

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

**HEALTH POLICY**  
**Senator Harrell, Chair**  
**Senator Berman, Vice Chair**

**MEETING DATE:** Tuesday, January 14, 2020  
**TIME:** 2:30—4:30 p.m.  
**PLACE:** Pat Thomas Committee Room, 412 Knott Building

**MEMBERS:** Senator Harrell, Chair; Senator Berman, Vice Chair; Senators Baxley, Bean, Book, Cruz, Diaz, Hooper, Mayfield, and Rouson

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	Impact of the Medicaid Retroactive Eligibility Waiver by the Agency for Health Care Administration		Presented
2	<b>SB 708</b> Hutson (Similar CS/H 59)	Automated Pharmacy Systems; Authorizing a community pharmacy to use an automated pharmacy system under certain circumstances; providing that certain medicinal drugs stored in an automated pharmacy system for outpatient dispensing are part of the inventory of the pharmacy providing services through such system, etc.  HP 01/14/2020 Fav/CS IT RC	Fav/CS Yeas 10 Nays 0
3	<b>SB 518</b> Gruters (Identical H 823)	Cardiac Screening for Newborns; Revising components that are included in the postpartum evaluation and followup care required to be provided by birth centers to include a cardiac screening of the newborn; requiring hospitals that provide birthing services to provide a postpartum evaluation that includes the cardiovascular screening of each newborn, etc.  HP 01/14/2020 Favorable AHS AP	Favorable Yeas 10 Nays 0
4	<b>SB 1080</b> Perry (Similar H 743)	Nonopioid Alternatives; Revising exceptions to certain controlled substance prescribing requirements; clarifying that a certain patient or patient representative must be informed of specified information, have specified information discussed with him or her, and be provided with an electronic or printed copy of a specified educational pamphlet, etc.  HP 01/14/2020 Favorable JU RC	Favorable Yeas 10 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Health Policy

Tuesday, January 14, 2020, 2:30—4:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	<b>SB 864</b> Baxley (Similar H 1217)	Surrendered Newborn Infants; Authorizing hospitals, emergency medical services stations, and fire stations to use newborn safety devices to accept surrendered newborn infants under certain circumstances; requiring such hospital, emergency medical services station, or fire station to visually check and test the device within specified timeframes; providing additional locations under which the prohibition on the initiation of criminal investigations based solely on the surrendering of a newborn infant applies, etc.  HP 01/14/2020 Fav/CS CF RC	Fav/CS Yeas 7 Nays 3
6	<b>SB 1020</b> Bean (Similar H 559)	Institutional Formularies Established by Nursing Home Facilities; Authorizing a nursing home facility to establish and implement an institutional formulary; requiring a nursing home facility to maintain written policies and procedures for the institutional formulary; authorizing a pharmacist to therapeutically substitute medicinal drugs under an institutional formulary established by a nursing home facility, under certain circumstances, etc.  HP 01/14/2020 Favorable AHS AP	Favorable Yeas 10 Nays 0
7	<b>SB 500</b> Harrell (Identical H 309)	Prohibited Acts by Health Care Practitioners; Authorizing disciplinary action to be enforced by the Department of Health for the use of specified names or titles without a valid license or certification to practice as such, etc.  HP 01/14/2020 Fav/CS AP RC	Fav/CS Yeas 10 Nays 0
8	<b>SB 878</b> Harrell (Identical H 145)	Public Records/Emergency Room Health Care Practitioners; Providing an exemption from public records requirements for the personal identifying and location information of current or former emergency room health care practitioners and the spouses and children of such practitioners; providing for retroactive application; providing a statement of public necessity, etc.  HP 01/14/2020 Fav/CS GO RC	Fav/CS Yeas 9 Nays 1

**COMMITTEE MEETING EXPANDED AGENDA**

Health Policy

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	<b>SB 1296</b> Berman (Similar H 1461, Compare CS/H 713, CS/S 230)	Health Access Dental Licenses; Reviving, reenacting, and amending provisions relating to the application for a health access dental license and the renewal of such license, etc.  HP      01/14/2020 Fav/CS AHS AP	Fav/CS Yeas 10 Nays 0

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Other Related Meeting Documents

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RON DESANTIS  
GOVERNOR

MARY C. MAYHEW  
SECRETARY

January 10, 2020

The Honorable Bill Galvano  
Senate President  
409 The Capitol  
404 South Monroe Street  
Tallahassee, Florida 32399-1100

Dear President Galvano:

Enclosed is the report on Medicaid retroactive eligibility as directed in Senate Bill 2502, Section 25:

*By January 10, 2020, the Agency for Health Care Administration, in consultation with the Department of Children and Families, the Florida Hospital Association, the Safety Net Hospital Alliance of Florida, the Florida Health Care Association, and LeadingAge Florida, shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives regarding the impact of the waiver of Medicaid retroactive eligibility on beneficiaries and providers.*

This report includes an overview of the Florida Medicaid program, the retroactive eligibility waiver filed as a result of the 2019-2020 Florida law, the Agency for Health Care Administration's attempts to collect the data requested, and the federal evaluation of the retroactive eligibility change on individuals, hospitals and nursing homes, and information about Medicaid outreach.

Please do not hesitate to contact me if you have any questions.

Sincerely,

Mary C. Mayhew  
Secretary

Enclosure: Legislative Report





# **Florida Medicaid Retroactive Eligibility Legislative Report**

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**Report to the Florida Legislature**

**January 10, 2020**



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## Summary

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The Agency for Health Care Administration (Agency) serves as the single state agency responsible for the Florida Medicaid program. The Department of Children and Families (Department) or the Social Security Administration (for SSI recipients) determines Florida Medicaid eligibility.

In accordance with Section 1902(a)(34) of the Social Security Act, medical assistance is available for eligible recipients' care and services furnished in or after the third month before the month in which the Medicaid application is made.

The Florida 2019-2020 General Appropriations Act Implementing Bill (SB 2502) added subsection (12) to section 409.904, Florida Statutes, applying changes to Medicaid retroactive eligibility for non-pregnant adults. This law was effective on July 1, 2019 and expires on July 1, 2020. This law did not change the eligibility period for children (up to age 21) and pregnant women, who may continue to request retroactive Medicaid eligibility for up to 90 days before the month in which an application for Medicaid was submitted. However, this new law required coverage of eligible non-pregnant adults beginning the first day of the month in which an application was submitted.

Through the General Appropriations Act Implementing Bill, the Florida Legislature directed the Agency to provide a report in collaboration with certain state and private stakeholders. This report includes an overview of the Florida Medicaid program, the retroactive eligibility waiver filed as a result of the 2019-2020 Florida law, Agency attempts to collect the data requested, and the federal evaluation of the retroactive eligibility change on individuals, hospitals and nursing homes. The report also includes information on improving outreach and Medicaid coverage among eligible non-pregnant adults.

## Section I. Background

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### Purpose of Report

The 2019 Florida Legislature passed the General Appropriations Act Implementing Bill, Senate Bill 2502, which included Section 25:

*In order to implement Specific Appropriations 203, 207, 208, 210, 212, and 221 of the 2019-2020 General Appropriations Act:*

- (1) By January 10, 2020, the Agency for Health Care Administration, in consultation with the Department of Children and Families, the Florida Hospital Association, the Safety Net Hospital Alliance of Florida, the Florida Health Care Association, and LeadingAge Florida, shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives regarding the impact of the waiver of Medicaid retroactive eligibility on beneficiaries and providers. The report must include but is not limited to:*
  - (a) The total unduplicated number of nonpregnant adults who applied for Medicaid at a hospital site from February 1, 2019, through December 6, 2019; and, of those applicants, the number whose Medicaid applications were approved, the number whose Medicaid applications were denied, and the reasons for denial ranked by frequency.*
  - (b) The total unduplicated number of nonpregnant adults who applied for Medicaid at a nursing home site from February 1, 2019, through December 6, 2019; and, of those applicants, the number whose Medicaid applications were approved, the number whose Medicaid applications were denied, and the reasons for denial ranked by frequency.*
  - (c) The estimated impact of medical debt on people for whom a Medicaid application was not submitted in the same month when the individual became an inpatient of a hospital or resident of a nursing home.*
  - (d) Recommendations to improve outreach and Medicaid coverage for nonpregnant adults who would be eligible for Medicaid if they applied before an event that requires hospital or nursing home care.*
- (2) The Agency for Health Care Administration shall also include, as part of the report required by this section, a copy of the evaluation design and performance metrics submitted to the federal Centers for Medicare and Medicaid Services relating to the waiver of Medicaid retroactive eligibility, in conformity with the Special Terms and Conditions of the state's Section 1115 demonstration project, titled Managed Medical Assistance (MMA) Program (Project No. 11-W-00206/4).*

During the 2020 Legislative Session, Senate Bill 52 has been filed, which would remove the July 1, 2020, expiration date following Subsection 12 (b) of Section 409.904, Florida Statutes. The bill would allow the Agency and Department of Children and Families (Department) to continue the current retroactive eligibility policy.

## Section II. Florida's Medicaid Program

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Medicaid and the Children's Health Insurance Program provide health coverage to 71 million individuals nationwide, including eligible low-income adults, children, pregnant women, elderly adults, and people with disabilities. Medicaid is administered by states, in accordance with federal requirements in the Social Security Act. Each state operating a Medicaid program has a state plan, which serves as an agreement between the state and the federal government describing how that state administers its Medicaid program.

States and the federal government together fund Medicaid. As of October 2019, over 3.8 million Floridians were enrolled in the Medicaid program. Florida Medicaid had \$25.9 billion in expenses for state fiscal year 2018-2019.

The Agency for Health Care Administration (Agency) is the single state Medicaid agency responsible for administering the Florida Medicaid program. Florida provides Medicaid services through competitively selected managed care organizations within the Statewide Medicaid Managed Care (SMMC) program or through the fee-for-service delivery system. Florida's fee-for-service delivery system is a direct billing program where providers receive reimbursement from Florida Medicaid directly through the Agency's claims adjudication system. Approximately 96% of Florida Medicaid recipients who are eligible for full benefits receive their Medicaid services through the SMMC program.

The SMMC program was fully implemented in 2014 and has three components: the Managed Medical Assistance program, the Long-Term Care program, and the Dental program. The Managed Medical Assistance program covers medical care services for health plan enrollees, including substance use disorders and mental health treatment services. The Long-Term Care program provides long-term care services and supports to eligible individuals with disabilities age 18-64 years old and elderly individuals age 65 years or older, including individuals over the age of 18 years with a diagnosis of cystic fibrosis, acquired immune deficiency syndrome, or a traumatic brain or spinal cord injury. The Dental program provides dental services to children and adult Medicaid recipients who are eligible to receive dental benefits. (Examples of recipients not eligible to receive dental benefits through the dental program include individuals for whom the state only pays Medicare cost sharing and individuals residing in institutions where Medicaid pays an all-inclusive rate.)

The Agency partners with other state agencies and entities for various administrative functions, including:

- The Department of Children and Families— determines Medicaid eligibility in Florida.
- The Agency for Persons with Disabilities – operates the Developmental Disabilities Individual Budgeting Waiver.
- The Department of Health – operates the Family Planning Waiver.
- The Department of Elder Affairs – determines clinical eligibility for the Statewide Medicaid Managed Care Long-Term Care program.
- The Aging and Disability Resource Centers –not-for-profit agencies that maintain the waitlist for the Statewide Medicaid Managed Care Long-Term Care program through contracts with the Department of Elder Affairs.

### Medicaid Eligibility Determinations

In Florida, the Department of Children and Families (Department) determines Medicaid eligibility for:

- Parents and caretaker relatives of children
- Children (0-20 years of age)
- Pregnant women

## Agency for Health Care Administration

- Individuals formerly in foster care (up to 26 years of age)
- Non-citizens with medical emergencies
- Aged or disabled individuals not currently receiving Supplemental Security Income (SSI)

The Social Security Administration (SSA) determines eligibility for SSI recipients. The SSA automatically notifies the Department upon determining that an applicant is eligible for SSI. The SSI program assists disabled adults and children with limited income and resources. Florida residents eligible for SSI are automatically eligible for Medicaid coverage.

