management district whose duties include hiring and
 118 firing employees, labor contract negotiation, administration, or
 119 other personnel-related duties; the names, home addresses,
 120 telephone numbers, dates of birth, and places of employment of
 121 the spouses and children of such personnel; and the names and
 122 locations of schools and day care facilities attended by the
 123 children of such personnel are exempt from s. 119.07(1) and s.
 124 24(a), Art. I of the State Constitution.

125 g. The home addresses, telephone numbers, dates of birth,
 126 and photographs of current or former code enforcement officers;
 127 the names, home addresses, telephone numbers, dates of birth,
 128 and places of employment of the spouses and children of such
 129 personnel; and the names and locations of schools and day care
 130 facilities attended by the children of such personnel are exempt
 131 from s. 119.07(1) and s. 24(a), Art. I of the State
 132 Constitution.

133 h. The home addresses, telephone numbers, places of
 134 employment, dates of birth, and photographs of current or former
 135 guardians ad litem, as defined in s. 39.820; the names, home
 136 addresses, telephone numbers, dates of birth, and places of
 137 employment of the spouses and children of such persons; and the
 138 names and locations of schools and day care facilities attended
 139 by the children of such persons are exempt from s. 119.07(1) and
 140 s. 24(a), Art. I of the State Constitution, if the guardian ad
 141 litem provides a written statement that the guardian ad litem
 142 has made reasonable efforts to protect such information from
 143 being accessible through other means available to the public.

144 i. The home addresses, telephone numbers, dates of birth,
 145 and photographs of current or former juvenile probation

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146 officers, juvenile probation supervisors, detention
 147 superintendents, assistant detention superintendents, juvenile
 148 justice detention officers I and II, juvenile justice detention
 149 officer supervisors, juvenile justice residential officers,
 150 juvenile justice residential officer supervisors I and II,
 151 juvenile justice counselors, juvenile justice counselor
 152 supervisors, human services counselor administrators, senior
 153 human services counselor administrators, rehabilitation
 154 therapists, and social services counselors of the Department of
 155 Juvenile Justice; the names, home addresses, telephone numbers,
 156 dates of birth, and places of employment of spouses and children
 157 of such personnel; and the names and locations of schools and
 158 day care facilities attended by the children of such personnel
 159 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 160 Constitution.

161 j.(I) The home addresses, telephone numbers, dates of
 162 birth, and photographs of current or former public defenders,
 163 assistant public defenders, criminal conflict and civil regional
 164 counsel, and assistant criminal conflict and civil regional
 165 counsel; the home addresses, telephone numbers, dates of birth,
 166 and places of employment of the spouses and children of such
 167 defenders or counsel; and the names and locations of schools and
 168 day care facilities attended by the children of such defenders
 169 or counsel are exempt from s. 119.07(1) and s. 24(a), Art. I of
 170 the State Constitution.

171 (II) The names of the spouses and children of the specified
 172 agency personnel identified in sub-sub-subparagraph (I) are
 173 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 174 Constitution. This sub-sub-subparagraph is subject to the Open

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175 Government Sunset Review Act in accordance with s. 119.15 and
 176 shall stand repealed on October 2, 2019, unless reviewed and
 177 saved from repeal through reenactment by the Legislature.

178 k. The home addresses, telephone numbers, and photographs
 179 of current or former investigators or inspectors of the
 180 Department of Business and Professional Regulation; the names,
 181 home addresses, telephone numbers, and places of employment of
 182 the spouses and children of such current or former investigators
 183 and inspectors; and the names and locations of schools and day
 184 care facilities attended by the children of such current or
 185 former investigators and inspectors are exempt from s. 119.07(1)
 186 and s. 24(a), Art. I of the State Constitution if the
 187 investigator or inspector has made reasonable efforts to protect
 188 such information from being accessible through other means
 189 available to the public. This sub-subparagraph is subject to the
 190 Open Government Sunset Review Act in accordance with s. 119.15
 191 and shall stand repealed on October 2, 2017, unless reviewed and
 192 saved from repeal through reenactment by the Legislature.

193 1. The home addresses and telephone numbers of county tax
 194 collectors; the names, home addresses, telephone numbers, and
 195 places of employment of the spouses and children of such tax
 196 collectors; and the names and locations of schools and day care
 197 facilities attended by the children of such tax collectors are
 198 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 199 Constitution if the county tax collector has made reasonable
 200 efforts to protect such information from being accessible
 201 through other means available to the public. This sub-
 202 subparagraph is subject to the Open Government Sunset Review Act
 203 in accordance with s. 119.15 and shall stand repealed on October

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204 2, 2017, unless reviewed and saved from repeal through
 205 reenactment by the Legislature.

206 m. The home addresses, telephone numbers, dates of birth,
 207 and photographs of current or former personnel of the Department
 208 of Health whose duties include, or result in, the determination
 209 or adjudication of eligibility for social security disability
 210 benefits, the investigation or prosecution of complaints filed
 211 against health care practitioners, or the inspection of health
 212 care practitioners or health care facilities licensed by the
 213 Department of Health; the names, home addresses, telephone
 214 numbers, dates of birth, and places of employment of the spouses
 215 and children of such personnel; and the names and locations of
 216 schools and day care facilities attended by the children of such
 217 personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of
 218 the State Constitution if the personnel have made reasonable
 219 efforts to protect such information from being accessible
 220 through other means available to the public. This sub-
 221 subparagraph is subject to the Open Government Sunset Review Act
 222 in accordance with s. 119.15 and shall stand repealed on October
 223 2, 2019, unless reviewed and saved from repeal through
 224 reenactment by the Legislature.

225 n. The home addresses, telephone numbers, dates of birth,
 226 and photographs of current or former impaired practitioner
 227 consultants who are retained by an agency or current or former
 228 employees of an impaired practitioner consultant whose duties
 229 result in a determination of a person's skill and safety to
 230 practice a licensed profession; the names, home addresses,
 231 telephone numbers, dates of birth, and places of employment of
 232 the spouses and children of such consultants or their employees;

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233 and the names and locations of schools and day care facilities
 234 attended by the children of such consultants or employees are
 235 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 236 Constitution if a consultant or employee has made reasonable
 237 efforts to protect such information from being accessible
 238 through other means available to the public. This sub-
 239 subparagraph is subject to the Open Government Sunset Review Act
 240 in accordance with s. 119.15 and shall stand repealed on October
 241 2, 2020, unless reviewed and saved from repeal through
 242 reenactment by the Legislature.

243 o. The home addresses, telephone numbers, dates of birth,
 244 and photographs of current or former emergency medical
 245 technicians or paramedics certified under chapter 401; the
 246 names, home addresses, telephone numbers, dates of birth, and
 247 places of employment of the spouses and children of such
 248 emergency medical technicians or paramedics; and the names and
 249 locations of schools and day care facilities attended by the
 250 children of such emergency medical technicians or paramedics are
 251 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 252 Constitution if the emergency medical technicians or paramedics
 253 have made reasonable efforts to protect such information from
 254 being accessible through other means available to the public.
 255 This sub-subparagraph is subject to the Open Government Sunset
 256 Review Act in accordance with s. 119.15 and shall stand repealed
 257 on October 2, 2021, unless reviewed and saved from repeal
 258 through reenactment by the Legislature.

259 3. An agency that is the custodian of the information
 260 specified in subparagraph 2. and that is not the employer of the
 261 officer, employee, justice, judge, or other person specified in

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262 subparagraph 2. shall maintain the exempt status of that
 263 information only if the officer, employee, justice, judge, other
 264 person, or employing agency of the designated employee submits a
 265 written request for maintenance of the exemption to the
 266 custodial agency.

267 4. The exemptions in this paragraph apply to information
 268 held by an agency before, on, or after the effective date of the
 269 exemption.

270 5. Except as otherwise expressly provided in this
 271 paragraph, this paragraph is subject to the Open Government
 272 Sunset Review Act in accordance with s. 119.15, and shall stand
 273 repealed on October 2, 2017, unless reviewed and saved from
 274 repeal through reenactment by the Legislature.

275 Section 2. The Legislature finds that it is a public
 276 necessity that the home addresses, telephone numbers, dates of
 277 birth, and photographs of current or former emergency medical
 278 technicians or paramedics certified under chapter 401, Florida
 279 Statutes; that the names, home addresses, telephone numbers, and
 280 places of employment of the spouses and children of such
 281 emergency medical technicians or paramedics; and that the names
 282 and locations of schools and day care facilities attended by the
 283 children of such emergency medical technicians or paramedics be
 284 exempt from public records requirements if the emergency medical
 285 technicians or paramedics have made reasonable efforts to
 286 protect such information from being accessible through other
 287 means available to the public. Emergency medical technicians or
 288 paramedics are public safety officers whose duties as first
 289 responders to accidents and life-threatening events often place
 290 them in traumatic circumstances in which loss of life and severe

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291 bodily injuries have occurred. They often deal with violent,
292 angry, or mentally unstable individuals. As a result, the
293 Legislature finds that release of identifying and location
294 information of emergency medical technicians or paramedics
295 certified under chapter 401, Florida Statutes, or the spouses
296 and children of such emergency medical technicians or
297 paramedics, could place them in danger of being physically or
298 emotionally harmed or stalked by a person who has a hostile
299 reaction to his or her encounter with such emergency medical
300 technicians or paramedics. The Legislature further finds that
301 the harm that may result from the release of such identifying
302 and location information outweighs any public benefit that may
303 be derived from the disclosure of the information.

304 Section 3. This act shall take effect July 1, 2016.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Ethics and Elections, *Chair*
Banking and Insurance, *Vice Chair*
Appropriations
Appropriations Subcommittee on Health
and Human Services
Commerce and Tourism
Regulated Industries
Rules

SENATOR GARRETT RICHTER

President Pro Tempore
23rd District

October 6, 2015

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

Dear Chairman Bean:

Senate Bill 320 relating to Public Records/Medical Technicians or Paramedics, has been referred to your committee. I would appreciate your consideration to place this bill on your committee's agenda at the earliest opportunity.

Sincerely,

A handwritten signature in black ink, appearing to read "Garrett Richter".

Garrett Richter

cc: Sandra Stovall, Staff Director

REPLY TO:

- 3299 E. Tamiami Trail, Suite 203, Naples, Florida 34112-4961 (239) 417-6205
- 404 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023
- 25 Homestead Road North, Suite 42 B, Lehigh Acres, Florida 33936 (239) 338-2777

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

10/20/2015

Meeting Date

320

Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic _____

Name Brian Pitts

Job Title Trustee

Address 1119 Newton Ave S
Street

Phone 727/897-9291

St Petersburg FL 33705
City State Zip

Email justice2jesus@yahoo.com

Speaking: For Against Information

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

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 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 378

INTRODUCER: Health Policy Committee and Senator Bean

SUBJECT: Cardiac Advisory Council for Children's Services Councils

DATE: October 20, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Lloyd	Stovall	HP	Fav/CS
2.			GO	
3.			AP	

I. Summary:

CS/SB 378 creates the Pediatric Cardiac Advisory Council (council) within the Department of Health (department) for the purpose of advising the department on the delivery of cardiac services to children. The bill specifies the duties and composition of the council.

The bill also authorizes the department, in coordination with the Agency for Health Administration (AHCA), to develop rules related to pediatric cardiac facilities. The bill creates the "Pediatric and Congenital Centers of Excellence" designation for facilities that meet standards established by the council and approved by the Director of Children's Medical Services and the State Surgeon General utilizing state and national professional standards.

Additionally, the bill provides that the law is remedial and makes the rulemaking authority retroactive to preserve existing rules.

CS/SB 378 has a minimal fiscal impact of \$336.00 annually.

The effective date of the bill is July 1, 2016.

II. Present Situation:

Children's Medical Services

Children's Medical Services (CMS) is a group of programs that serve children with special health care needs under the supervision of the department. Within CMS, individual services or programs are designed to address specific conditions or family needs such as the newborn screening program, early intervention screenings, or its managed medical assistance plan. CMS is created under Chapter 391 of the Florida Statutes and divided into three parts: Part I (General

Provisions), Part II (Children's Medical Services Councils and Panels), and Part III (Developmental Evaluation and Intervention Programs).

Statewide Children's Medical Services Network Advisory Council

The State Surgeon General has the discretion under s. 391.221, F.S., to appoint a 12-member Statewide Children's Medical Services Network Advisory Council to serve as an advisory body to the department. The council's duties shall include, but are not limited to:

- Recommending standards and credentialing requirements for health care providers in the CMS Network;
- Making recommendations to the director of CMS concerning the selection of CMS providers;
- Providing input to the CMS program on the policies governing the CMS Network;
- Reviewing the financial reports and financial status of the network and making recommendations concerning the methods of payment and costs controls for the network;
- Reviewing and recommending the scope of benefits for the network; and
- Reviewing network performance measures and outcomes and making recommendations for improvements to the network and its maintenance and collection of data and information.

Council members represent the private health care provider sector, families of children with special health care needs, the Agency for Health Care Administration (AHCA), the Chief Financial Officer, the Florida Chapter of the American Academy of Pediatrics, an academic pediatric program, and the health insurance industry.¹ The four-year terms were initially staggered and no member can be appointed for more than two consecutive terms. Members do not receive any compensation for their appointment except they are reimbursed for per diem and travel in accordance with s. 112.061, F.S.²

The department does not currently have an appointed Statewide Children's Medical Services Advisory Council.

Cardiac Technical Advisory Panel

The State Surgeon General also has general authority under s. 391.223, F.S., to establish technical advisory panels to assist with the development of specific policies and procedures for the Children's Medical Services program. On October 21, 2013, State Surgeon General John Armstrong created the Children's Medical Services Cardiac Technical Advisory Panel (CTAP) to provide both programmatic and technical advice to the department and its CMS program.³ The enabling document provides several charges to the panel:

- Developing recommended standards for personnel and facilities rendering pediatric congenital cardiac services as well as heart disease;
- Developing recommendations for legislative initiatives, including appropriation items, related to the cardiac program and developing rules;

¹ Section 391.221(2), F.S.

² Section 391.221 (3), F.S.

³ Florida Dep't of Health, *Creation of the Children's Medical Services Cardiac Technical Advisory Panel*, (October 2013) <http://www.cmsctap.com/files/documents/CTAP-Creation.pdf> (Last visited Oct. 6, 2015).

- Developing recommendations for statewide cardiac initiatives, including identifying panel members who will collaborate with other department councils or committees or state agencies;
- Assisting the AHCA, or as requested by individual hospitals, or as outlined in their individual contract with CMS, with the ongoing evaluation and development of congenital cardiovascular programs;
- Making a priority weight control programs and their implementation in all pediatric cardiovascular centers and clinics; and
- Developing recommendations to the department and the AHCA for congenital heart disease quality improvement to improve patient care and health and decrease the cost of care.⁴

The CTAP membership is appointed by the State Surgeon General, in consultation with the Deputy Secretary of Children's Medical Services and the Director of the Division of Children's Medical Services. Eleven members are designated in the creation document. They represent pediatric cardiologists or cardiovascular surgeons from specific pediatric cardiovascular children's hospitals across the state and include two at-large physicians and a community physician who are not affiliated with one of the named facilities. Non-voting advisory members may also be named by the State Surgeon General who may deliberate, but not vote, with the panel. Alternate members for each representative of the cardiovascular children's hospitals must also be named.

Under the creation document, CTAP members select their Chairperson and Vice Chairperson through majority vote every two years. Meetings of the CMS CTAP are upon the call of the Chairperson, at the request of the State Surgeon General, the Deputy Secretary of CMS, the Director of the Division of CMS, or the majority of the voting members.⁵

Members are reimbursed for per diem and travel expenses for required attendance at in-person or video conference committee meetings or CMS site visits in accordance with s. 112.061, F.S.⁶

On October 12, 2015, the department held a rule hearing regarding the proposed repeal of the standards for pediatric cardiac facilities, Rule 64C-4.003, F.A.C., as the department determined there was no statutory authority for it to establish standards, inspect facilities, or prepare inspection reports for the technical advisory panel to review.⁷

Cardiac Advisory Council

Prior to the 2001 Regular Session, a Cardiac Advisory Council (council) in the Division of Children's Medical Services existed.⁸ The council was appointed by the secretary of the Department of Health and included eight members with technical expertise in cardiac medicine who were charged with:

- Recommending standards for personnel and facilities rendering cardiac services;

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ Fla. Department of Health, *2016 Agency Bill Analysis - SB 378*, p. 2, (Sept. 29, 2015) (on file with the Senate Health Policy Committee)

⁸ *See* s. 391.222, F.S. (2000).

- Receiving reports of the periodic review of cardiac personnel and facilities to determine if established standards for cardiac care are met;
- Making recommendations to the director as to the approval or disapproval of reviewed personnel and facilities; and
- Providing input on all aspects of the Children’s Medical Services cardiac program, including the rulemaking process.⁹

The statute was repealed effective June 30, 2001, as part of an exhaustive review of more than three dozen boards, committees, commissions, and councils to determine whether to continue or abolish each entity.¹⁰ The department recommended the repeal of the council and indicated it would absorb the functions of the council in 2001.¹¹

Statutory Organization

Chapter 20, F.S., authorizes the creation of a number of different types of entities to assist state government in the efficient performance of its duties and functions. Under s. 20.03(7), F.S., a “council” or “advisory council” is defined as:

an advisory body created by specific statutory enactment and appointed to function on a continuing basis for the study of the problems arising in a specified functional or program area of state government and to provide recommendations and policy alternatives.

Advisory bodies, commissions and boards may only be created by statute in furtherance of a public purpose and must be terminated by the Legislature once the body, commission or board notifies the Legislature that the public purpose has been achieved. Members of such bodies are appointed for staggered, four-year terms and unless otherwise provided, serve without compensation, but are authorized to receive reimbursement for per diem and travel as provided in s. 112.061, F.S.

Private citizen appointees to an advisory body that is adjunct to an executive agency must be appointed by the Governor, the head of the department, the executive director of the department, or a Cabinet officer. Private citizen appointees to a board or commission that is adjunct to an executive agency must be appointed by the Governor, unless otherwise provided by law, confirmed by the Senate, and are subject to dual office holding provisions of s. 5(a), Art. II of the State Constitution.

Unless exempted, all meetings of advisory bodies, boards and commissions are subject to public meetings requirements under s. 286.011, F.S., and minutes must be maintained for all meetings.

Technical advisory panels are not separately defined in statute.

⁹ *Id.*

¹⁰ Chapter 2001-89, s. 27, Laws of Fla.

¹¹ Senate Committee on Governmental Oversight and Productivity, *CS/SB 1410 Staff Analysis and Economic Impact Statement* (March 28, 2001) p. 9, <http://archive.flsenate.gov/data/session/2001/Senate/bills/analysis/pdf/2001s1410.go.pdf> (Last visited Oct. 6, 2015).

The AHCA is responsible for the licensure, certification, and regulation of facilities through its Division of Health Quality Assurance. Under its Bureau of Health Facility Regulation, the AHCA reviews applications for new facilities and specialty services at hospitals through the certificate of need (CON) process.¹² Also, the Bureau of Health Facility Regulation conducts periodic and complaint-based inspections of hospitals.

III. Effect of Proposed Changes:

Section 1 creates s. 391.224, F.S., and the Pediatric Cardiac Advisory Council under the Department of Health (department) for the purpose of coordinating pediatric cardiac care in this state and advising the department and the Agency for Health Care Administration on the delivery of cardiac services to children.

An 11-member advisory council of individuals with expertise in cardiac medicine appointed by the State Surgeon General will serve staggered four-year terms. Eight of the members must be nominated by the chief executive officers of designated health care systems with pediatric cardiac certificates of need. The State Surgeon General is also authorized to select additional at-large members, with expertise in pediatric cardiology or adults with congenital heart disease who are not associated with one of the designated facilities. Additional advisory, non-voting members may also be appointed to the council by the State Surgeon General.

The bill requires the council to meet at least quarterly. Meetings may also be called by the Chair, two or more voting members, or the State Surgeon General. An employee of the department or a contracted consultant paid by the department is not eligible to serve as a member or ex-officio member and no member may serve more than two consecutive terms.

Council members do not receive compensation; however, they are entitled to reimbursement in accordance with s. 112.061, F.S., for per diem and travel. Council meetings must be conducted via teleconference where that capability is available.