### Medicaid Application Process

Florida residents can apply for Florida Medicaid eligibility online, by mail, by phone, and in person.

The Department's Automated Community Connection to Economic Self Sufficiency Florida Program (ACCESS) is the electronic application process used for Florida Medicaid and other forms of government assistance. The Department's website contains quick and easy links to determine eligibility, apply for benefits and check existing accounts. Information is available 24 hours a day, 7 days a week. Most applicants choose to apply online. Paper applications are also available on the Department's ACCESS Florida website if an applicant prefers to mail their application.

For applicants who prefer to apply in person, the Department has 53 storefront facilities where an individual can receive a paper application, apply in person, or acquire assistance. The Department also has 2,140 Community Partner Assisted Service sites and 446 Community Partner Self-Service sites to assist in the application process. These Partners are trained by the Department and serve as a point of contact for Medicaid applicants.

If an applicant would like to speak with an agent over the phone, the call center's number is located on the ACCESS website, and the website includes call center wait times. Agents are available Monday through Friday from 8:00 AM to 5:00 PM.

Another entry point for potentially eligible Floridians is through the Federally Facilitated Marketplace (FFM) via Healthcare.gov. The FFM sends information to the Department for applicants who appear to be Medicaid eligible. The Department processes the application based on the information provided. If additional information is required, the Department will contact the applicant and further assist in the application process.

According to 42 CFR § 435.907 and 65A-1.205(1) of the Florida Administrative Code, an application must include the individual's name, address, and signature to start the application process and establish the effective date for Medicaid. Florida may only require an applicant to provide the information necessary to make an eligibility determination or for a purpose directly connected to the administration of the Florida Medicaid State Plan. States are federally required to process applications within 45 days.

### Presumptive Eligibility Process

Presumptive eligibility is an option that authorizes certain qualified Medicaid providers to make immediate Medicaid eligibility determinations and provide Medicaid services to individuals who are determined eligible based upon preliminary information. Presumptive eligibility is not available for seniors nor individuals with disabilities who may have long-term care needs (unless they also qualify as a child, parent/caretaker or a pregnant woman). The ability to receive a presumptive eligibility

determination immediately upon seeking treatment ensures that these recipients experience no delay in accessing subsidized medical services through the Medicaid program.

There are two groups of providers who can be qualified to make presumptive eligibility determinations. Qualified Designated Providers (such as County Health Departments, Regional Perinatal Intensive Care Centers, or other agencies approved by DCF) may make presumptive eligibility determinations only for pregnant women. Hospitals that elect to make presumptive eligibility determinations are called Qualified Hospital Providers. They may make presumptive eligibility determinations for infants and children under the age of 19 years old, children formerly in foster care, parents and other caretakers or relatives, and pregnant women. Qualified Hospital Providers must enter into an agreement with the Agency in order to make presumptive eligibility determinations. Currently, Florida has 52 Qualified Hospital Providers.

### Retroactive Eligibility

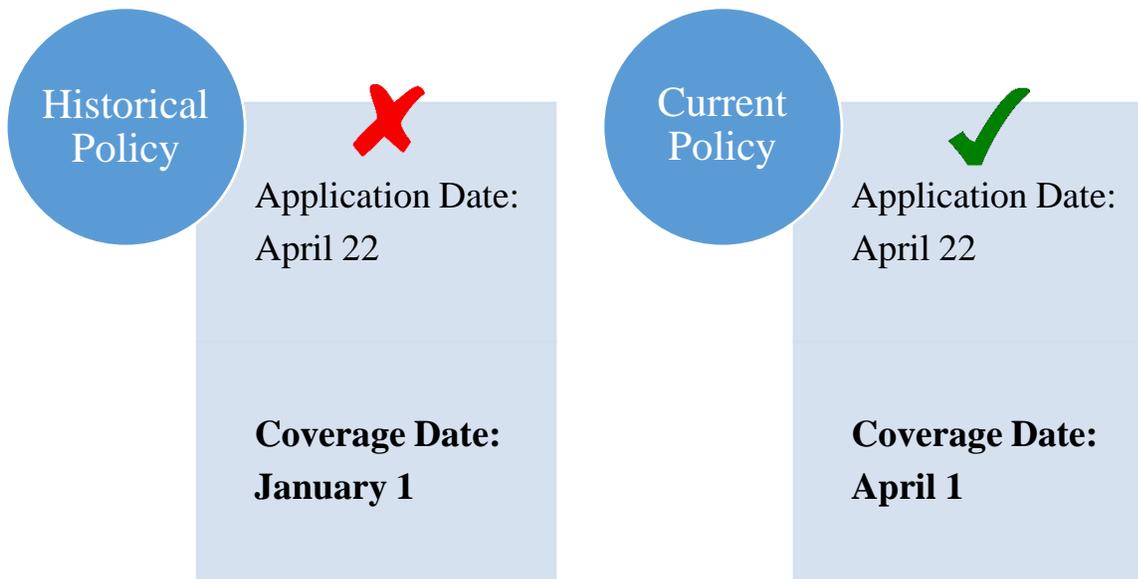
The U.S. Code Title 42, Section 1396(a) directs state Medicaid programs to cover a Medicaid recipient's medical bills up to three months (90 days) prior to their application date. To qualify for retroactive coverage, a Medicaid recipient must request retroactive coverage and must have been eligible for coverage three months before the application date. Retroactive coverage is provided for services covered under Medicaid that were provided during that period.<sup>1</sup>

In 2018, the Florida Legislature directed the Agency to request federal approval to eliminate retroactive Medicaid coverage for non-pregnant adults. The Centers for Medicare and Medicaid Services approved the Agency's request to amend its 1115 waiver. The changes to retroactive eligibility took effect on February 1, 2019. The waiver eliminates retroactive Medicaid coverage for non-pregnant adults only, meaning payments for Medicaid-covered services begin the first day of the month in which an application was submitted rather than up to 90 days prior to the month in which an application was submitted. Eligible pregnant women, infants under the age of 1, and individuals under the age of 21 are not affected by this waiver and are still eligible for retroactive Medicaid coverage for up to 90 days prior to the month in which their application was submitted. Additionally, the application date for approved Supplemental Security Income (SSI) benefits is used to automatically establish Florida Medicaid, no matter how recent or old the date.

The illustration below displays the difference between the historical and current retroactive eligibility policy for non-pregnant adults.

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<sup>1</sup> According to U.S. Code Title 42, Section 1396(a)(A)34, a state plan for medical assistance must: provide that in the case of any individual who has been determined eligible for medical assistance under the plan, such assistance will be made available to him for care and services included under the plan and furnished in or after the third month before the month in which he made application (or application was made on his behalf in the case of a deceased individual) for such assistance if such individual was (or upon application would have been) eligible for such assistance at the time such care and services were furnished.



The change to retroactive eligibility policy enhances fiscal predictability, promotes continuity of care, and encourages individuals to apply for Florida Medicaid as soon as possible so they can be placed in a health plan to receive care coordination immediately upon approval of the Medicaid application. By promoting personal responsibility, residents are encouraged to secure and keep health coverage. Individuals should apply for Medicaid without hesitation to encourage continuity of eligibility and enrollment.

Table 1 represents the original and current estimates relating to expenditures incurred during the retroactive period. More than 70% of the services were provided through institutions such as hospitals, nursing homes and hospices.

<b>Table 1: Expenditures for the Retroactive Period: Example Years SFY 2015-2016 and SFY 2017-2018</b>			
<b>Data Period</b>	<b>Total Unduplicated Recipients (month 1-3)</b>	<b>Total Expenditures (months 1-3)</b>	<b>Total General Revenue Expenditures (months 1-3)</b>
July 1, 2015 – June 30, 2016	19,625	\$98,425,855	\$38,082,585
July 1, 2017- June 30, 2018	11,466	\$103,599,413	\$39,761,455

### Section III. Retroactive Eligibility: Hospital and Nursing Home Impacts

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The Legislature directed that the Agency consult with the Department of Children and Families (Department), the Florida Hospital Association, the Safety Net Hospital Alliance of Florida, the Florida Health Care Association, and LeadingAge Florida on the impact of the changes in retroactive eligibility on hospitals and nursing facilities<sup>2</sup> and directed the Agency to report on the total unduplicated number of non-pregnant adults who applied for Medicaid at a hospital or nursing facility and, of those applicants, the number whose Medicaid applications were approved, the applications that were denied, and the reasons for the denial.

The Agency requested data from the Department regarding the number of applications that originated from a hospital or nursing facility, but the Department does not collect information on the submitting entity at the time of application.

In the absence of this information, the Agency explored general data elements, such as matching the Department's Medicaid application dates with the Agency's claims data for nursing facility or hospital services received prior to the application date. However, this analysis did not yield the desired information on the impact of retroactive eligibility.

Taking a different approach, the Agency asked providers that assisted patients in the completion of applications for information on the number they submitted. Florida Hospital Association, the Florida Health Care Association, the Safety Net Hospital Alliance of Florida, and LeadingAge informed the Agency that they do not track this type of data. Manual reviews of all patient records would be required to ascertain which patients had Medicaid applications submitted by nursing facilities and hospitals. The providers expressed concern regarding the burden of completing the manual reviews.

The Agency and the Department worked collaboratively to identify additional ways to collect and analyze data to address the impact of retroactive eligibility on hospitals and nursing facilities. The Department currently collects the Internet Protocol (IP) address for each Florida Medicaid application received through the ACCESS system. Each IP address is a string of numbers separated by periods that uniquely identifies each computer using the internet protocol to communicate over a shared network. These IP addresses collected through the ACCESS system can be compared to those from hospitals and nursing facilities, to tie a location to an application.

The Department and the Agency developed survey questions for stakeholder groups, requesting specific IP addresses to match with applications received. These questions were shared with each stakeholder group before asking for submission to the Agency. The Florida Hospital Association expressed security concerns with using hospital IP addresses for data analysis as IP addresses could be used to track and identify personal information and compromise the anonymity and security of the hospitals' information. Because of these concerns, IP addresses were not used to identify the source of applications.

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<sup>2</sup> General Appropriations Act, Section (1)(a)(b)

## Section IV. Estimated Impact of Medical Debt

The Legislature also directed that the Agency report the estimated impact of medical debt for individuals who submitted a Medicaid application in a different month from when they became an inpatient of a hospital or resident of a nursing home.

Neither the Agency nor the Department collects or maintains data relating to medical debt. The Department, however, allow applicants to indicate on their application whether they have outstanding medical bills at the time of their application. Data is available regarding the total number of applications in which applicants made this indication before and after the retroactive eligibility policy change took effect February 1, 2019. Table 2 shows that the quarterly percentage of applications that indicated outstanding medical bills decreased after the policy change took effect.

<b>Table 2: Medicaid Applications, Including Applications With Indication of Outstanding Medical Bills July 2018 – June 2019</b>				
<b>Applications</b>	<b>2018 Quarter 3 July - Sept 2018</b>	<b>2018 Quarter 4 Oct - Dec 2018</b>	<b>2019 Quarter 1 Jan – Mar 2019</b>	<b>2019 Quarter 2 Apr – Jun 2019</b>
<b>Approved Applications with Reported Medical Debt</b>	42,955	38,379	33,820	24,588
<b>Denied Applications with Reported Medical Debt</b>	22,732	21,157	17,419	12,209
<b>Duplicate, Withdrawn, or Other Applications with Reported Medical Debt</b>	2,969	2,832	2,862	1,933
<b>Total Applications with Reported Medical Debt</b>	68,656	62,368	54,101	38,730
<b>Total Applications</b>	465,210	527,276	563,200	518,774
<b>Percent of Applications with Reported Medical Debt</b>	14.8%	11.8%	9.6%	7.5%

The Agency also contracted with the University of Florida (UF) to create a survey to collect key items of information in order to analyze the enrollment process changes and survey the impact of medical debt on Medicaid applicants and enrollees. The results of this survey will be part of the evaluation of retroactive eligibility, which is anticipated to be completed in Fall 2020.