The council's duties include, but are not limited to:

- Recommending standards for personnel and facilities rendering cardiac services;
- Analyzing reports on the periodic review of cardiac personnel and facilities to determine if established standards for the cardiac services are met;
- Making recommendations to the Children's Medical Services Director as to the approval or disapproval of personnel and facilities. At the recommendation of the cardiac advisory council and Director's approval, the department's secretary shall designate facilities approved under this paragraph as "Pediatric and Congenital Cardiovascular Centers of Excellence." The designation is withdrawn automatically if a particular center no longer meets state and national professional standards of care for children with heart disease;
- Making recommendations as to the intervals for re-inspection of approved personnel and facilities;

¹² Agency for Health Admin., *Certificate of Need Publications*:

http://ahca.myflorida.com/MCHO/CON_FA/Publications/index.shtml

- Providing input on all aspects of the state’s Children’s Medical Services cardiac programs, including rulemaking;
- Addressing all components of the care of adults and children with congenital heart disease and children with acquired heart disease, as indicated and appropriate;
- Abiding by the recognized state and national professional standards of care for children with heart disease;
- Making recommendations to the State Surgeon General for legislation and appropriations for children’s cardiac services; and
- Providing advisory opinions to the Agency for Health Care Administration (AHCA) before the AHCA approves a certificate of need for children’s cardiac services.

The bill also authorizes the creation of the “Pediatric and Congenital Centers of Excellence” designation. The designation may be awarded to facilities at the recommendation of the council with the approval of the Director of Children’s Medical Services and the State Surgeon General utilizing state and national professional standards approved by the council. The designation shall be withdrawn automatically if a facility no longer meets those standards.

The council shall also develop and recommend to the State Surgeon General evaluation tools for measuring the goals and performance standards for the facilities seeking and receiving the designation.

The department, in coordination with the AHCA, is authorized to develop rules related to pediatric cardiac care facilities, the establishment, operations, and authority of the council, and the establishment, goals, performance standards, and evaluation tools for designating facilities as “Pediatric and Congenital Cardiovascular Centers of Excellence.”

The bill states its intention to clarify existing law, be remedial in nature, and its applicability to apply retroactively to rules already in existence without regard to when such rules were adopted.

Section 2 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues

This bill provides that it is remedial in nature, is intended to clarify existing law, and applies retroactively to rules already in existence without regard to the date such rules were adopted. Retroactive application of a statute is generally unconstitutional if the statute impairs vested rights, creates new obligations, or imposes new penalties.¹³

To determine whether a statute should be retroactively applied, courts apply two interrelated inquiries. First, courts determine whether there is clear evidence of legislative intent to apply the statute retrospectively. If so, then courts determine whether retroactive application is constitutionally permissible.¹⁴

The second prong looks to see if a vested right is impaired. To be vested, a right must be more than a mere expectation based on an anticipation of the continuance of an existing law. It must be an immediate, fixed right of present or future enjoyment.¹⁵ This bill contains a finding that it is remedial. “Remedial statutes or statutes relating to remedies or modes of procedure, which do not create new or take away vested rights, but only operate in furtherance of the remedy or confirmation of rights already existing, do not come within the legal conception of a retrospective law, or the general rule against retrospective operation of statutes.”¹⁶

To the extent an existing rule sets forth standards for pediatric cardiac facilities, this law may be constitutionally permissible.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Individuals from the private sector with expertise in cardiac medicine are eligible to serve as members of the advisory council. Members are selected by the State Surgeon General to serve staggered terms of four years and will have an opportunity to provide input on all aspects of CMS’ cardiac programs, including rulemaking, address components of cardiac care for both adults and children, make recommendations for legislation and appropriations and provide advisory opinions before the AHCA approves a certificate of need for children’s cardiac services.

Facilities will also have the ability to earn a designation as a “Pediatric and Congenital Center of Excellence.” This designation would distinguish one facility over another in the

¹³ See *State Farm Mutual Automobile Insurance Company v. Laforet*, 658 So.2d 55 (Fla. 1995).

¹⁴ See *Metropolitan Dade County v. Chase Federal Housing Corp.*, 737 So.2d 494 (Fla. 1999).

¹⁵ See *R.A.M. of South Florida, Inc. v. WCI Communities, Inc.*, 869 So.2d 1210, 1218 (Fla. 2d DCA 2004).

¹⁶ *City of Lakeland v. Catinella*, 129 So.2d 133 (Fla. 1961).

marketplace for the quality of care in the delivery of cardiac services to children and could impact the number of services delivered in a particular facility.

C. Government Sector Impact:

The council is housed in the department and makes recommendations to the State Surgeon General and the Children's Medical Services program. Since October 2013, the department has been supporting a similar technical advisory panel, the Children's Medical Services Cardiac Technical Advisory Panel, and CS/SB 378 includes similar duties and responsibilities of that technical advisory panel. With passage of CS/SB 378, the technical advisory panel would no longer be necessary.

The department estimates minimal costs for the council for conference calls at \$336.00 annually. The estimate is based on four calls per year, 40 persons per call for one hour at 3.5 cents per minute.¹⁷

To the extent that CS/SB 378 seeks to enforce any standards on cardiac facilities, the department's authority is limited to its ability to credential facilities and providers that participate in the Children's Medical Services program.¹⁸ Enforcement of facility standards related to licensure resides in the AHCA which is directed to work in coordination with the council under the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 391.224 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 Committee on October 20, 2015:

The CS:

- Adds legislative intent and findings for the Pediatric Cardiac Advisory Council (council);

¹⁷ *Supra*, note 7 at 4.

¹⁸ *Supra*, note 7, at 5.

- Specifies the State Surgeon General as the nominating official, not the department for the council;
- Establishes the process for the election of the council chair and the frequency of council meetings shall be at least quarterly;
- Eight of the 11 council members are specifically designated as pediatric cardiologists or pediatric cardiovascular surgeons nominated by specific facilities with pediatric certificates of need in addition to three other at large physicians with special expertise in dealing with children or adults with congenital heart disease;
- At the recommendation of the council and with the approval of the Director of Children’s Medical Services , the State Surgeon General shall designate facilities that meet state and national standards of care for children with heart disease as “Pediatric and Congenital Cardiovascular Centers of Excellence”;
- A Centers of Excellence designation may automatically be withdrawn if a facility no longer meets the established standards;
- The council is directed to develop and recommend to the State Surgeon General measurable performance standards, goals, and evaluation tools, for the designation;
- The DOH in coordination with the AHCA, shall develop rules related to pediatric cardiac facilities; the establishment operations, and authority of the council; and the establishment, goals, performance standards, and evaluation tools for the designation of facilities as Centers of Excellence; and
- Clarifies existing law, is remedial in nature, and shall apply retroactively to rules already in existence without regard to the date such rules were adopted.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
10/20/2015	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 391.224, Florida Statutes, is created to
read:

391.224 Pediatric Cardiac Advisory Council.—

(1) LEGISLATIVE FINDINGS AND INTENT.—

(a) The Legislature finds significant benefits in the
continued coordination of activities by several state agencies
regarding access to pediatric cardiac care in this state. It is



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12 the intent of the Legislature that the Department of Health, the
13 department's cardiac consultants, and the Agency for Health Care
14 Administration maintain their long-standing interagency teams
15 and agreements for the development and adoption of guidelines,
16 standards, and rules for those portions of the state cardiac
17 care system within the statutory authority of each agency. This
18 coordinated approach will continue to ensure the necessary
19 continuum of care for the pediatric cardiac patient. The
20 department has the leadership responsibility for this activity.

21 (b) It is further the intent of the Legislature to
22 establish the Pediatric Cardiac Advisory Council, a statewide,
23 inclusive council within the department.

24 (2) PEDIATRIC CARDIAC ADVISORY COUNCIL.—

25 (a) The State Surgeon General shall appoint the Pediatric
26 Cardiac Advisory Council for the purpose of advising the
27 department on the delivery of cardiac services to children.

28 (b) The chair of the council shall be elected from among
29 the council members every 2 years and may not serve more than
30 two consecutive terms.

31 (c) The council shall meet upon the call of the chair or
32 two or more voting members or upon the call of the State Surgeon
33 General, but must meet at least quarterly. Council meetings must
34 be conducted by teleconference or through other electronic means
35 when feasible.

36 (d) The council shall be composed of 11 members with
37 technical expertise in cardiac medicine. Members shall be
38 appointed by the State Surgeon General for staggered terms of 4
39 years. An employee of the department or a contracted consultant
40 paid by the department may not serve as an appointed member or



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41 ex officio member of the council. Council members shall include
42 the following voting members:

43 1. Pediatric cardiologists or pediatric cardiovascular
44 surgeons that have been nominated by their respective chief
45 executive officers and approved by the State Surgeon General
46 from the following facilities for as long as such facilities
47 maintain their pediatric certificates of need:

48 a. All Children's Hospital in St. Petersburg;

49 b. Arnold Palmer Hospital for Children in Orlando;

50 c. Joe DiMaggio Children's Hospital in Hollywood;

51 d. Nicklaus Children's Hospital in Miami;

52 e. St. Joseph's Children's Hospital in Tampa;

53 f. University of Florida Health Shands Hospital in
54 Gainesville;

55 g. University of Miami Holtz Children's Hospital in Miami;

56 and

57 h. Wolfson Children's Hospital in Jacksonville.

58 2. Two physicians at large, not associated with a facility
59 represented in subparagraph 1., who are pediatric cardiologists
60 or subspecialists with special expertise or experience in
61 dealing with children or adults with congenital heart disease.
62 These physicians shall be selected by the State Surgeon General
63 in consultation with the Deputy Secretary for Children's Medical
64 Services and the Director of Children's Medical Services.

65 3. One community physician who has special interest and
66 ongoing involvement in children with heart disease and who is
67 not associated with a facility represented in subparagraph 1.,
68 or one community-based medical internist having experience with
69 adults with congenital heart disease. The community physician



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70 shall be selected by the State Surgeon General in consultation
71 with the Deputy Secretary of Children's Medical Services and the
72 Director of the Division of Children's Medical Services.

73 (e) The State Surgeon General may appoint nonvoting
74 advisory members to the council in consultation with the Deputy
75 Secretary for Children's Medical Services and the Director of
76 Children's Medical Services. Such members may participate in
77 council discussions and subcommittees created by the council,
78 but may not vote.

79 (f) The duties of the council include, but are not limited
80 to:

81 1. Recommending standards for personnel, diagnoses,
82 clinics, and facilities rendering cardiac services to the
83 department and the Division of Children's Medical Services.

84 2. Analyzing reports on the periodic review of cardiac
85 personnel, diagnoses, clinics, and facilities to determine if
86 established state and national standards for cardiac services
87 are met.

88 3. Making recommendations to the Director of Children's
89 Medical Services as to the approval or disapproval of reviewed
90 cardiac care personnel, diagnoses, clinics, and facilities.