The Agency researched other states' retroactive eligibility policies to compare Florida's system with states that have also implemented this change. Arizona provided a clear outline of the policy change with their waiver request to eliminate the retroactive eligibility period. As of April 1, 2019, Arizona Medicaid limits retroactive coverage to the first day of the month of application. Arizona listed three objectives for the amended retroactive eligibility policy, which align with Florida Medicaid goals:

1. Encourage members to obtain and continuously maintain health coverage, even when healthy;
2. Encourage members to apply for Medicaid without delays to promote continuity of eligibility and enrollment for improved health status; and
3. Contain Medicaid costs.

Iowa's retroactive policy was effective October 26, 2017. The amendment includes a waiver of the three-month retroactive eligibility period, which applies to all Iowa Medicaid beneficiaries, except for pregnant women (and during the 60-day period beginning on the last day of the pregnancy) and infants under one year of age. Beneficiaries continue to receive Medicaid coverage effective the first day of the month in which their Medicaid application was filed, or as otherwise allowed by the state plan.

## Section V. Evaluation Design and Performance Metrics

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As part of the report, the Legislature requested that the Agency include a copy of the evaluation design and performance metrics submitted to the federal Centers for Medicare and Medicaid Services (CMS) relating to the 1115 waiver of Medicaid retroactive eligibility. The evaluation design was submitted to CMS on July 24, 2019, and the Agency is awaiting formal approval. CMS is working with states to standardize evaluation methodologies for waivers of retroactive eligibility so that it can better assess the impacts of this policy. To this end, CMS provided detailed evaluation design guidance to be used as a basis for discussions with the evaluators. Florida has used this guidance in its proposed evaluation design.

The Agency must submit a revised draft Evaluation Design within 60 days after receipt of any additional edits from CMS. Upon CMS approval of the draft Evaluation Design, the document will be included as an attachment to the Florida MMA 1115 waiver Special Terms and Conditions. The Agency will publish the approved Evaluation Design within 30 days of CMS approval.

A full evaluation of the MMA program is due to CMS no later than January 1, 2022. The Agency's contracted evaluation vendor is completing portions of the evaluation over the next year. The portion that assesses the impact of the waiver of retroactive eligibility on Medicaid recipients and providers is anticipated to be completed in Fall 2020.

*\*See Appendix for the submitted Evaluation Design and Performance Metrics for Section (2) of the report.*

## Section VI. Stakeholder Feedback: Improving Outreach and Medicaid Coverage

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The Legislature further directed the Agency to collaborate with the Department and certain organizations to provide recommendations for improved outreach and Medicaid coverage for non-pregnant, eligible adults if they applied before an event that requires hospital or nursing home care.

Members of the Florida Hospital Association, Safety Net Hospital Alliance of Florida, LeadingAge Florida, and Florida Health Care Association were tasked with completing an online survey exploring how the policy change has affected hospitals and nursing facilities assisting patients enrolled in Medicaid. Additionally, the survey sought recommendations for improving outreach.

The survey was sent to hospitals and nursing facilities. The survey relied on self-reported data from key informants. As such, responses were subjective and reflect the opinions of the respondents and not necessarily the organizations that employ them. Due to time constraints for survey response and completion, the Agency was unable to incorporate a summary of the results into this report. The results are currently being aggregated and reviewed for utility.

### Outreach Opportunities and Best Practices

Following approval of the waiver, the Agency performed outreach activities to the general public and Medicaid providers to raise awareness of the change to the retroactive eligibility policy. The activities included the following:

- Electronic provider alerts
- Developing and posting a page on the Agency's website dedicated to retroactive eligibility<sup>3</sup>
- Communication by email blasts to providers
- Phone conversations and in-person discussions with associations representing hospitals and nursing facilities
- Provided relevant information to Agency call centers in order to assist in alerting the public about the changes to retroactive eligibility.

The Department developed an internal spotlight communication available to both internal Department staff and interested external parties. The Department also engaged community partners with information sharing on the changes to retroactive eligibility.

In addition to this specific outreach on the change to retroactive eligibility policy, the Department and the Agency provide an array of outreach to raise awareness of all of the assistance programs offered and how to apply. Through the different educational programs and community networks, the Department provides awareness to a diverse population.

The Department has several Supplemental Nutrition Assistance Programs (SNAP) that include educational and outreach components to increase customers' ability to access SNAP program information. If a person applies for SNAP, they can also use the same application process to apply for Medicaid.

The Department uses its network of Community Partner Liaisons (CPL) to engage in different pathways for outreach and increased awareness of resources customers can access, including but not limited to the

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<sup>3</sup> Retroactive Eligibility Agency web page:  
[https://ahca.myflorida.com/medicaid/Policy\\_and\\_Quality/Policy/program\\_policy/eligibility/retro\\_elig.shtml](https://ahca.myflorida.com/medicaid/Policy_and_Quality/Policy/program_policy/eligibility/retro_elig.shtml)

## Agency for Health Care Administration

Medicaid program. Community Partner Liaisons distribute Economic Self-Sufficiency (ESS) materials, conduct ESS presentations, and work directly with community members while networking with appropriate community organizations. The CPL's also assist in community outreach and health fair activities. The CPL's attend up to 80 community fair events a year, per region.

The Department has made extensive use of social media tools, press releases and website alerts as pathways to increase outreach and engagement to customers accessing benefits.

The Agency has had success with the different forms of outreach through its contract with the Florida Healthy Kids Corporation. The Florida Healthy Kids Corporation is tasked in statute with promoting Kidcare, the State of Florida's high-quality, low-cost health insurance for children, from birth through age 18. This includes three types of health insurance coverage for children: Medicaid for children, the subsidized Children's Health Insurance Program, and state-sponsored child coverage whose cost is fully paid by the child's family. Although Florida Kidcare is primarily concerned with a different population than the focus of this report, the program has demonstrated multiple successful marketing strategies for targeted outreach to a traditionally difficult-to-contact population. When an individual applies for Kidcare for a child, they can also apply for coverage for adult Medicaid. Research has shown that outreach and marketing for CHIP also increases enrollment in Medicaid, and vice versa, since the application process can be initiated through either program.

Florida Healthy Kids utilizes a broad network of community partners providing 'boots on the ground' and a trusted, one-on-one avenue for application. Healthy Kids has routinely employed newsletters, community events, text alerts, online alerts, and infographics, for the purpose of communicating targeted Medicaid information to a variety of audiences, including partnering with area non-profits and hospitals.

Additionally, digital and social media advertising expands awareness, generates applications and supports enrollment growth. Benefit-specific messaging differentiates Florida Kidcare plans from private market offerings, while encouraging utilization and retention. Between October 2018 and June 2019, paid search advertising generated 15,575 completed applications. During October of 2018, a mental health awareness social media advertising campaign was launched on Facebook and Instagram to highlight the mental and behavioral health benefits available through Florida KidCare. This one-month campaign reached 670,799 Florida parents, and total of 141 new accounts were created.

Social media advertising has provided consistent outreach and can be a useful tool to use for outreach efforts in additional programs. A pilot paid advertising campaign leveraging a new online eligibility calculator ran in June of 2019 on Facebook, Instagram, and Programmatic Display. The campaign generated 2,519,787 total impressions and 559 new accounts.

## Conclusion

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The Agency and the Department made multiple attempts to obtain the data requested in Section (1) (a) and (1) (b) of Section 25 of the 2019-2020 General Appropriations Act Implementing Bill. The Department's ACCESS system does not collect information on the source of Medicaid applications. The Agency asked hospitals and nursing facilities to provide information on applications they submitted on behalf of patients, but they reported that they would have to manually review patient files to compile this information. The agencies explored the possibility of collecting IP addresses through the ACCESS system to comply with the data request, however, Florida Hospital Association identified data security concerns with this approach. The Agency was able to determine that, for applications that indicated the individual had outstanding medical bills, the average percentage of denied applications declined after the retroactive eligibility change.

CMS is working with states to standardize evaluation methodologies for waivers of retroactive eligibility so that it can better assess the impacts of this policy. To this end, CMS provided detailed evaluation design guidance to be used as a basis for discussions with the evaluators. Florida has used this guidance in its proposed evaluation design. The Agency has contracted with the University of Florida to evaluate the Florida Medicaid 1115 waiver, including a segment on the change to retroactive eligibility policy. The evaluation of retroactive eligibility policy, including its impact on medical debt, is anticipated to be completed in Fall 2020.

## Appendix

### Evaluation Design

The following evaluation design was submitted to Centers for Medicare and Medicaid Services (CMS) on July 24, 2019. The Agency is awaiting formal approval from CMS.

The below research questions are for component nine of the waiver evaluation design. This component will be addressed beginning in January 2020, when the first year of data reflective of the waiver of retroactive eligibility become available. Research questions, outcome measures, sample populations, data sources, and analytic methods are detailed below.

<b>Table 3: Retroactive Eligibility Waiver Research Design</b>				
<b>Research Question</b>	<b>Outcome Measures</b>	<b>Sample or Population Subgroups Compared</b>	<b>Data Sources</b>	<b>Analytic Methods</b>
9A. How will eliminating or reducing retroactive eligibility change enrollment continuity?	<ul style="list-style-type: none"> <li>-Enrollment duration in months for Medicaid cohorts both before and after the policy change</li> <li>-Qualitative information on how hospitals and nursing facilities have changed their enrollment procedures following or in anticipation of the policy change</li> </ul>	<ul style="list-style-type: none"> <li>-Enrollment duration for (1) Medicaid enrollee cohort as of January 2019 (last month prior to policy change) and (2) Medicaid enrollee cohort as of last month available after the policy change</li> </ul>	<ul style="list-style-type: none"> <li>-Medicaid eligibility and enrollment data</li> <li>-Qualitative results of surveys/interviews of hospital and nursing facility administrators</li> </ul>	<ul style="list-style-type: none"> <li>-Pre-post duration models of enrollment length (e.g., Cox proportional hazards model or accelerated failure time model)</li> <li>-Qualitative methods (open-ended surveys and/or key informant interviews)</li> </ul>
9B. How will eliminating or reducing retroactive eligibility change the enrollment of eligible people when they are healthy relative to those eligible people who have the option of retroactive eligibility?	<ul style="list-style-type: none"> <li>-Clinical Risk Groups (CRGs) (Averill et al., 1999; Hughes et al., 2004), a widely-used measure of health status calculated from claims and encounter data</li> </ul>	<ul style="list-style-type: none"> <li>-New Medicaid enrollees</li> </ul>	<ul style="list-style-type: none"> <li>-Medicaid encounter data for new enrollees completing their first year of enrollment both before and after the policy change</li> </ul>	<ul style="list-style-type: none"> <li>-Difference-in-differences testing (if possible) or pre-post statistical models of the distribution of new Medicaid enrollees across the five major CRG categories both before and after the policy change</li> <li>-The evaluation team will also explore administering the SF-12 tool using a telephone survey of new enrollees following the policy change to measure health status. Comparing health status as measured by the CRGs to health status as measured by the SF-12 will help validate the broader</li> </ul>

Agency for Health Care Administration

				application of the CRGs in RQ 9B
9C. How will eliminating or reducing retroactive eligibility affect new enrollee financial burden?	-Hospital utilization and charges with self-pay payor status from the three-months prior to Medicaid application date both before and after the policy change	-New Medicaid enrollees	-Linked (1) statewide Florida Health Information and Transparency (FHIT) Center hospital inpatient, outpatient, ambulatory, and ED utilization data, (2) Medicaid new enrollee encounter data both before and after the policy change for the three months prior to Medicaid application date	-Pre-post testing of self-pay utilization and charges in the three-months prior to Medicaid application using linked encounter data both before and after the policy change. In particular, self-pay charges will measure the amount of health care charges previously covered by Medicaid under retroactive eligibility that will now fall to the self-pay patient and/or provider uncompensated care. The evaluation team will also examine Medicaid FFS and Medicaid MMA payor classes
<b>Note: Results from 9C will determine whether 9D through 9F are applicable.</b>				
9D. How will eliminating or reducing retroactive eligibility affect provider uncompensated care amounts?	-Hospital and SNF Uncompensated Care Expenditures  -Hospital and SNF net income and rates of return	-Florida hospital and SNFs serving Medicaid enrollees  Florida hospital and SNFs serving Medicaid enrollees	-Florida Hospital Uniform Reporting System (FHURS)  -CMS Medicare Hospital and SNF Cost Reports  -Florida Low Income Pool expenditure reports	-Difference-in-Differences models (if possible) or pre-post statistical models examining uncompensated care amounts, net income/rates of return, and uncompensated care net of LIP payments
9E. How will eliminating or reducing retroactive eligibility affect provider financial performance (income after expenses)?	-Hospital net change impact of UCC: UCC – LIP payments Hospital and SNF Uncompensated Care Expenditures			
9F. How will eliminating or reducing retroactive eligibility affect the net financial impact of uncompensated care (UCC – LIP payments)?	-Hospital and SNF net income and rates of return  -Hospital net change impact of UCC: UCC – LIP payments			

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

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

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

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BILL: CS/SB 708

INTRODUCER: Health Policy Committee and Senator Hutson

SUBJECT: Automated Pharmacy Systems

DATE: January 15, 2020      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Brown	HP	Fav/CS
2.	_____	_____	IT	_____
3.	_____	_____	RC	_____

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

COMMITTEE SUBSTITUTE - Substantial Changes

**I. Summary:**

CS/SB 708 amends s. 465.0235, F.S., to permit a licensed community pharmacy to provide outpatient pharmacy services for the dispensing of medicinal drugs through the use of an automated pharmacy system (APS) located inside a community pharmacy or located inside the same establishment as the community pharmacy, if specific requirements are met.

The bill takes effect July 1, 2020.

**II. Present Situation:**

**The Practice of Pharmacy**

Pharmacy is the third largest health profession behind nursing and medicine.<sup>1</sup> The Board of Pharmacy (BOP), in conjunction with the Department of Health (DOH), regulates the practice of pharmacists and pharmacies pursuant to ch. 465, F.S.<sup>2</sup> There are seven types of pharmacies eligible for various operating permits issued by the DOH:

- Community pharmacy;
- Institutional pharmacy;<sup>3</sup>

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<sup>1</sup> American Association of Colleges of Pharmacy, *About AACP*, available at <https://www.aacp.org/about-aacp> (last visited Dec. 11, 2019).

<sup>2</sup> Sections 465.004 and 465.005, F.S.

<sup>3</sup> See ss. 465.003(11)(a)2. and 465.019, F.S.

- Nuclear pharmacy;<sup>4</sup>
- Special pharmacy;<sup>5</sup>
- Internet pharmacy;<sup>6</sup>
- Non-resident sterile compounding pharmacy;<sup>7</sup> and
- Special sterile compounding pharmacy.<sup>8</sup>

### Community Pharmacy

The term “community pharmacy” includes every location where medicinal drugs are compounded, dispensed, stored, or sold or where prescriptions are filled or dispensed on an outpatient basis.<sup>9</sup> A community pharmacy permit is required for every location where medicinal drugs are compounded, dispensed, stored, or sold or where prescriptions are filled or dispensed on an outpatient basis.<sup>10</sup> Any person desiring a permit to operate a community pharmacy must apply to the DOH. If the BOP certifies that an application complies with the laws and the rules governing pharmacies, the DOH must issue the permit.

No permit shall be issued unless a licensed pharmacist is designated as the prescription department manager.<sup>11</sup> A registered pharmacist may not serve as the prescription department manager in more than one location unless approved by the BOP.<sup>12</sup> Permits issued by the DOH are not transferable.<sup>13</sup> Passing an on-site inspection is a prerequisite to the issuance of an initial permit or a permit for a change of location. The DOH must make the inspection within 90 days before issuance of the permit.<sup>14</sup>

The BOP may suspend or revoke the permit of, or may refuse to issue a permit to:

- Any person who has been disciplined or who has abandoned a permit or allowed a permit to become void after written notice that disciplinary proceedings had been or would be brought against the permit;
- Any person who is an officer, director, or person interested directly or indirectly in a person or business entity that has had a permit disciplined or abandoned or become void after

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<sup>4</sup> The term “nuclear pharmacy” includes every location where radioactive drugs and chemicals within the classification of medicinal drugs are compounded, dispensed, stored, or sold. The term “nuclear pharmacy” does not include hospitals licensed under ch. 395, F.S., or the nuclear medicine facilities of such hospitals. *See* ss. 465.003(11)(a)3. and 465.0193, F.S.

<sup>5</sup> The term “special pharmacy” includes every location where medicinal drugs are compounded, dispensed, stored, or sold if such locations are not otherwise defined in this subsection. *See* ss. 465.003(11)(a)4. and 465.0196, F.S.

<sup>6</sup> The term “internet pharmacy” includes locations not otherwise licensed or issued a permit under this chapter, within or outside this state, which use the Internet to communicate with or obtain information from consumers in this state and use such communication or information to fill or refill prescriptions or to dispense, distribute, or otherwise engage in the practice of pharmacy in this state. *See* ss. 465.003(11)(a)5. and 465.0197, F.S.

<sup>7</sup> The term “nonresident sterile compounding pharmacy” includes a pharmacy that ships, mails, delivers, or dispenses, in any manner, a compounded sterile product into Florida, a nonresident pharmacy registered under s. 465.0156, F.S., or an outsourcing facility, must hold a nonresident sterile compounding permit *See* s. 465.0158, F.S.

<sup>8</sup> *See* Fla. Admin. Code R. 64B16-2.100 and 64B16-28.802 (2019). An outsourcing facility is considered a pharmacy and needs to hold a special sterile compounding permit if it engages in sterile compounding.

<sup>9</sup> *See* ss. 465.003(11)(a)1. and 465.018, F.S.

<sup>10</sup> Fla. Admin. Code R. 64B16-28.100(2) (2019).

<sup>11</sup> Section 465.018(2), F.S.

<sup>12</sup> Section 465.022(11)(c), F.S.

<sup>13</sup> Section 465.022(13), F.S.

<sup>14</sup> Section 465.018(6), F.S.

written notice that disciplinary proceedings had been or would be brought against the permit;  
or

- Any person who is or has been an officer of a business entity, or who was interested directly or indirectly in a business entity, the permit of which has been disciplined or abandoned or become null and void after written notice that disciplinary proceedings had been or would be brought against the permit.<sup>15</sup>

A community pharmacy that dispenses controlled substances must maintain a record of all such dispensing, consistent with the requirements of s. 893.07, F.S., and must make the record available to the DOH or law enforcement agencies upon request.<sup>16</sup>

### **Pharmacist Licensure**

A person desiring to be licensed in Florida as a pharmacist must:<sup>17</sup>

- Complete an application and remit an examination fee;
- Be at least 18 years of age;
- Hold a degree from an accredited and approved school or college of pharmacy;<sup>18</sup>
- Have completed a board-approved internship; and
- Successfully complete the board-approved examination.

A pharmacist must complete at least 30 hours of board-approved continuing education during each biennial renewal period.<sup>19</sup> Pharmacists who are certified to administer vaccines or epinephrine autoinjections must complete a three-hour continuing education course on the safe and effective administration of vaccines and epinephrine injections as a part of the biennial licensure renewal.<sup>20</sup> Pharmacists who administer long-acting antipsychotic medications must complete an approved eight-hour continuing education course as a part of the continuing education for biennial licensure renewal.<sup>21</sup>

### **Pharmacist Scope of Practice**

In Florida, the “practice of the profession of pharmacy” includes:<sup>22</sup>

- Compounding, dispensing, and consulting concerning contents, therapeutic values, and uses of a medicinal drug;
- Consulting concerning therapeutic values and interactions of patent or proprietary preparations;

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<sup>15</sup> Section 465.018(3), F.S.

<sup>16</sup> Section 465.018(7), F.S.

<sup>17</sup> Section 465.007, F.S. The DOH may also issue a license by endorsement to a pharmacist who is licensed in another state upon meeting the applicable requirements set forth in law and rule. *See* s. 465.0075, F.S.

<sup>18</sup> If the applicant has graduated from a 4-year undergraduate pharmacy program of a school or college of pharmacy located outside the United States, the applicant must demonstrate proficiency in English, pass the board-approved Foreign Pharmacy Graduate Equivalency Examination, and complete a minimum of 500 hours in a supervised work activity program within Florida under the supervision of a DOH-licensed pharmacist. Section 465.007(1)(b)2., F.S.

<sup>19</sup> Section 465.009, F.S.

<sup>20</sup> Section 465.009(6), F.S.

<sup>21</sup> Section 465.1893, F.S.

<sup>22</sup> Section 465.003(13), F.S.

- Monitoring a patient’s drug therapy and assisting the patient in the management of his or her drug therapy, including the review of the patient’s drug therapy and communication with the patient’s prescribing health care provider or other persons specifically authorized by the patient, regarding the drug therapy;
- Transmitting information from prescribers to their patients;
- Administering vaccines to adults;<sup>23</sup>
- Administering epinephrine injections;<sup>24</sup>
- Administering antipsychotic medications by injection at the direction of a physician;<sup>25</sup> and,
- Other pharmaceutical services.<sup>26, 27</sup>

A pharmacist may not alter a prescriber’s directions, diagnose or treating any disease, initiate any drug therapy, or practice medicine or osteopathic medicine, unless permitted by law.<sup>28</sup>

### **Automated Pharmacy Systems (APS)**

An APS is a mechanical system that delivers prescription drugs from a Florida-licensed pharmacy and maintains related transaction information.<sup>29</sup> A mechanical pharmacy system performs operations or activities, other than compounding or administration, relative to storage, packaging, dispensing, or distribution of medication, and collects, controls, and maintains all transaction information.<sup>30</sup>

Current Florida Statutes<sup>31</sup> provide that a pharmacy may provide pharmacy services to a long-term care facility,<sup>32</sup> a hospice,<sup>33</sup> or a state correctional institution<sup>34</sup> through the use of an APS under the following parameters:

- The APS need not be located at the same location as the pharmacy.

<sup>23</sup> See s. 465.189, F.S.

<sup>24</sup> *Id.*

<sup>25</sup> Section 465.1893, F.S.

<sup>26</sup> Section 465.003(13), F.S.

<sup>27</sup> “Other pharmaceutical services” means the monitoring of the patient’s drug therapy and assisting the patient in the management of his or her drug therapy, and includes review of the patient’s drug therapy and communication with the patient’s prescribing health care provider as licensed under chs. 458, 459, 461, or 466, F.S., or similar statutory provision in another jurisdiction, or such provider’s agent or such other persons as specifically authorized by the patient, regarding the drug therapy. . . The “practice of the profession of pharmacy” also includes any other act, service, operation, research, or transaction incidental to, or forming a part of, any of the foregoing acts, requiring, involving, or employing the science or art of any branch of the pharmaceutical profession, study, or training, and shall expressly permit a pharmacist to transmit information from persons authorized to prescribe medicinal drugs to their patients. The practice of the profession of pharmacy also includes the administration of vaccines to adults. Section 465.003(13), F.S.