91 4. Making recommendations as to the intervals for
92 reinspection of approved personnel, diagnoses, clinics, and
93 facilities for cardiac care.

94 5. Reviewing and inspecting hospitals upon the request of
95 the hospitals or the Agency for Health Care Administration to
96 determine if established state and national standards for
97 cardiac services are met.

98 6. Providing input on all aspects of the state's Children's



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99 Medical Services cardiac programs, including rulemaking.

100 7. Addressing all components of the care of adults and
101 children with congenital heart disease and children with
102 acquired heart disease, as indicated and appropriate.

103 8. Abiding by the recognized state and national
104 professional standards of care for children with heart disease.

105 9. Making recommendations to the State Surgeon General for
106 legislation and appropriations for children's cardiac services.

107 10. Providing advisory opinions to the Agency for Health
108 Care Administration before the agency approves a certificate of
109 need for children's cardiac services.

110 (g) A council member shall serve without compensation, but
111 is entitled to reimbursement for per diem and travel expenses in
112 accordance with s. 112.061.

113 (h) At the recommendation of the Pediatric Cardiac Advisory
114 Council and with the approval of the Director of Children's
115 Medical Services, the State Surgeon General shall designate
116 facilities meeting the council's approved state and national
117 professional standards of care for children with heart disease
118 as "Pediatric and Congenital Cardiovascular Centers of
119 Excellence." The designation is withdrawn automatically if a
120 particular center no longer meets such standards.

121 1. The council shall develop and recommend to the State
122 Surgeon General measurable performance standards and goals for
123 determining whether a facility meets the requirements for
124 designation as a "Pediatric and Congenital Cardiovascular Center
125 of Excellence."

126 2. The council shall develop and recommend to the State
127 Surgeon General evaluation tools for measuring the goals and



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128 performance standards of the facilities seeking and receiving
129 the "Pediatric and Congenital Cardiovascular Center of
130 Excellence" designation.

131 (3) RULEMAKING.—The department, in coordination with the
132 Agency for Health Care Administration, shall develop rules
133 related to pediatric cardiac facilities. The department may
134 adopt rules relating to the establishment, operations, and
135 authority of the Pediatric Cardiac Advisory Council and the
136 establishment, goals, performance standards, and evaluation
137 tools for designating facilities as Pediatric and Congenital
138 Cardiovascular Centers of Excellence.

139 (4) APPLICABILITY.—This section is intended to clarify
140 existing law, is remedial in nature, and shall apply
141 retroactively to rules already in existence without regard to
142 the date such rules were adopted.

143 Section 2. This act shall take effect July 1, 2016.

144

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

146 And the title is amended as follows:

147 Delete everything before the enacting clause
148 and insert:

149 A bill to be entitled
150 An act relating to the Pediatric Cardiac Advisory
151 Council; creating s. 391.224, F.S.; providing
152 legislative findings and intent; creating the
153 Pediatric Cardiac Advisory Council; determining the
154 chair of the advisory council; establishing the
155 membership of the advisory council; identifying the
156 duties of the advisory council; setting the minimum



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157 qualifications for the designation of a facility as a
158 Pediatric and Congenital Cardiovascular Center of
159 Excellence; requiring the Department of Health to
160 develop rules relating to pediatric cardiac
161 facilities; authorizing the department to adopt rules
162 relating to the council and the designation of
163 facilities as Pediatric and Congenital Cardiovascular
164 Centers of Excellence program; providing retroactive
165 application of the act; providing an effective date.

By Senator Bean

4-00256A-16

2016378__

1 A bill to be entitled
 2 An act relating to a cardiac advisory council for
 3 children's services councils; creating s. 391.224,
 4 F.S.; requiring the Department of Health to appoint a
 5 cardiac advisory council for specified purposes;
 6 specifying the duties and composition of the council;
 7 providing appointments and term limits for the
 8 council; prohibiting an employee of the department
 9 from serving on the council; prohibiting council
 10 members from receiving compensation; providing an
 11 exception for per diem and travel expenses; requiring
 12 council meetings to be conducted by teleconference
 13 where that capability is available; providing an
 14 effective date.

15
 16 Be It Enacted by the Legislature of the State of Florida:

17
 18 Section 1. Section 391.224, Florida Statutes, is created to
 19 read:

20 391.224 Cardiac advisory council.-

21 (1) The department shall appoint a cardiac advisory council
 22 for the purpose of advising the department on the delivery of
 23 cardiac services to children. The duties of the council include,
 24 but are not limited to:

25 (a) Recommending standards for personnel and facilities
 26 rendering cardiac services.

27 (b) Analyzing reports on the periodic review of cardiac
 28 personnel and facilities to determine if established standards
 29 for the cardiac services are met.

Page 1 of 3

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

4-00256A-16

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30 (c) Making recommendations to the director of Children's
 31 Medical Services as to the approval or disapproval of reviewed
 32 personnel and facilities. At the recommendation of the cardiac
 33 advisory council and with the approval of the director, the
 34 secretary of the department shall designate facilities approved
 35 under this paragraph as "Pediatric and Congenital Cardiovascular
 36 Centers of Excellence." The designation is withdrawn
 37 automatically if a particular center no longer meets state and
 38 national professional standards of care for children with heart
 39 disease.

40 (d) Making recommendations as to the intervals for
 41 reinspection of approved personnel and facilities.

42 (e) Providing input on all aspects of Children's Medical
 43 Services cardiac programs, including rulemaking.

44 (f) Addressing all components of the care of adults and
 45 children with congenital heart disease and children with
 46 acquired heart disease, as indicated and appropriate.

47 (g) Abiding by the recognized state and national
 48 professional standards of care for children with heart disease.

49 (h) Making recommendations for legislation and
 50 appropriations for children's cardiac services.

51 (i) Providing advisory opinions to the Agency for Health
 52 Care Administration before the agency approves a certificate of
 53 need for children's cardiac services.

54 (2) The council shall be composed of 11 members with
 55 technical expertise in cardiac medicine. Members shall be
 56 appointed by the department for staggered terms of 4 years. An
 57 employee of the department may not serve as a member or ex
 58 officio member of the council. A vacancy shall be filled for the

Page 2 of 3

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

4-00256A-16

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59 remainder of the unexpired term in the same manner as the
60 original appointment. A member may not be appointed for more
61 than two consecutive terms. However, a member may be reappointed
62 after being off the council for at least 2 years.

63 (3) A council member shall serve without compensation, but
64 is entitled to reimbursement for per diem and travel expenses in
65 accordance with s. 112.061.

66 (4) Council meetings must be conducted by teleconference
67 where that capability is available.

68 Section 2. This act shall take effect July 1, 2016.

THE FLORIDA SENATE
APPEARANCE RECORD

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

10-20-15
Meeting Date

378
Bill Number (if applicable)

Topic Pediatric Cardiac Council

~~504618~~
Amendment Barcode (if applicable)

Name Marnie George

Job Title Sr. Advisor - Buchanan Ingersoll & Rooney

Address 101 N. Monroe St. Suite 1090 Phone 850-510-8866
Street
Tallahassee FL 32301 Email marnie.george@bipe.com
City State Zip

Speaking: For Against Information

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

Representing FL Chapter American College of Cardiology
AND - FL Chapter American Academy of Pediatrics

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

SB 378
Bill Number (if applicable)

Meeting Date _____

Topic Pediatric Cardiac Advisory Council

Amendment Barcode (if applicable) _____

Name Mike Busick

Job Title Lobbyist

Address 200 West College Ave
Street

Phone _____

Tallahassee FL 32301
City State Zip

Email _____

Speaking: For Against Information

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

Representing Florida Association of Children's Hospitals

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

10/20/15

Meeting Date

378

Bill Number (if applicable)

Topic SB 378 - Cardiac Advisory Council

Amendment Barcode (if applicable)

Name Anita Berry

Job Title ~~Government & Relations Manager~~ Corporate Government & Relations Manager

Address 501 4th Ave S

Phone 727-767-2392

Street

St Petersburg FL 33710

Email alake3@jhmi.edu

City

State

Zip

Speaking: For Against Information

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

Representing All Children's Hospital Johns Hopkins Medicine

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

10/20/15
Meeting Date

378
Bill Number (if applicable)

Topic Cardiac Advisory Council

Amendment Barcode (if applicable)

Name Ashley Boxer

Job Title Government Relations Director

Address 3111 Stirling Road
Street

Phone (954) 265-9912

Hollywood FL 33312
City State Zip

Email aboxer@mhs.net

Speaking: For Against Information

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

Representing Joe DiMaggio Children's Hospital

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

10/20/15

Meeting Date

378

Bill Number (if applicable)

Topic Pediatric Cardiac

Amendment Barcode (if applicable)

Name Lani Ferro

Job Title Director, Governmental Affairs

Address 3100 SW 62 Ave

Phone 305-870-9590

Miami, FL 33146

Email laniferro@mch.com

Speaking: [X] For [] Against [] Information

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

Representing Miami Children's Health System

Appearing at request of Chair: [X] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [] No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

10/20/2015

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

SB 378

Meeting Date

Bill Number (if applicable)

Topic Pediatric Cardiac Advisory Council

Amendment Barcode (if applicable)

Name William B. Blanchard M.D.

Job Title Pediatric Cardiologist

Address 3248 Bayou Lane

Phone 850-

Street Pensacola FL 32503

Email bcbblanchard@cox.net

City State Zip

Speaking: [X] For [] Against [X] Information

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

Representing Children's ^{Cardiac} Technical Advisory Panel

Appearing at request of Chair: [X] Yes [] No

Lobbyist registered with Legislature: [] Yes [X] No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

10/20/2015
Meeting Date

378
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name BRIAN PITTS

Job Title Trustee

Address 1119 Newton Ave S
Street

Phone 727/897-9291

St Petersburg FL 33705
City State Zip

Email justice2jesus@yahoo.com

Speaking: For Against Information

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

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.

THE FLORIDA SENATE
APPEARANCE RECORD

Oct 20, 2015

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

378

Meeting Date

Bill Number (if applicable)

Topic Cardiac Advisory Council

Amendment Barcode (if applicable)

Name Michelle Strenth

Job Title Director, Gov't Relations

Address 1414 Kuhl Ave.

Phone (321) 841-6008

Street

Orlando, FL

Email Michelle.strenth@orchohkts.com

City

State

Zip

Speaking: For Against Information

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

Representing Arnold Palmer Hospital for 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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

10/20

Meeting Date

378

Bill Number (if applicable)

507618

Amendment Barcode (if applicable)

Topic _____

Name Brian Jogerst

Job Title _____

Address 215 S. Monroe St

Phone 850-222-0191

Street

Tall

City

FL 32301

State

Zip

Email _____

Speaking: For Against Information

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

Representing BAPTIST HOSPITAL - Jacksonville

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SPB 7020

INTRODUCER: Health Policy Committee

SUBJECT: OGSR/Florida Health Choices Program/Florida Health Choices, Inc.

DATE: October 20, 2015

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Lloyd	Stovall		Submitted as Committee Bill

I. Summary:

SPB 7020 continues existing public records exemptions for:

- Personal, identifying information of an enrollee or participant who has applied for or participates in the Florida Health Choices Program;
- Client and customer lists of a buyer's representative held by the Florida Health Choices Corporation (corporation); and
- Proprietary confidential business information of a vendor held by the corporation.

The information under the exemption is both confidential and exempt from s. 119.071(1), F.S., and article 1, section 24(a) of the Florida Constitution.

The proposed bill also continues the retroactive application of the exemption to protect information that was held by the corporation prior to initial enactment of the exemption. The bill removes the scheduled repeal and provides an effective date of October 1, 2016.

II. Present Situation:

Public Records Law

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

¹ FLA. CONST. art. I, s. 24(a).

² FLA. CONST. art. I, s. 24(a).

In addition to the Florida Constitution, the Florida Statutes provide that the public may access legislative and executive branch records.³ Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.⁴ The Public Records Act states that

it is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁵

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁶ The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

The Legislature may create an exemption to public records requirements.⁹ An exemption must pass by a two-thirds vote of the House and the Senate.¹⁰ In addition, an exemption must explicitly lay out the public necessity justifying the exemption, and the exemption must be no broader than necessary to accomplish the stated purpose of the exemption.¹¹ A statutory exemption which does not meet these criteria may be unconstitutional and may not be judicially saved.¹²

When creating a public records exemption, the Legislature may provide that a record is ‘confidential and exempt’ or ‘exempt.’¹³ Records designated as ‘confidential and exempt’ may

³ The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature’s records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislatures are primarily located in s. 11.0431(2)-(3), F.S.

⁴ Public records laws are found throughout the Florida Statutes.

⁵ Section 119.01(1), F.S.

⁶ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” to mean as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁹ FLA. CONST. art. I, s. 24(c).

¹⁰ FLA. CONST. art. I, s. 24(c).

¹¹ FLA. CONST. art. I, s. 24(c).

¹² *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So.2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

¹³ If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

be released by the records custodian only under the circumstances defined by the Legislature. Records designated as ‘exempt’ may be released at the discretion of the records custodian.¹⁴

Open Government Sunset Review Act

In addition to the constitutional requirements relating to the enactment of a public records exemption, the Legislature may subject the new or broadened exemption to the Open Government Sunset Review Act (OGSR).

The OGSR prescribes a legislative review process for newly created or substantially amended public records.¹⁵ The OGSR provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption.¹⁶ In practice, many exemptions are continued by repealing the sunset date rather than reenacting the exemption.

Under the OGSR the purpose and necessity of reenacting the exemption are reviewed. The Legislature must consider the following questions during its review of an exemption:¹⁷

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

If the Legislature expands an exemption, then a public necessity statement and a two-thirds vote for passage are required.¹⁸ If the exemption is reenacted without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are not required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless otherwise provided for by law.¹⁹

¹⁴ A record classified as exempt from public disclosure may be disclosed under certain circumstances. *Williams v. City of Minneola*, 575 So. 2d 687 (Fla. 5th DCA 1991).

¹⁵ Section 119.15, F.S. According to s. 119.15(4)(b), F.S., a substantially amended exemption is one that is expanded to include more information or to include meetings. The OGSR does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to s. 119.15(2), F.S. The OGSR process is currently being followed, however, the Legislature is not required to continue to do so. The Florida Supreme Court has found that one legislature cannot bind a future legislature. *Scott v. Williams*, 107 So. 3d 379 (Fla. 2013).

¹⁶ Section 119.15(3), F.S.

¹⁷ Section 119.15(6)(a), F.S.

¹⁸ FLA. CONST. art. I, s. 24(c).

¹⁹ Section 119.15(7), F.S.

Florida Health Choices Corporation, Inc.

In 2008, the Legislature created the Florida Health Choices Program to address the issue of Florida's uninsured.²⁰ The Legislature created the Florida Health Choices Corporation (corporation) to administer the program as a private, non-profit, corporation under s. 408.910, F.S. The corporation is to operate in compliance with part III of chapter 112 (Public Officers and Employees) and chapters 119 (Public Records), 286 (Public Business), and 617 (Corporations Not for Profit), F.S.²¹

The corporation is led by a 15-member board of directors, three of whom are ex-officio, non-voting board members:

- The Governor, President of the Senate, and Speaker of the House of Representatives each appoints four members.
- The three non-voting ex-officio members include:
 - The Secretary of Health Care Administration (AHCA) or a designee with expertise in health care services;
 - The Secretary of the Department of Management Services or a designee with expertise in health care services; and
 - The Commissioner of the Office of Insurance Regulation or a designee with expertise in insurance regulation.

Board members may not include insurers, health insurance agents or brokers, health care providers, health maintenance organizations (HMOs), prepaid service providers, or any other entity or affiliate or subsidiary of eligible vendors. Conflict of interest provisions govern board member participation.

The program is designed as a single, centralized marketplace for the purchase of health products, including, but not limited to, health insurance plans, HMO plans, prepaid services, and flexible spending accounts. Policies sold as part of the program are exempt from regulation under the Insurance Code and laws governing HMOs. The following entities are authorized to be eligible vendors:

- Insurers authorized under ch. 624, of the Insurance Code, such as self-insurers, indemnity plans, life and health insurers, church benefit plans, disability, and multi-employer welfare arrangements, and the Florida Healthy Kids Corporation;
- HMOs authorized under part I of ch. 641, F.S., relating to Health Service Programs, including health maintenance organization contracts, limited benefit policies, and other risk bearing coverage, benefits, and products;
- Prepaid limited health service organizations and discount medical plans under ch. 636, F.S.;
- Prepaid health clinics licensed under ch. 641, part II, F.S.;
- Health care providers, including hospitals and other licensed health facilities, health care clinics, pharmacies, licensed health care professionals, and other licensed health care providers;
- Provider organizations, including service networks, group practices, and professional associations; and

²⁰ See Chapter Law 2008-32.

²¹ Section 408.910(11), F.S.

- Corporate entities providing specific health services.

The corporation's Florida Health Insurance Marketplace (marketplace) currently includes individual health plans, discount plans, and limited benefit plans.

The corporation is authorized to collect premiums and other payments from employers. The law further specifies who may participate as either an employer or an individual. Employers eligible to enroll include employers that meet criteria established by the corporation and their individual employees and other individuals meeting criteria established by the corporation.²²

Information Collected by the Florida Health Choices Program

In the administration of the program the corporation may collect personal, identifying information about applicants and participants. Insurance agents and employers also provide personal as well as financial and business information. More specifically, this information might include a participating insurance agent's client list; an employer's business, accounting, or human resource records; or other proprietary business or personal identification information.²³

Exemption from the Public Records Act

The implementing legislation for the Florida Health Program in 2008 did not include a public records exemption. The exemptions were added in 2011²⁴ and applied retroactively to protect personal, identifying information of an enrollee or a participant in the program; client and customer lists of a buyer's representatives; and proprietary confidential business information²⁵ of a vendor.

Two distinct public necessity statements supported the exemptions. The first public necessity statement pertained to any information identifying an enrollee or participant in the program and provided that the information must remain confidential and exempt because the harm in releasing such personal and sensitive information outweighs any public benefit in releasing it. Further, if such information were not held confidential, the administration of the program could be significantly impaired because businesses and individuals would be less inclined to apply, participate, or enroll.²⁶

The second public necessity statement addressed proprietary confidential business information and the harm to the marketplace that may come from the disclosure of confidential business information or a customer or client list of a program buyer's representative. Disclosure of this

²² Section 408.910(4)(a), F.S.

²³ Section 408.910(14), F.S.

²⁴ Chapter 2011-197, Laws of Fla. (effective October 1, 2011).

²⁵ Proprietary confidential business information is defined in this law to mean information, regardless of form or characteristics, that is owned or controlled by a vendor requesting confidentiality under this section; that is intended to be and is treated by the vendor as private in that the disclosure of the information would cause harm to the business operations of the vendor; that has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or a private agreement providing that the information may be released to the public; and that is information concerning: business plans, internal auditing controls and reports of internal auditors, reports of external auditors for privately held companies, client and customer lists, potentially patentable materials, [or] a trade secret as defined in s. 688.002, F.S.

²⁶ Chapter 2011-197, s. 2, Laws of Fla. (effective October 1, 2011).

information may provide competitors with detailed insights into confidential business information, strategies, or methodologies that is not otherwise accessible, thereby diminishing the advantage that a program vendor or buyer's representative may have in the marketplace. This, in turn, may deter private-sector vendors or buyer's representatives from participating in the program thereby harming the effective administration of the program and its ability to offer affordable health care coverage.²⁷

Exceptions permit disclosure of protected information to:

- Another governmental entity in the performance of its official duties and responsibilities;
- Any person who has the written consent of the program's applicant;
- The Florida Kidcare program for the purpose of administering its program;²⁸ and
- A participant's legal guardian.

Penalty for Unauthorized Disclosure

A person who knowingly and willfully discloses inappropriately information that is made confidential and exempt under this law commits a misdemeanor of the second degree.²⁹

III. Effect of Proposed Changes:

The bill removes the scheduled repeal date of October 2, 2016, for the public records exemptions in s. 408.910(14), F.S. The public records exemptions apply to personal identifying information of enrollees and participants who have applied to the corporation, client and customer lists of buyer's representatives, and proprietary confidential business information held by the corporation. This information will remain both confidential and exempt from disclosure to the public under the public records laws.

Current law pertaining to retroactive application of the exemptions, conditions for authorized release, and the penalty for improper release of the protected information are likewise reenacted.

The effective date of the bill is October 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

²⁷ Chapter 2011-197, s. 3, Laws of Fla. (effective October 1, 2011).

²⁸ Under certain circumstances in federal law, health insurance exchanges similar to the marketplace created under the FHC program, could be required to exchange information with the state Medicaid program. In Florida, the state Medicaid program also exchanges data with the Florida Kidcare program. The current exception permits the FHC program to exchange information with those programs as necessary,

²⁹ Section 408.910(14)(e), F.S.