<sup>28</sup> *Supra* note 22.

<sup>29</sup> Section 465.003(17), F.S.

<sup>30</sup> Fla. Admin. Code Rule 64B16-28.141(1)(a) (2019).

<sup>31</sup> See s. 465.0235, F.S.

<sup>32</sup> A “long-term care facility” means a nursing home facility, assisted living facility, adult family-care home, board and care facility, or any other similar residential adult care facility. Section 400.0060(6), F.S.

<sup>33</sup> Section 400.601(6), F.S., defines a “hospice residential unit” as a homelike living facility, and includes a facility licensed under chs. 395 or 429, F.S., that is operated by a hospice for the benefit of its patients and is considered by a patient who lives there to be his or her primary residence.

<sup>34</sup> A “state correctional institution” means any prison, road camp, prison industry, prison forestry camp, or any prison camp or prison farm or other correctional facility, temporary or permanent, in which prisoners are housed, worked, or maintained, under the custody and jurisdiction of the Department of Corrections. See 944.02 (8), F.S.

- Drugs stored in bulk or unit of use in the APS are part of the inventory of the pharmacy providing the services, and drugs delivered by the APS are considered to have been dispensed by that pharmacy.
- The operation of the APS must be under the supervision of a Florida-licensed pharmacist. Such a supervisor need not be physically present at the site of the APS and may supervise the system electronically.
- The supervising pharmacist is required to develop and implement policies and procedures to verify that drugs delivered by the APS are accurate and valid and that the machine is properly restocked.
- The BOP is required to adopt rules governing APS use which must specify requirements for recordkeeping, security, and labeling. The labeling requirements must permit the use of unit-dose medications if the facility, hospice, or correctional institution maintains medication-administration records that include directions for use of the medication and if the APS identifies the dispensing pharmacy, the prescription number, the name of the patient, and the name of the prescribing practitioner.

Florida Statutes do not currently provide for a pharmacy to provide pharmacy services via an APS in any venue other than a long-term care facility, hospice, or state correctional institution.

Under BOP rules, a community pharmacy may use an automated pharmacy system if:

- The APS is:
  - Located within the prescription department, adjacent to the prescription department, or is located on the establishment<sup>35</sup> of the licensed pharmacy, and its operation is under the supervision of a pharmacist.
  - Not located within the prescription department but is operated as an extension of the licensed pharmacy.
  - Not located within the prescription department but has the name, address, contact information, and permit number of the community pharmacy that is responsible for the operation of the automated pharmacy system conspicuously displayed on the automated pharmacy system.
- The pharmacy develops and maintains a policy and procedure manual.
- The APS ensures that each prescription is dispensed according to the definition of “dispense” found in s. 465.003, F.S., and as used in the practice of the profession of pharmacy. The system must include a mechanism to ensure that the patient has a means to communicate with a pharmacist responsible for dispensing the medical drug product, and the means of communication may include in-person, electronic, digital, or telephonic.
- The APS must maintain a readily retrievable electronic record to identify all pharmacists, pharmacy interns, registered pharmacy technicians, or other personnel involved in the dispensing of a prescription.

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<sup>35</sup> An “establishment” is one general physical location that may extend to one or more contiguous suites, units, floors, or buildings operated and controlled exclusively by entities under common operation and control. Where multiple buildings are under common ownership, operation, and control, an intervening thoroughfare does not affect the contiguous nature of the buildings. Fla. Admin. Code Rule 64B16-28.141(1)(b) (2019).

- The APS must provide the ability to comply with product recalls generated by the manufacturer, distributor, or pharmacy. The system must have a process in place to isolate affected lot numbers, including an intermix of drug product lot numbers.<sup>36</sup>

### III. Effect of Proposed Changes:

CS/SB 708 amends s. 465.0235, F.S., to permit a licensed community pharmacy to provide outpatient pharmacy services for dispensing of medicinal drugs through the use of an automated pharmacy system (APS) if all of the following requirements are met:

- The APS is located inside the community pharmacy's pharmacy department or is located inside the same establishment as the community pharmacy;
- The APS is under the supervision and control of the community pharmacy;
- The community pharmacy providing services through the APS notifies the BOP of the location of the APS and any changes in such location;
- The APS is under the supervision and control of a Florida-licensed pharmacist<sup>37</sup> who is available and accessible for patient counseling before the dispensing of any medicinal drug;
- The APS does not contain or dispense any controlled substances listed in s. 893.03, F.S., or 21 U.S.C. s. 812;
- The community pharmacy maintains a record of the medicinal drugs dispensed, including the identity of the pharmacist responsible for verifying the accuracy of the dosage and directions and providing patient counseling; and
- The APS ensures the confidentiality of personal health information.

The bill provides that all other provisions in s. 465.0235, F.S., currently pertaining to the use of an APS in a long-term care facility, hospice, or state correctional institution, will also pertain to outpatient dispensing conducted by a community pharmacy via an APS.

The bill takes effect July 1, 2020.

### IV. Constitutional Issues:

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

None.

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

None.

#### C. Trust Funds Restrictions:

None.

<sup>36</sup> Fla. Admin. Code R. 64B16-28,141(2),(2019).

<sup>37</sup> Section 465.003(10), F.S., defines pharmacist as a person licensed under ch. 465, F.S., to practice the profession of pharmacy.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

There may be an indeterminate cost, or a savings, to the public of having medicinal drugs readily available for dispensing at various locations other than the community pharmacy location.

C. Government Sector Impact:

The DOH will experience a recurring increase in workload associated with the requirement for community pharmacies to notify the Board of Pharmacy of the location and any changes to the location of the automated pharmacy systems, yet it is anticipated that current resources are adequate to absorb such costs.<sup>38</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 465.0235 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 January 14, 2020:**

The CS:

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<sup>38</sup> The Department of Health, *Senate Bill 708 Agency Legislative Bill Analysis*, (Nov. 13, 2019) (on file with the Senate Committee on Health Policy).

- Eliminates the authorization for the use of an APS not located at the same location as the community pharmacy;
- Adds the requirement that the automated pharmacy system be located either:
  - Inside the community pharmacy's pharmacy department; or
  - Inside the same establishment as the community pharmacy; and
- Mandates that an APS may not contain or dispense any controlled substances listed in s. 893.03, F.S., or 21 U.S.C. s. 812 and eliminates reference to schedules II through V for controlled substances

B. Amendments:

None.

By Senator Hutson

7-00933-20

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1                   A bill to be entitled  
2           An act relating to automated pharmacy systems;  
3           amending s. 465.0235, F.S.; authorizing a community  
4           pharmacy to use an automated pharmacy system under  
5           certain circumstances; providing that certain  
6           medicinal drugs stored in an automated pharmacy system  
7           for outpatient dispensing are part of the inventory of  
8           the pharmacy providing services through such system;  
9           requiring the Board of Pharmacy to adopt rules;  
10          providing an effective date.

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

13  
14           Section 1. Section 465.0235, Florida Statutes, is amended  
15 to read:

16           465.0235 Automated pharmacy systems used by long-term care  
17 facilities, hospices, or state correctional institutions, or for  
18 outpatient dispensing.—

19           (1) A pharmacy may provide pharmacy services to a long-term  
20 care facility or hospice licensed under chapter 400 or chapter  
21 429 or a state correctional institution operated under chapter  
22 944 through the use of an automated pharmacy system that need  
23 not be located at the same location as the pharmacy.

24           (2) A community pharmacy, as defined in s. 465.003, which  
25 is licensed in this state may provide pharmacy services for  
26 outpatient dispensing through the use of an automated pharmacy  
27 system that need not be located at the same location as the  
28 community pharmacy if:

29           (a) The automated pharmacy system is under the supervision

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30 and control of the community pharmacy.

31 (b) The community pharmacy providing services through the  
32 automated pharmacy system notifies the board of the location of  
33 the automated pharmacy system and any changes in such location.

34 (c) The automated pharmacy system is under the supervision  
35 and control of a pharmacist, as defined in s. 465.003, who is  
36 licensed in this state and is available and accessible for  
37 patient counseling before the dispensing of any medicinal drug.

38 (d) The automated pharmacy system does not contain or  
39 dispense any controlled substances listed in Schedule II,  
40 Schedule III, Schedule IV, or Schedule V of s. 893.03 or 21  
41 U.S.C. s. 812.

42 (e) The community pharmacy maintains a record of the  
43 medicinal drugs dispensed, including the identity of the  
44 pharmacist responsible for verifying the accuracy of the dosage  
45 and directions and providing patient counseling.

46 (f) The automated pharmacy system ensures the  
47 confidentiality of personal health information.

48 (3)-(2) Medicinal drugs stored in bulk or unit of use in an  
49 automated pharmacy system servicing a long-term care facility,  
50 hospice, or correctional institution, or for outpatient  
51 dispensing, are part of the inventory of the pharmacy providing  
52 pharmacy services to that facility, hospice, or institution, or  
53 for outpatient dispensing, and medicinal drugs delivered by the  
54 automated pharmacy system are considered to have been dispensed  
55 by that pharmacy.

56 (4)-(3) The operation of an automated pharmacy system must  
57 be under the supervision of a ~~Florida-licensed~~ pharmacist  
58 licensed in this state. To qualify as a supervisor for an

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59 automated pharmacy system, the pharmacist need not be physically  
 60 present at the site of the automated pharmacy system and may  
 61 supervise the system electronically. The ~~Florida-licensed~~  
 62 pharmacist shall be required to develop and implement policies  
 63 and procedures designed to verify that the medicinal drugs  
 64 delivered by the automated pharmacy dispensing system are  
 65 accurate and valid and that the machine is properly restocked.

66 (5)~~(4)~~ The Legislature does not intend for this section to  
 67 limit the current practice of pharmacy in this state. This  
 68 section is intended to allow automated pharmacy systems to  
 69 enhance the ability of a pharmacist to provide pharmacy services  
 70 in locations that do not employ a full-time pharmacist. This  
 71 section does not limit or replace the use of a consultant  
 72 pharmacist.

73 (6)~~(5)~~ The board shall adopt rules governing the use of ~~an~~  
 74 automated pharmacy systems ~~system by January 1, 2005,~~ which must  
 75 include specify:

76 (a) Recordkeeping requirements.~~.~~  
 77 (b) Security requirements.~~.~~~~and~~  
 78 (c) Labeling requirements that permit the use of unit-dose  
 79 medications if the facility, hospice, or institution maintains  
 80 medication-administration records that include directions for  
 81 use of the medication and the automated pharmacy system  
 82 identifies:

- 83 1. The dispensing pharmacy.~~.~~
- 84 2. The prescription number.~~.~~
- 85 3. The name of the patient.~~.~~~~and~~
- 86 4. The name of the prescribing practitioner.

87 Section 2. This act shall take effect July 1, 2020.



The Florida Senate

## Committee Agenda Request

**To:** Senator Gayle Harrell, Chair  
Committee on Health Policy

**Subject:** Committee Agenda Request

**Date:** December 30, 2019

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I respectfully request that **Senate Bill #708**, relating to Automated Pharmacy Systems, be placed on the:

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

A handwritten signature in black ink that reads "Travis J. Hutson".

---

Senator Travis Hutson  
Florida Senate, District 7



# 2020 AGENCY LEGISLATIVE BILL ANALYSIS

## AGENCY: Florida Department of Health

<b><u>BILL INFORMATION</u></b>	
<b>BILL NUMBER:</b>	SB 708
<b>BILL TITLE:</b>	Automated Pharmacy Systems
<b>BILL SPONSOR:</b>	Hutson
<b>EFFECTIVE DATE:</b>	7/1/2020

<b><u>COMMITTEES OF REFERENCE</u></b>
1) Health Policy
2) Innovation, Industry, and Technology
3) Rules
4) Click or tap here to enter text.
5) Click or tap here to enter text.