B. Public Records/Open Meetings Issues:

The bill renews an existing public records exemption for the Florida Health Choices Corporation. Therefore, a simple majority vote of the members present in each house of the Legislature is required for passage.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

This bill continues a provision that permits a public-records exemption to apply to any information identifying an applicant or participant in the Florida Health Choices Program *before*, on, or after the effective date of the exemption.

Retroactive operation is disfavored by courts and generally “statutes are prospective, and will not be construed to have retroactive operation unless the language employed in the enactment is so clear it will admit of no other construction.”³⁰ The Florida Supreme Court has articulated four issues to consider when determining whether a statute may be retroactively applied:

- Is the statute procedural or substantive?
- Was there an unambiguous legislative intent for retroactive application?
- Was [a person’s] right vested or inchoate?
- Is the application of [the statute] to these facts unconstitutionally retroactive?³¹

The general rule of statutory construction is that a procedural or remedial statute may operate retroactively, but that a substantive statute may not operate retroactively without clear legislative intent. Substantive laws either create or impose a new obligation or duty, or impair or destroy existing rights, and procedural laws enforce those rights or obligations.³²

Additionally, the initial enactment and this reenactment make it clear that it is the Legislature’s intent to apply the law retroactively. “Where a statute expresses clear legislative intent for retroactive application, courts will apply the provision retroactively.”³³ A court will not follow this rationale, however, if applying a statute retroactively will impair vested rights, create new obligations, or impose new penalties.³⁴ This bill does not appear to do any of these things and reenacts existing law.

³⁰ Norman J. Singer and J.D. Shambie Singer, *Prospective or retroactive interpretation*, 2 SUTHERLAND STATUTORY CONSTR. s. 41:4 (6th ed. 2009).

³¹ *Weingrad v. Miles*, 2010 WL 711801, *2 (Fla. 3d DCA 2010) (internal citations omitted).

³² See *Alamo Rent-A-Car, Inc. v. Mancusi*, 632 So. 2d 1352, 1358 (Fla. 1994); *In re Rules of Criminal Procedure*, 272 So. 2d 65, 65 (Fla. 1972).

³³ *Weingrad*, 2010 WL 711801 at *3.

³⁴ *Id.* at *4.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The corporation will need to redact confidential information from any records that are disclosed to the public.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 408.910 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.

FOR CONSIDERATION By the Committee on Health Policy

588-00572-16

20167020pb

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 408.910, F.S., relating to an exemption from public records requirements for personal identifying information of an enrollee or participant in the Florida Health Choices Program, for client and customer lists of a buyer's representative held by the Florida Health Choices, Inc., and for proprietary confidential business information held by the corporation, and relating to a penalty for unlawful disclosure of confidential and exempt information; saving the exemption from repeal under the Open Government Sunset Review Act; providing an effective date.

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

Section 1. Subsection (14) of section 408.910, Florida Statutes, is amended to read:

408.910 Florida Health Choices Program.—

(14) EXEMPTION FROM PUBLIC RECORDS REQUIREMENTS.—

(a) *Definitions*.—For purposes of this subsection, the term:

1. "Buyer's representative" means a participating insurance agent as described in paragraph (4)(g).

2. "Enrollee" means an employer who is eligible to enroll in the program pursuant to paragraph (4)(a).

3. "Participant" means an individual who is eligible to participate in the program pursuant to paragraph (4)(b).

4. "Proprietary confidential business information" means

Page 1 of 3

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

588-00572-16

20167020pb

information, regardless of form or characteristics, that is owned or controlled by a vendor requesting confidentiality under this section; that is intended to be and is treated by the vendor as private in that the disclosure of the information would cause harm to the business operations of the vendor; that has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or a private agreement providing that the information may be released to the public; and that is information concerning:

a. Business plans.

b. Internal auditing controls and reports of internal auditors.

c. Reports of external auditors for privately held companies.

d. Client and customer lists.

e. Potentially patentable material.

f. A trade secret as defined in s. 688.002.

5. "Vendor" means a participating insurer or other provider of services as described in paragraph (4)(d).

(b) *Public record exemptions*.—

1. Personal identifying information of an enrollee or participant who has applied for or participates in the Florida Health Choices Program is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2. Client and customer lists of a buyer's representative held by the corporation are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

3. Proprietary confidential business information held by the corporation is confidential and exempt from s. 119.07(1) and

Page 2 of 3

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

588-00572-16

20167020pb

59 s. 24(a), Art. I of the State Constitution.

60 (c) *Retroactive application.*—The public record exemptions
61 provided for in paragraph (b) apply to information held by the
62 corporation before, on, or after the effective date of this
63 exemption.

64 (d) *Authorized release.*—

65 1. Upon request, information made confidential and exempt
66 pursuant to this subsection shall be disclosed to:

67 a. Another governmental entity in the performance of its
68 official duties and responsibilities.

69 b. Any person who has the written consent of the program
70 applicant.

71 c. The Florida Kidcare program for the purpose of
72 administering the program authorized in ss. 409.810-409.821.

73 2. Paragraph (b) does not prohibit a participant's legal
74 guardian from obtaining confirmation of coverage, dates of
75 coverage, the name of the participant's health plan, and the
76 amount of premium being paid.

77 (e) *Penalty.*—A person who knowingly and willfully violates
78 this subsection commits a misdemeanor of the second degree,
79 punishable as provided in s. 775.082 or s. 775.083.

80 ~~(f) *Review and repeal.* This subsection is subject to the
81 Open Government Sunset Review Act in accordance with s. 119.15,
82 and shall stand repealed on October 2, 2016, unless reviewed and
83 saved from repeal through reenactment by the Legislature.~~

84 Section 2. This act shall take effect October 1, 2016.

No Materials Available

THE FLORIDA SENATE

APPEARANCE RECORD

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

10-20-15

Meeting Date

Tab 7 Presenter

Bill Number (if applicable)

Topic Prescription Medications

Amendment Barcode (if applicable)

Name Lucy Bee

Job Title Division Director, Medical Quality Assurance

Address 4042 Bald Cypress way

Phone 850-245-4224

Street

Tallahassee

FL

32399

City

State

Zip

Email

Speaking: For Against Information

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

Representing Department of Health

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)

October 20, 2015

Meeting Date

DOH Pres. Agenda Item 7

Bill Number (if applicable)

Topic Briefing on Improving Access to Controlled Substances

Amendment Barcode (if applicable)

Name Michael A. Jackson

Job Title Executive Vice President and CEO

Address 610 North Adams Street

Phone (850) 222-2400

Street

Tallahassee

Florida

32301

Email mjackson@pharmview.com

City

State

Zip

Speaking: [] For [] Against [x] Information

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

Representing Florida Pharmacy Association

Appearing at request of Chair: [] Yes [x] No

Lobbyist registered with Legislature: [x] Yes [] No

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

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Florida Medicaid: Performance Measures (HEDIS)

Justin M. Senior

Florida Medicaid Director

Agency for Health Care Administration

Senate Health Policy

October 20, 2015



Statewide Medicaid Managed Care (SMMC) Program

- Most Florida Medicaid recipients are enrolled in one or both of the components of the Statewide Medicaid Managed Care (SMMC) program:
 - Long-term Care program
 - Managed Medical Assistance program.
- Implemented during 2013 and 2014.
- Designed to incentivize higher quality without causing inflation.



SMMC Plan Performance

MMA vs. LTC

- The Agency monitors plan performance differently for the two program components:
 - MMA: Primary focus on Healthcare Effectiveness Data and Information Set (HEDIS) data and information set.
 - LTC: Primary focus on plan ability to maintain people safely in their home or the community and to transition recipients who wish to go home from an institutional setting to a community setting.



MMA: Enhanced Quality ~ HEDIS

- National Committee for Quality Assurance's (NCQA) standardized set of performance measures.
- Used by over 90% of health plans in the U.S.
- Detailed technical specifications ensure that measures are calculated consistently.
- Allows “apples-to-apples” comparison of health plans.
- Performed in conjunction with certified independent auditors.



MMA: Enhanced Quality ~ HEDIS

- Challenges:
 - SMMC program roll-out timing and market transition effects denominator for several measures.
 - Prior program design effects ability to collect program wide scores.



MMA Performance Measures

- Living With Illness
 - Controlling High Blood Pressure
 - Diabetes Care (6 measures)
 - Use of Appropriate Medications for People with Asthma
- Pregnancy related care:
 - Frequency of Ongoing Prenatal Care
 - Postpartum Care
 - Prenatal Care



MMA Performance Measures

- Keeping Kids Healthy
 - Adolescent Well-Care Visits
 - Childhood Immunization Status
 - Children & Adolescents' Access to PCPs (multiple age groups)
 - Chlamydia Screening in Women
 - Immunizations for Adolescents
 - Lead Screening in Children
 - Well-Child Visits, First Fifteen Months of Life, Six or More Visits
 - Well-Child Visits, Ages 3-6 Years
- Keeping Adults Healthy
 - Adult BMI Assessment
 - Adults' Access to Preventive Health Services
 - Breast Cancer Screening
 - Cervical Cancer Screening
 - Chlamydia Screening in Women
 - Chlamydia Screening in Women (combined age groups)