<b><u>CURRENT COMMITTEE</u></b>
Health Policy

<b><u>SIMILAR BILLS</u></b>	
<b>BILL NUMBER:</b>	HB 0059
<b>SPONSOR:</b>	Willhite

<b><u>PREVIOUS LEGISLATION</u></b>	
<b>BILL NUMBER:</b>	Click or tap here to enter text.
<b>SPONSOR:</b>	Click or tap here to enter text.
<b>YEAR:</b>	Click or tap here to enter text.
<b>LAST ACTION:</b>	Click or tap here to enter text.

<b><u>IDENTICAL BILLS</u></b>	
<b>BILL NUMBER:</b>	Click or tap here to enter text.
<b>SPONSOR:</b>	Click or tap here to enter text.

<b>Is this bill part of an agency package?</b>
No

<b><u>BILL ANALYSIS INFORMATION</u></b>	
<b>DATE OF ANALYSIS:</b>	11/13/2019
<b>LEAD AGENCY ANALYST:</b>	Jennifer Wenhhold
<b>ADDITIONAL ANALYST(S):</b>	N/A
<b>LEGAL ANALYST:</b>	Louise Saint Laurent
<b>FISCAL ANALYST:</b>	Ann Courtney

## **POLICY ANALYSIS**

## **1. EXECUTIVE SUMMARY**

This bill allows community pharmacies to use automated pharmacy systems under certain circumstances. The effective date of the bill is July 1, 2020.

## **2. SUBSTANTIVE BILL ANALYSIS**

### **1. PRESENT SITUATION:**

An automated dispensing system is a mechanical system that delivers prescription drugs received from a Florida-permitted pharmacy and maintains related transaction information. A pharmacy may use an automated pharmacy system to provide services to a long-term care facility, hospice, or a state correctional institution. The automated dispensing system does not have to be located at the same location as the pharmacy. A Florida-licensed pharmacist must supervise the automated pharmacy system, but they are not required to be at the same site of the automated pharmacy system and may supervise electronically. The pharmacy operating the system must have policies and procedures in place to ensure enough security and protect patient confidentiality.

Rule 64B16-28.141, F.A.C., requires that in a community pharmacy, the automated pharmacy system must be located within or adjacent to the prescription department and must collect, control, and maintain all transaction information. The system may not compound or administer medicinal drugs. All prescriptions dispensed from the system are certified by the pharmacist. The pharmacy operating the automated pharmacy system must:

- Have policies and procedures that address, among other things, security, a process for stocking the system, a method for identifying pharmacy personnel involved in the dispensing process, and a method for ensuring patient confidentiality;
- Ensure that each prescription is being dispensed in compliance with law;
- Maintain a readily retrievable electronic record to identify pharmacy personnel involved in the dispensing of a prescription;
- Be able to comply with product recalls;
- Only be stocked or restocked by a Florida-licensed pharmacist; and
- Use two separate verifications, such as a bar code verification, electronic verification, weight verification, or similar process to ensure that the proper medication is being dispensed.

Although the Board of Pharmacy has adopted rules, current law does not explicitly authorize the use of an automated dispensing system at a location other than a long-term care facility, hospice, or a state correctional institution.

### **2. EFFECT OF THE BILL:**

The bill allows a community pharmacy to use an automated pharmacy system for outpatient dispensing. The system must meet all current statutory requirements that facility-based automated pharmacy systems must meet. A community pharmacy may deploy such system on an outpatient basis if it:

- Is under the supervision and control of the community pharmacy;
- The community pharmacy using an automated pharmacy system notifies the board of the location of the system and any changes in such location;
- Is under the supervision of a pharmacist who is available and accessible for patient counseling before dispensing any medicinal drug;
- Does not store or dispense any controlled substances;
- Maintains a record of medicinal drugs dispensed, including the identity of the pharmacist responsible for

verifying the accuracy of the dosage and directions, and providing patient counseling; and

- Ensures the confidentiality of personal health information.

The bill requires the community pharmacy to notify the Board of Pharmacy of the location and any changes to the location of the system. The pharmacy must maintain a record of the medicinal drugs dispensed by the automated pharmacy system, including the identity of the pharmacist responsible for verifying the accuracy of the dosage and directions of the medicinal drug and providing patient counseling. Additionally, this bill prohibits the storing or dispensing of controlled substances at automated pharmacy systems.

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

If yes, explain:	64B16-28.141, FAC.
Is the change consistent with the agency's core mission?	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	64B16-28.141, FAC.

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

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

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

If yes, provide a description:	Click or tap here to enter text.
Date Due:	Click or tap here to enter text.
Bill Section Number(s):	N/A

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

Board:	Click or tap here to enter text.
Board Purpose:	Click or tap here to enter text.
Who Appoints:	Click or tap here to enter text.
Changes:	N/A

Bill Section Number(s):	N/A
-------------------------	-----

## FISCAL ANALYSIS

### 1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?

Y  N 

Revenues:	None
Expenditures:	None
Does the legislation increase local taxes or fees? If yes, explain.	No
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	N/A

### 2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?

Y  N 

Revenues:	None
Expenditures:	DOH/MQA will experience a recurring increase in workload associated with the requirement for community pharmacies to notify the Board of Pharmacy of the location and any changes to the location of the automated pharmacy systems, yet it is anticipated that current resources are adequate to absorb. DOH/MQA will incur non-recurring costs associated with rulemaking, which current budget authority is adequate to absorb.
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	N/A

### 3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?

Y  N 

Revenues:	Unknown
Expenditures:	Unknown
Other:	N/A

### 4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?

Y  N 

If yes, explain impact.	<a href="#">Click or tap here to enter text.</a>
-------------------------	--

Bill Section Number:	Click or tap here to enter text.

**TECHNOLOGY IMPACT**

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

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

**FEDERAL IMPACT**

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

If yes, describe the anticipated impact including any fiscal impact.	Click or tap here to enter text.
--	----------------------------------

**ADDITIONAL COMMENTS**

N/A

**LEGAL - GENERAL COUNSEL'S OFFICE REVIEW**

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

January 14, 2020

*Meeting Date*

SB708

*Bill Number (if applicable)*

614232

*Amendment Barcode (if applicable)*

Topic Automated Pharmacy Systems

Name Michael Jackson

Job Title Executive Vice President and CEO

Address 610 North Adams Street

*Street*

Tallahassee

*City*

Florida

*State*

32301

*Zip*

Phone (850) 222-2400

Email mjackson@pharmview.com

Speaking:  For  Against  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  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)

1/14/2020  
Meeting Date

SB 708  
Bill Number (if applicable)

Topic Automated Pharmacies

Amendment Barcode (if applicable)

Name Diego Echeverri

Job Title Legislative Liaison

Address 200 W College Ave

Phone 954-614-3363

Street

TLM

City

FL

State

Zip

Email decheverri@aafphg.org

Speaking:  For  Against  Information

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

Representing Americans For Prosperity

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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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)

01/14/2020  
Meeting Date

SB 078  
Bill Number (if applicable)

Topic Automated Pharmacy Systems

Amendment Barcode (if applicable)

Name Ivonne Fernandez

Job Title Associate State Director - AARP

Address 200 W College Ave

Phone 954-850-7262

Tallahassee FL 32301  
City State Zip

Email ifernandez@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)

1/14/2020

Meeting Date

708

Bill Number (if applicable)

Topic Automated Pharmacy Systems

Amendment Barcode (if applicable)

Name JAKE FARMER

Job Title Dir. Government Affairs

Address 227 S Adams St.

Phone 352 359 6835

Street

Tallahassee FL 32301

City

State

Zip

Email Jake@Aff.org

Speaking: [ ] For [ ] Against [ ] Information

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

Representing Florida Retail Federation

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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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

1-14-2020

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

SB 708

Meeting Date

Bill Number (if applicable)

Topic Automated Pharmacy Systems

Amendment Barcode (if applicable)

Name Carlos Cruz

Job Title Govt Consultant

Address 307 West Park Avenue

Phone 904-214-5724

Street

Tallahassee, FL

State

32301

Zip

Email Cruz@convergegov.com

Speaking:  For  Against  Information

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

Representing Walgreens

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

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

1-14-2020

Meeting Date

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

# 708

Bill Number (if applicable)

Topic pharmacy automation

Amendment Barcode (if applicable)

Name Jules Kariner

Job Title Chief Advocacy officer

Address 551 N 9th Ave

Phone 850 206 9495

Pensacola FL

Email jules.kariner@ascension.org

City State Zip

Speaking:  For  Against  Information

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

Representing Ascension St. Vincent's

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)

1-14-20

Meeting Date

708

Bill Number (if applicable)

Topic Automated Pharmacy Dispensing Machines

Amendment Barcode (if applicable)

Name Richard Pinsky

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

Address 106 E College Ave. #1200

Phone \_\_\_\_\_

Street

Tallahassee

FL

32301

Email \_\_\_\_\_

City

State

Zip

Speaking:  For  Against  Information

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

Representing Medtronic

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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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 518

INTRODUCER: Senator Gruters and others

SUBJECT: Cardiac Screening for Newborns

DATE: January 13, 2020

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Brown	HP	<b>Favorable</b>
2.			AHS	
3.			AP	

---

**I. Summary:**

SB 518 amends ss. 383.318 and 395.1053, F.S., to require birth centers and hospitals, respectively, to provide cardiovascular screenings for newborn infants as part of a mandated postpartum evaluation.

The bill has an effective date of July 1, 2020.

**II. Present Situation:**

**Florida Newborn Screening Program**

Currently, s. 383.14, F.S., requires the Department of Health (DOH) to promote the screening of all newborns in the state for multiple disorders after birth. The DOH is required to screen for any condition on the federal Recommended Uniform Screening Panel<sup>1</sup> and which is also recommended by the Newborn Screening Advisory Council.<sup>2</sup> Unless a parent objects in writing, each newborn in Florida is screened for 32 primary disorders and an additional 22 secondary disorders as recommended by the U.S. Department of Health and Human Services Recommended Uniform Screening Panel.<sup>3</sup>

***Screening Process***

Before a newborn leaves a hospital or birth center, a few drops of blood are taken from the heel of the baby, and the ears are also tested for hearing. The facility sends the blood sample to the Bureau of Public Health Laboratories in Jacksonville and the results are sent back to the facility

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<sup>1</sup> See <https://www.hrsa.gov/advisory-committees/heritable-disorders/rusp/index.html> (last visited on Jan 8, 2020).

<sup>2</sup> See s. 383.14(2)(a)2., F.S.

<sup>3</sup> For a list of the disorders screened for see <http://www.floridahealth.gov/programs-and-services/childrens-health/newborn-screening/nbs-disorder.html> (last visited on Jan. 8, 2020).

and then forwarded to the baby's doctor. If the screening results are abnormal, the Newborn Screening Follow-up Program, which is a part of Children's Medical Services,<sup>4</sup> will contact the parent or the doctor, or both, about additional testing and will continue to follow-up until the disorder is either ruled out or confirmed.<sup>5</sup>

### **Critical Congenital Heart Disease in Newborns**

According to the federal Centers for Disease Control and Prevention, screening for critical congenital heart defects (CHD) can help identify some babies who have a critical CHD before they go home from the birth hospital. This allows such babies to be treated early and may prevent disability or death early in life. Some babies with a critical CHD appear healthy at first and may be sent home before their critical CHD is detected. Newborn screening for critical CHDs works with prenatal diagnosis and physical exams after birth to improve detection of critical CHDs.<sup>6</sup>

Currently the DOH screens for critical CHDs through the newborn screening program. However, though required by DOH rule,<sup>7</sup> screening for such cardiovascular conditions is not specifically mandated in the Florida Statutes.

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

SB 518 amends ss. 383.318 and 395.1053, F.S., to require birth centers and hospitals, respectively, to provide cardiovascular screenings for newborn infants as part of a mandated postpartum evaluation.