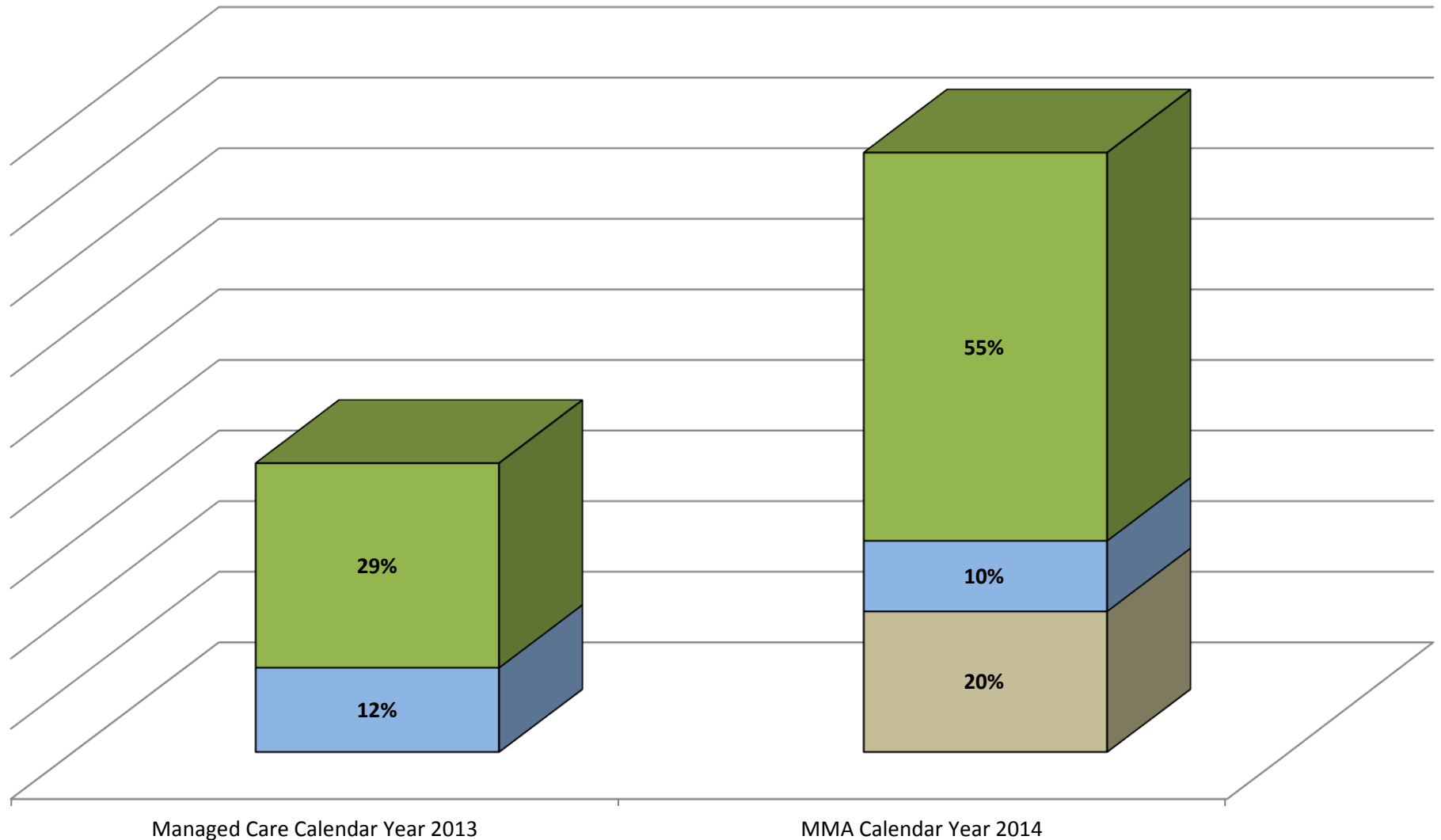


MMA Performance Measures

- Mental Health Care
 - ADHD Medications Follow-Up – Initiation
 - Antidepressant Medication Management – Acute
 - Follow-Up after Mental Illness Hospitalization – 7 Day
 - Follow-Up after Mental Illness Hospitalization – 30 Day
- Children's Dental Care
 - Annual Dental Visit



MMA Quality Successes: HEDIS Compared to the National Mean



■ Scores better than the National Mean

■ Scores at the National Mean

■ Scores below National Mean in calendar year 2014, but higher than managed care scores in calendar year 2013

Note: If non-reform and Reform are separated when calculating the percentage of “the scores below the National Mean in calendar year 2014, but higher than managed care scores in calendar year 2013”, the overall percentage would be 14%.

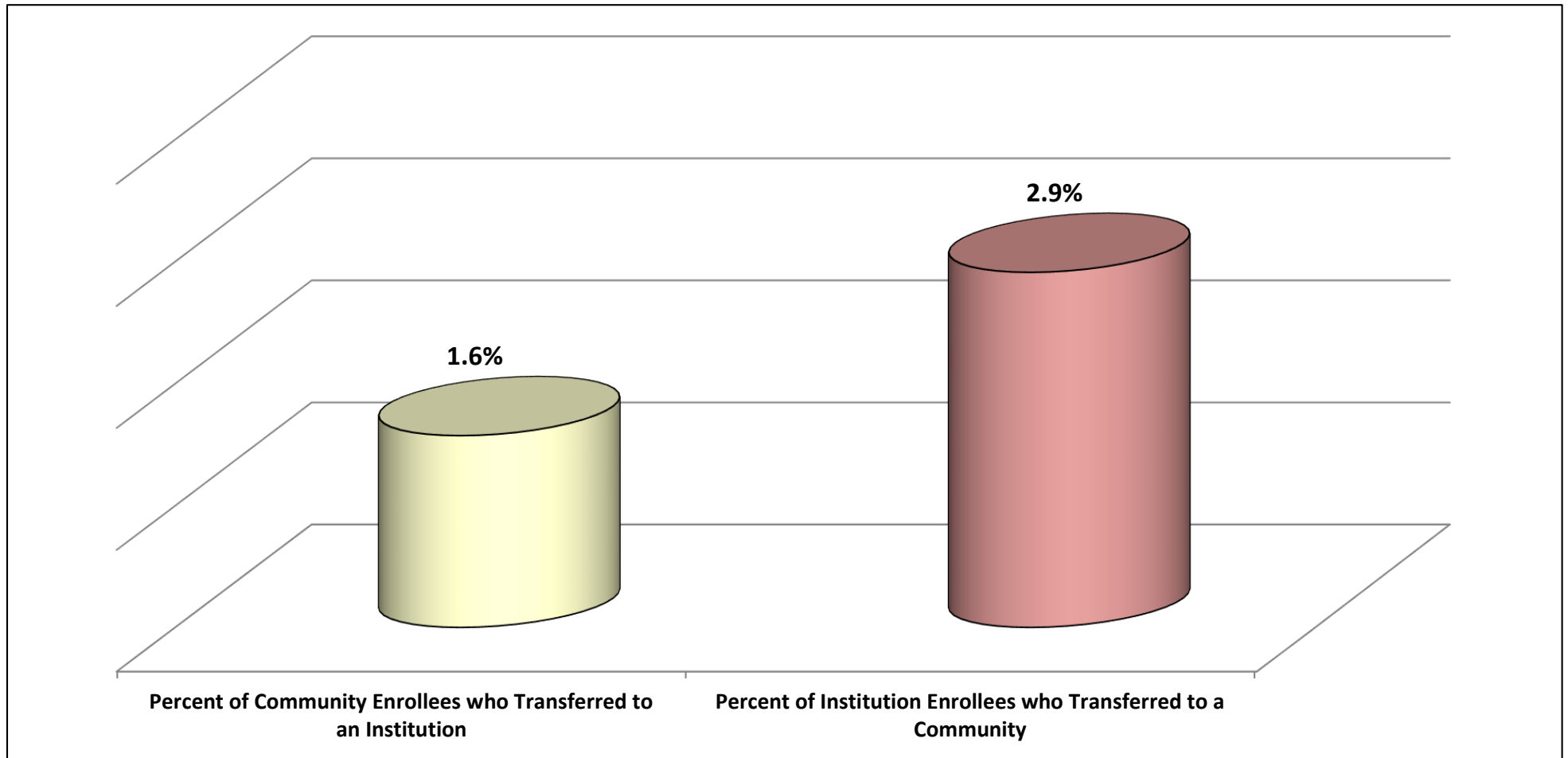
Long-term Care (LTC) Program Performance

- The LTC program was designed to provide incentives to plans to create an environment where enrollees have the services and supports that they need to remain in the community and to transition individuals who wish to go home from institutional care such as nursing facility care to the community.



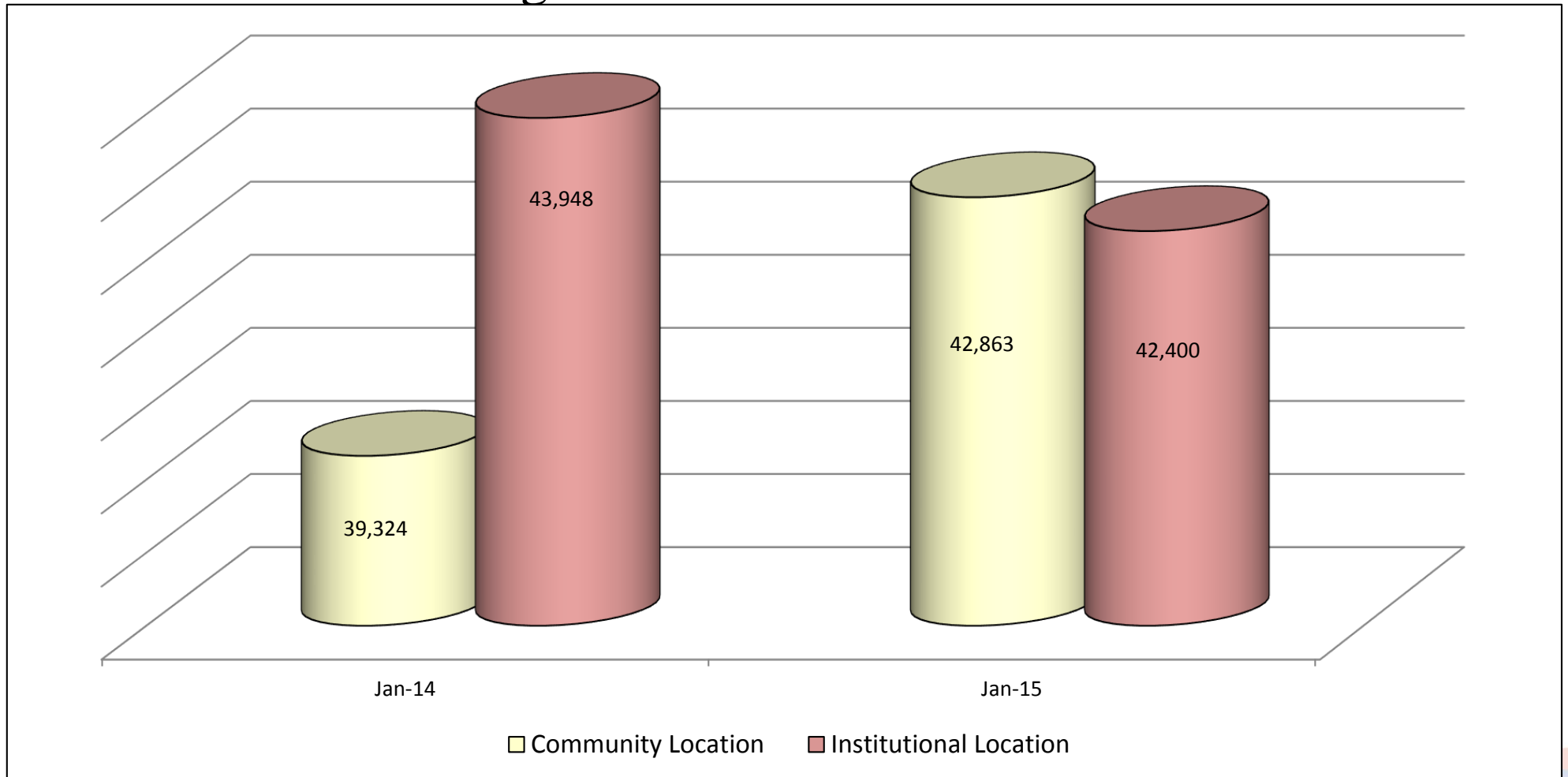
LTC Program Performance: Community Transition