The bill has an effective date of July 1, 2020.

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

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

None.

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

None.

#### **C. Trust Funds Restrictions:**

None.

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<sup>4</sup> The DOH Division of Children's Medical Services is a collection of programs that serve children with special health care needs. Each program provides family-centered care using statewide networks of specially qualified doctors, nurses, and other healthcare professionals. See <http://www.floridahealth.gov/programs-and-services/childrens-health/childrens-medical-services/index.html> (last visited on Jan. 9, 2020).

<sup>5</sup> See <http://www.floridahealth.gov/programs-and-services/childrens-health/newborn-screening/> (last visited on Jan. 8, 2020).

<sup>6</sup> See <https://www.cdc.gov/ncbddd/heartdefects/screening.html> (last visited on Jan 8, 2020).

<sup>7</sup> See Fla. Admin. Code R. 64C-7.002, (2018), and the Newborn Screening Disorders list available at: <https://www.flrules.org/Gateway/reference.asp?No=Ref-09987> (last visited on Jan 8, 2020).

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 383.318 and 395.1053 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 Gruters

23-00244-20

2020518\_\_

1                   A bill to be entitled  
2           An act relating to cardiac screening for newborns;  
3           amending s. 383.318, F.S.; revising components that  
4           are included in the postpartum evaluation and followup  
5           care required to be provided by birth centers to  
6           include a cardiac screening of the newborn; amending  
7           s. 395.1053, F.S.; requiring hospitals that provide  
8           birthing services to provide a postpartum evaluation  
9           that includes the cardiovascular screening of each  
10          newborn; providing an effective date.

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

13  
14           Section 1. Subsection (3) of section 383.318, Florida  
15 Statutes, is amended to read:

16           383.318 Postpartum care for birth center clients and  
17 infants.—

18           (3) The birth center shall provide a postpartum evaluation  
19 and followup care that includes all of the following:

20           (a) Physical examination of the infant.

21           **(b) Cardiovascular screening of the newborn.**

22           ~~(c)~~ ~~(b)~~ Metabolic screening tests required by s. 383.14.

23           ~~(d)~~ ~~(e)~~ Referral to sources for pediatric care.

24           ~~(e)~~ ~~(d)~~ Maternal postpartum assessment that incorporates  
25 mental health screening.

26           ~~(f)~~ ~~(e)~~ Information on postpartum depression and the  
27 telephone number of the Family Health Line operated pursuant to  
28 s. 383.011.

29           **(g)** ~~(f)~~ Instruction in child care, including immunization,

23-00244-20

2020518\_\_

30 breastfeeding, safe sleep practices, and possible causes of  
31 Sudden Unexpected Infant Death.

32 (h)~~(g)~~ Family planning services.

33 (i)~~(h)~~ Referral to secondary or tertiary care, as  
34 indicated.

35 Section 2. Section 395.1053, Florida Statutes, is amended  
36 to read:

37 395.1053 Postpartum care and education.—A hospital that  
38 provides birthing services shall:

39 (1) Provide a postpartum evaluation that includes the  
40 cardiovascular screening of each newborn.

41 (2) Incorporate information on safe sleep practices and the  
42 possible causes of Sudden Unexpected Infant Death into the  
43 hospital's postpartum instruction on the care of newborns.

44 Section 3. This act shall take effect July 1, 2020.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**  
Commerce and Tourism, *Chair*  
Finance and Tax, *Vice Chair*  
Appropriations Subcommittee on Criminal  
and Civil Justice  
Banking and Insurance

**JOINT COMMITTEE:**  
Joint Committee on Public Counsel Oversight

### SENATOR JOE GRUTERS

23rd District

January 7, 2020

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

Dear Chair Harrell:

I am writing to request that Senate Bill 518, Cardiac Screening for Newborns be placed on the agenda of the next Committee on Health Policy meeting.

Should you have any questions regarding this bill, please do not hesitate to reach out to me. Thank you for your time and consideration.

Warm regards,

A handwritten signature in black ink that reads "Joe Gruters". The signature is written in a cursive, flowing style.

Joe Gruters

cc: Allen Brown, Staff Director  
Celia Georgiades, Committee Administrative Assistant

**REPLY TO:**

- 381 Interstate Boulevard, Sarasota, Florida 34240 (941) 378-6309
- 324 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023

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

**BILL GALVANO**  
President of the Senate

**DAVID SIMMONS**  
President Pro Tempore

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

11/14/2020  
Meeting Date

SB 518  
Bill Number (if applicable)

Topic Infant cardiac screening for newborns

Amendment Barcode (if applicable)

Name Savannah Marquez

Job Title Student

Address 2562 Wye Oak Lane Sarasota FL 34232  
Street

Phone 941-228-8628

Sarasota Florida 34232  
City State Zip

Email N912434@sarasota  
County Schools.net

Speaking:  For  Against  Information

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

Representing Children with CHD

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)

1/14/20

Meeting Date

SB 518

Bill Number (if applicable)

Topic Newborn Screening

Amendment Barcode (if applicable)

Name Mark Landroeth

Job Title Gov't Relations Director

Address 2381 Remington Owen Circle SE A

Phone 850.544.3376

Street

Tallahassee FL

Email Mark.Landroeth@heart.org

City

State

Zip

Speaking:  For  Against  Information

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

Representing American Heart Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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S-001 (10/14/14)

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

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

1/14/2020  
Meeting Date

SB518  
Bill Number (if applicable)

Topic Infant Cardiac Screening

Amendment Barcode (if applicable)

Name Nicole Marquez

Job Title Mom

Address 2562 Wye Oak Lane  
Street

Phone (941) 321-0291

Sarasota FL 34232  
City State Zip

Email lilnicky1782@gmail.com

Speaking:  For  Against  Information

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

Representing Children with CHD

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**  
**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 1080

INTRODUCER: Senators Perry and Baxley

SUBJECT: Nonopioid Alternatives

DATE: January 13, 2020

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Brown	HP	<b>Favorable</b>
2.			JU	
3.			RC	

---

**I. Summary:**

SB 1080 amends provisions in s. 456.44, F.S., related to the requirement for a health care practitioner to provide a patient with nonopioid alternatives before treating the patient with opioid drugs that are listed as Schedule II controlled substances.<sup>1</sup> The bill provides an exception to the requirement to provide nonopioid alternatives when treating a patient in an emergency room, a critical care unit, or when the patient is receiving hospice services; eliminates the requirement to provide such alternatives when dispensing or administering Schedule II opioids; and allows information on the nonopioid alternatives to be provided to the patient’s representative in addition to the patient directly.

The bill takes effect July 1, 2020.

**II. Present Situation:**

**History of the Opioid Crisis in Florida**

According to the National Institute on Drug Abuse:<sup>2</sup>

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

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<sup>1</sup> For a list of schedule II controlled substances, see s. 893.03, F.S. or 21 U.S.C. s. 812.

<sup>2</sup> National Institute on Drug Abuse, *Opioid Overdose Crisis* (Rev. Jan. 2019), available at <https://www.drugabuse.gov/drugs-abuse/opioids/opioid-overdose-crisis> (last visited on Jan. 9, 2020).

Between the early 2000s and the early 2010s, Florida was infamous as the “pill mill capital” of the country. At the peak of the pill mill crisis, doctors in Florida bought 89 percent of all the oxycodone sold in the county.<sup>3</sup>

Between 2009 and 2011, the Legislature enacted a series of reforms to combat prescription drug abuse. These reforms included strict regulation of pain management clinics; creating the Prescription Drug Monitoring Program (PDMP); and stricter regulation on selling, distributing, and dispensing controlled substances.<sup>4</sup> “In 2016, the opioid prescription rate was 75 per 100 persons in Florida. This rate was down from a high of 83 per 100.”<sup>5</sup>

As reported by the Florida Attorney General’s Opioid Working Group,

Drug overdose is now the leading cause of non-injury related death in the United States. Since 2000, drug overdose death rates increased by 137 percent, including a 200 percent increase in the rate of overdose deaths involving opioids. In 2015, over 52,000 deaths in the U.S. were attributed to drug poisoning, and over 33,000 (63 percent) involved an opioid. In 2015, 3,535 deaths occurred in Florida where at least one drug was identified as the cause of death. More specifically, 2,535 deaths were caused by at least one opioid in 2015. Stated differently, seven lives per day were lost to opioids in Florida in 2015. Overall the state had a rate of opioid-caused deaths of 13 per 100,000. The three counties with the highest opioid death rate were Manatee County (37 per 100,000), Dixie County (30 per 100,000), and Palm Beach County (22 per 100,000).<sup>6</sup>

Early in 2017, the Center for Disease Control (CDC) declared the opioid crisis an epidemic.<sup>7</sup> Shortly thereafter, on May 3, 2017, Governor Rick Scott signed Executive Order 17-146 declaring the opioid epidemic a public health emergency in Florida.<sup>8</sup>

### ***House Bill 21 (2018)***

In 2018, the Florida Legislature passed HB 21 (ch. 2018-13, L.O.F.) to combat the opioid crisis. HB 21:

- Required additional training for practitioners on the safe and effective prescribing of controlled substances;
- Restricted the length of prescriptions for Schedule II opioid medications to three days or up to seven days if medically necessary;

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<sup>3</sup> Lizette Alvarez, *Florida Shutting ‘Pill Mill’ Clinics*, The New York Times (Aug. 31, 2011), available at <http://www.nytimes.com/2011/09/01/us/01drugs.html> (last visited on Jan. 10, 2020).

<sup>4</sup> See chs. 2009-198, 2010-211, and 2011-141, Laws of Fla.

<sup>5</sup> Attorney General’s Opioid Working Group, *Florida’s Opioid Epidemic: Recommendations and Best Practices*, 7 (March 1, 2019), available at [https://myfloridalegal.com/webfiles.nsf/WF/TDGT-B9UTV9/\\$file/AG+Opioid+Working+Group+Report+Final+2-28-2019.pdf](https://myfloridalegal.com/webfiles.nsf/WF/TDGT-B9UTV9/$file/AG+Opioid+Working+Group+Report+Final+2-28-2019.pdf), (last visited on Jan. 10, 2020).

<sup>6</sup> *Id.*

<sup>7</sup> See Exec. Order No. 17-146, available at <https://www.flgov.com/wp-content/uploads/2017/05/17146.pdf>. (last visited on Jan. 10, 2020).

<sup>8</sup> *Id.*

- Reworked the PDMP statute to require that prescribing practitioners check the PDMP prior to prescribing a controlled substance and to allow the integration of PDMP data with electronic health records and the sharing of PDMP data between Florida and other states; and
- Provided for additional funding for treatment and other issues related to opioid abuse.

### ***House Bill 451 (2019)***

In 2019, the Florida Legislature passed HB 451 (ch. 2019-123, L.O.F) that required each health care practitioner to, prior to treating a patient with anesthesia or a Schedule II opioid medication in a non-emergency situation: inform the patient of available nonopioid alternatives for the treatment of pain; discuss the advantages and disadvantages of the use of nonopioid alternatives; provide the patient with the pamphlet created by the Department of Health (DOH); and document any alternatives considered in the patient's record.