- Percent of LTC Enrollees Who Transferred from One Residential Setting to Another, July 2014 - June 2015



LTC Program Performance: Community Transition

- Number of enrollees, for July 2014, and July 2015, by Residential Setting:



Program Savings

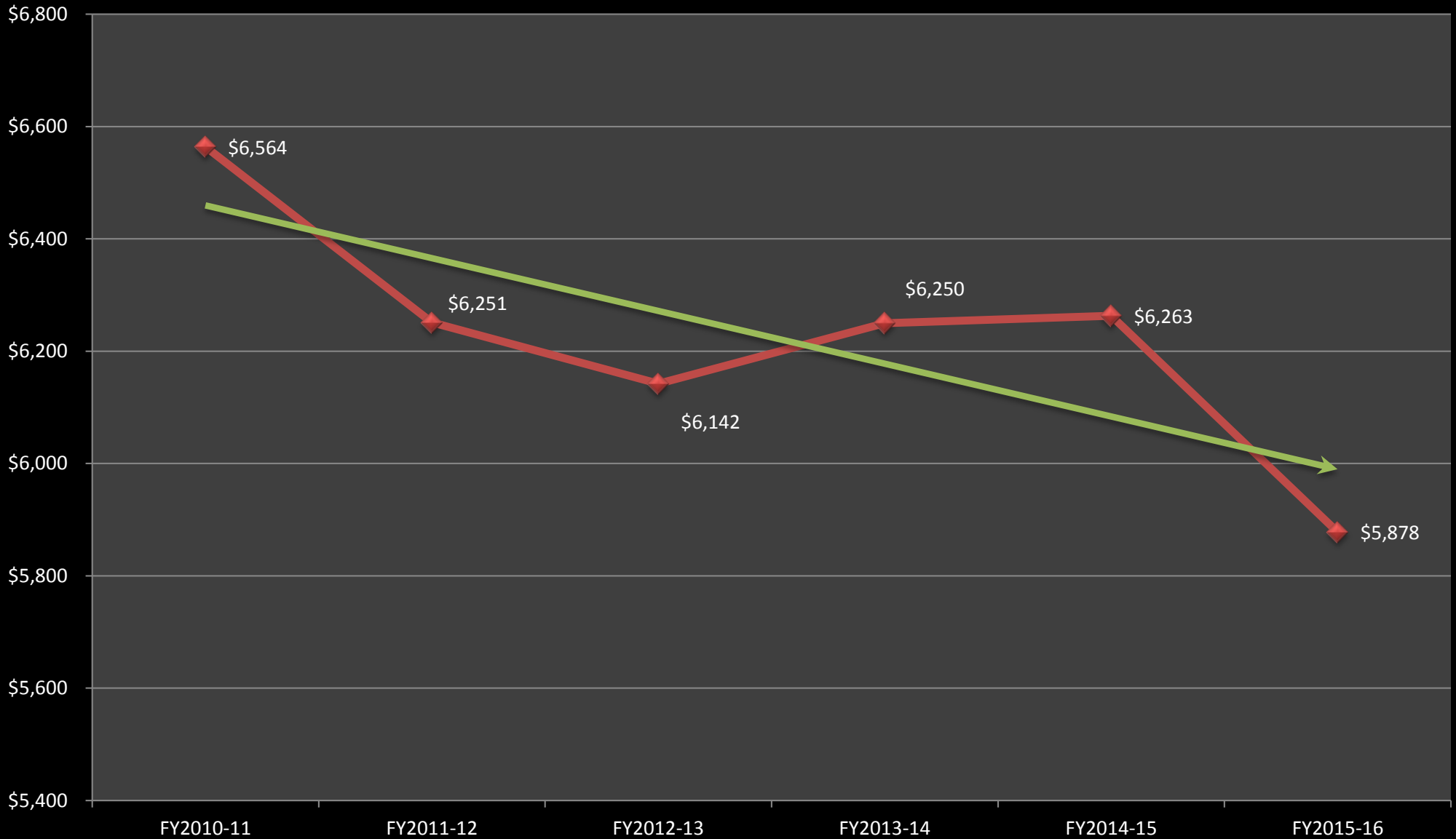
- Comparing the Medicaid program's overall final expenditures and projected expenditures, the yearly cost per person (PMPY) of the program has dropped steadily and consistently over the last several years.



Florida Medicaid: Average Annual Cost Per Person

Florida Medicaid: Average Annual Cost Per Person

Linear (Florida Medicaid: Average Annual Cost Per Person)



FY 2013-14 and prior data is from the final year end budgets.

FY 2014-15 Medicaid Expenditures data are from the March 4, 2015 Medicaid Expenditure SSEC and Caseload is from July 21, 2015 Medicaid Caseload SSEC

FY 2015-16 Medicaid Expenditures data are from the August 28, 2015 Medicaid Expenditure SSEC and Caseload is from July 21, 2015 Medicaid Caseload SSEC

Questions?



THE FLORIDA SENATE

APPEARANCE RECORD

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

10/20/15 Meeting Date

Tab 8 Presenter Bill Number (if applicable)

Topic Preliminary HEDIS Scores

Amendment Barcode (if applicable)

Name Justin Senior

Job Title Medicaid Director

Address 2727 Mahan Drive Street

Phone 850-412-3626

Tallahassee FL 32303 City State Zip

Email pryorotando@gmail.com

Speaking: For Against Information

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

Representing Agency for Health Care Administration

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)

10-20-15
Meeting Date

Presentation
Bill Number (if applicable)

Topic FL Medicaid Performance Measures (HEDIS)

Amendment Barcode (if applicable)

Name Audrey Brown

Job Title President and CEO

Address 200 W. College Ave
Street

Phone 850-386-2904

Tallahassee, FL 32301
City State Zip

Email Audrey@fahp.net

Speaking: For Against Information

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

Representing Florida Association of Health Plan

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

CourtSmart Tag Report

Room: KN 412

Case No.:

Type:

Caption: Senate Committee on Health Policy

Judge:

Started: 10/20/2015 12:34:57 PM

Ends: 10/20/2015 2:31:35 PM

Length: 01:56:39

12:34:56 PM Meeting called to order.
12:35:23 PM SB 108 Senator Grimsley TP'ed
12:36:24 PM Tab 4 SB 320 Senator Richter
12:37:00 PM Brian Pitts- Justice 2 Jesus- Waive in Support
12:37:44 PM SB 320 reported Favorably
12:38:15 PM Tab 2 SB 152 Senator Grimsley
12:39:21 PM Brittany Burch- FI Chamber- Waive in support
12:40:22 PM Rich Rasmussen- Waive in Support
12:40:33 PM Barbara Lumpkin- Baptist Health South Florida- Waive in Support
12:40:45 PM Stan Whittaker- FL Association of Nurse Practitioners- Waive in support
12:40:57 PM Jeff Scott- Florida Medical Association- Waive in Support
12:41:03 PM Lori Killinger- FL Association of Nurse Anesthetists- Waive in Support
12:41:16 PM Corinne Nixon- FL Academy of Physician Assistants- Waive in Support
12:41:24 PM Jack Mcray- AARP- Waive in Support
12:41:33 PM Brian Pitts- Justice 2 Jesus- Information
12:45:59 PM Alisa LaPott- Florida Nurses Association- Waive in Support
12:47:10 PM SB 152 reported Favorably
12:47:38 PM Tab 6 PCB 7020 Health Policy
12:48:25 PM Consider SB7020 as committee bill
12:48:38 PM SB 7020 reported favorably
12:49:12 PM Tab 5 SB 378 Senator Bean
12:50:27 PM Amendment Barcode 507618
12:57:35 PM Brian Jogerst- Baptist Hospital- Waive in Support of Amendment
12:58:39 PM Amendment Adopted
12:58:53 PM Marine George- FI CHs of American College of Cardiology and American Academy of Pediatrics- Waive in Support
12:59:19 PM Mike Cusick- FL Assoc of Childrens Hospitals- Waive in Support
12:59:35 PM Anita Berry- All Childrens Hospital Johns Hopkins Medicine- Waive in Support
12:59:43 PM Ashley Boxer- Joe DiMaggio Childrens Hospital- Waive in Support
12:59:57 PM L Ferro- Miami Childrens Health System- Waive in Support
1:00:07 PM William Blanchard- Childrens Cardiac Technical Advisory Panel- Waive in Support
1:00:17 PM Brian Pitts- Justice 2 Jesus- Speaking- Information
1:04:23 PM Michelle Strenth-Arnold Palmer Hospital for Children- Waive in Support
1:07:18 PM Discussion
1:11:11 PM CS SB 378 reported Favorably
1:12:17 PM Tab 3 SB 234 Senator Gaetz
1:12:42 PM Avery Coleman- FL Assoc of Community Health Centers- Waive in Support
1:13:45 PM Jack McRay- AARP- Waive in Support
1:13:52 PM Joe Anne Hart- FL Dental Assoc- Waive in Support
1:14:11 PM Rick Stevenson- FL Dental Assoc- Waive in Support
1:14:19 PM Brian Pitts- Justice 2 Jesus- Information
1:21:39 PM SB 234 reported Favorably
1:25:07 PM DOH briefing on Access to Controlled Substances - Lucy Gee
1:46:55 PM Michael Jackson- Florida Pharmacy Association- Access to Controlled Substances
1:54:25 PM Preliminary HEDIS Scores- Justin Senior
2:28:40 PM Preliminary HEDIS Scores- Audrey Brown
2:30:30 PM Meeting Adjourned.