### **Opioid Abuse**

Both nationally and in Florida, opioid addiction and abuse has become an epidemic. The Florida Department of Law Enforcement (FDLE) reported that, when compared to 2016, 2017 saw:

- 6,178 (8 percent more) opioid-related deaths;
- 6,932 (4 percent more) individuals died with one or more prescription drugs in their system;<sup>9</sup>
- 3,684 (4 percent more) individuals died with at least one prescription drug in their system that was identified as the cause of death;
- Occurrences of heroin increased by 3 percent and deaths caused by heroin increased by 1 percent;
- Occurrences of fentanyl increased by 27 percent and deaths caused by fentanyl increased by 25 percent;
- Occurrences hydrocodone increased by 6 percent while deaths caused by hydrocodone decreased by 8 percent;
- Occurrences of buprenorphine and deaths caused by buprenorphine increased by 19 percent.<sup>10</sup>

The federal Centers for Disease Control and Prevention (CDC) estimates that the nationwide cost of opioid misuse at \$78.5 billion per year.<sup>11</sup>

However, in Florida, many of the trends above have begun to reverse. Compared with 2017, 2018 saw:

- 5,576 (10 percent less) opioid-related deaths;
- 6,701 (3 percent less) individuals died with one or more prescription drugs in their system;<sup>12</sup>

---

<sup>9</sup> The drugs were identified as either the cause of death or merely present in the decedent. These drugs may have also been mixed with illicit drugs and/or alcohol. These drugs were not necessarily opioids.

<sup>10</sup> FDLE, *Drugs Identified in Deceased Persons by Florida Medical Examiners 2017 Annual Report* (Nov. 2018) <http://www.fdle.state.fl.us/MEC/Publications-and-Forms/Documents/Drugs-in-Deceased-Persons/2017-Annual-Drug-Report.aspx> (last visited on Jan. 10, 2020).

<sup>11</sup> National Institute on Drug Abuse, *Opioid Overdose Crisis* (Rev. Jan. 2019), <https://www.drugabuse.gov/drugs-abuse/opioids/opioid-overdose-crisis> (last visited on Jan. 10, 2020).

<sup>12</sup> The drugs were identified as either the cause of death or merely present in the decedent. These drugs may have also been mixed with illicit drugs and/or alcohol. These drugs were not necessarily opioids.

- 3,693 (9 more) individuals died with at least one prescription drug in their system that was identified as the cause of death;
- Occurrences of heroin decreased by 11 percent and deaths caused by heroin decreased by 15 percent;
- Occurrences of fentanyl increased by 29.5 percent and deaths caused by fentanyl increased by 35 percent;
- Occurrences hydrocodone increased by 19 percent while deaths caused by hydrocodone decreased by 26 percent;
- Occurrences of oxycodone decreased by 8 percent and deaths caused by oxycodone decreased by 12 percent.<sup>13</sup>

### III. Effect of Proposed Changes:

SB 1080 amends s. 456.44, F.S., to:

- Clarify that the requirement to provide nonopioid alternatives does not apply when the patient is being treated in a hospital critical care unit, in an emergency department, or when the patient is receiving hospice services, as opposed to current law which provides an exception for providing nonopioid alternatives only when the patient is receiving emergency services and care.
- Clarify that nonopioid alternatives must be provided before the health care practitioner administers anesthesia only if that anesthesia involves the use of an opioid that is a Schedule II controlled substance.<sup>14</sup>
- Eliminate the requirement to provide nonopioid alternatives when dispensing or administering an opioid that is a Schedule II controlled substance.
- Allow the information and discussion on nonopioid alternatives to be provided to the patient's representative as well as to the patient.
- Allow the informational pamphlet created by the DOH to be provided in electronic form.
- Make other technical and conforming changes.

The bill takes effect on July 1, 2020.

### IV. Constitutional Issues:

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

None.

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

None.

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<sup>13</sup> FDLE, *Drugs Identified in Deceased Persons by Florida Medical Examiners 2018 Annual Report* (Nov. 2019) <https://www.fdle.state.fl.us/MEC/Publications-and-Forms/Documents/Drugs-in-Deceased-Persons/2018-Annual-Drug-Report.aspx> (last visited on Jan. 9, 2020).

<sup>14</sup> For a list of Schedule II controlled substances see s. 893.03, F.S. or 21 U.S.C. s. 812.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 456.44 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 Perry

8-00361B-20

20201080\_\_

1                   A bill to be entitled  
2       An act relating to nonopioid alternatives; amending s.  
3       456.44, F.S.; revising exceptions to certain  
4       controlled substance prescribing requirements;  
5       clarifying that a certain patient or patient  
6       representative must be informed of specified  
7       information, have specified information discussed with  
8       him or her, and be provided with an electronic or  
9       printed copy of a specified educational pamphlet;  
10      providing an effective date.

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

13  
14       Section 1. Paragraph (c) of subsection (7) of section  
15       456.44, Florida Statutes, is amended to read:

16       456.44 Controlled substance prescribing.—

17       (7) NONOPIOID ALTERNATIVES.—

18       (c) Except when a patient is receiving care in a hospital  
19 critical care unit or in an emergency department or a patient is  
20 receiving hospice services under s. 400.6095 in the provision of  
21 emergency services and care, as defined in s. 395.002, before  
22 providing care that requires the administration of anesthesia  
23 involving the use of an opioid drug listed as a Schedule II  
24 controlled substance in s. 893.03 or 21 U.S.C. s. 812, or  
25 prescribing or ordering, ordering, dispensing, or administering  
26 an opioid drug listed as a Schedule II controlled substance in  
27 s. 893.03 or 21 U.S.C. s. 812 for the treatment of pain, a  
28 health care practitioner who prescribes or orders an opioid  
29 drug, excluding those licensed under chapter 465, must:

8-00361B-20

20201080\_\_

30           1. Inform the patient or the patient's representative of  
31 available nonopioid alternatives for the treatment of pain,  
32 which may include nonopioid medicinal drugs or drug products,  
33 interventional procedures or treatments, acupuncture,  
34 chiropractic treatments, massage therapy, physical therapy,  
35 occupational therapy, or any other appropriate therapy as  
36 determined by the health care practitioner.

37           2. Discuss with the patient or the patient's representative  
38 the advantages and disadvantages of the use of nonopioid  
39 alternatives, including whether the patient is at a high risk  
40 of, or has a history of, controlled substance abuse or misuse  
41 and the patient's personal preferences.

42           3. Provide the patient or the patient's representative,  
43 electronically or in printed form, with the educational pamphlet  
44 described in paragraph (b).

45           4. Document the nonopioid alternatives considered in the  
46 patient's record.

47           Section 2. This act shall take effect July 1, 2020.



The Florida Senate

## Committee Agenda Request

**To:** Senator Gayle Harrell, Chair  
Committee on Health Policy

**Subject:** Committee Agenda Request

**Date:** December 20, 2019

---

I respectfully request that **Senate Bill #1080**, relating to Nonopioid Alternatives, be placed on the:

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

A handwritten signature in cursive script that reads "W. Keith Perry".

---

Senator Keith Perry  
Florida Senate, District 8

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/13/20 Meeting Date

(Perry) 1080 Bill Number (if applicable)

Topic Nonopioid Alternatives

Amendment Barcode (if applicable)

Name Jenna Paladino Paladino Public Affairs

Job Title Lobbyist

Address 3103 Lakestone Dr

Phone 813-777-1465

Street

Tampa City

State

Zip

Jenna @ paladinoadvocates.com Email

Speaking: For Against Information

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

Representing LifePath Hospice, HPH Hospice, Good Shepherd Hospice of Okeechobee

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)

1-14-2020

Meeting Date

1080

Bill Number (if applicable)

Topic Non opioid alternatives - hospice exemption

Amendment Barcode (if applicable)

Name Paul Ledford

Job Title President & CEO

Address 2000 Apalachee Parkway, Ste 200

Phone 850-878-2632

Street

Tallahassee

FL

32301

City

State

Zip

Email paul@floridahospices.org

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

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

Representing Florida Hospice and Palliative Care Assn.

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

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

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

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

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)

1-14-2020

Meeting Date

1080

Bill Number (if applicable)

Topic Nonoploid Alternatives

Amendment Barcode (if applicable)

Name Martha DeCastro

Job Title VP for Nursing & Clinical Case Agency

Address 206 E College Ave

Phone 850 222 9800

Tallahassee FL 32301  
City State Zip

Email martha@fha.org

Speaking:  For  Against  Information

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

Representing Florida Hospital 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**  
**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 864

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

**SUBJECT:** Surrendered Newborn Infants

**DATE:** January 14, 2020      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Williams	Brown	HP	Fav/CS
2.			CF	
3.			RC	

---

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

---

**I. Summary:**

CS/SB 864 modifies provisions relating to surrendered newborn infants, to increase from approximately seven days to approximately 30 days the age for relinquishment of an infant under the program and to authorize the placement of surrendered infants in a newborn safety device at a hospital, emergency medical services (EMS) station, or fire station, if such facility is staffed 24 hours per day. The bill provides specifications for the use of the devices.

The effective date of the bill is July 1, 2020.

**II. Present Situation:**

**Infant Safe Haven Laws**

All state legislatures have enacted laws to address infant abandonment and endangerment in response to a reported increase in the abandonment of infants in unsafe locations, such as public restrooms or trash receptacles. Since 1999, all states have enacted infant safe haven laws as an incentive for mothers in crisis to safely relinquish their babies at designated locations where the babies are protected and provided with care until a permanent home is found.

While there is great variability in the laws across states, safe haven laws generally allow the parent, or an agent of the parent, to remain anonymous and to be shielded from criminal liability

and prosecution for child endangerment, abandonment, or neglect in exchange for surrendering the baby to a safe haven.<sup>1</sup>

According to the National Safe Haven Alliance (NSHA),<sup>2</sup> 4,015 safe haven relinquishments have occurred since 1999 nationwide. During this time span, illegal abandonments total 1,465, with 476 alive and 827 deceased. These statistics are unofficial estimates, as there is no federally mandated safe haven reporting requirement. Therefore, the NSHA relies on county and state reporting. These statistics were last updated February 1, 2018.<sup>3</sup>

### **Surrender of Newborn Infants in Florida**

The Florida Legislature enacted Florida's initial abandoned newborn infant law in 2000.<sup>4</sup> The law authorized the abandonment of a newborn infant, defined as up to three days old or younger, at a hospital or a fire station and addressed: presumption of relinquishment of parental rights, implied consent to treatment, anonymity, and physical custody of the infant.<sup>5</sup> The law also directed the Department of Health, in conjunction with the Department of Children and Families, to produce a media campaign to promote safe placement alternatives for newborn infants.

In 2001, s. 383.50, F.S., was amended to authorize EMS stations, in addition to hospitals and fire stations, as optional locations for the lawful relinquishment of a newborn infant.<sup>6</sup>

In 2008, multiple provisions of statute were modified to refer to "surrendered newborn infant" rather than "abandoned newborn infant." Additionally, the three-day age limit for surrender of a newborn infant was increased to a seven-day age limit. And, a provision was added to indicate that when an infant is born in a hospital and the mother expresses intent to leave the infant and not return, the hospital or registrar is directed, upon her request, to complete the infant's birth certificate without naming the mother.

According to the NSHA, there have been approximately 316 surrendered newborns in Florida since 2000. Of those, approximately 60 percent were hospital based and about 40 percent were non-hospital based.<sup>7</sup>

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

**Section 1** amends s. 383.50, F.S., relating to treatment of a surrendered newborn infant. The bill revises the definition of "newborn infant" to increase the allowable age for relinquishment of a newborn infant under the program from approximately seven days old to approximately 30 days old. A definition is added for the term "newborn safety device," which means "a fixture installed in an exterior wall of a building which has an exterior point of access that locks and

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<sup>1</sup> See Infant Safe Haven Laws (Current Through December 2016) available at <https://www.childwelfare.gov/pubPDFs/safehaven.pdf> (last visited Dec. 30, 2019).

<sup>2</sup> See National Safe Haven Alliance website available at <https://www.nationalsafehavenalliance.org/> (last visited Dec. 30, 2019).

<sup>3</sup> *Id.*

<sup>4</sup> See ch. 2000-188, Laws of Fla.

<sup>5</sup> See s. 383.50, F.S.

<sup>6</sup> See ch. 2001-53, s. 15, Laws of Fla.

<sup>7</sup> Conversation with Lars White, Florida Ambassador, National Safe Haven Alliance (Dec. 13, 2019).

automatically triggers an alarm inside the building upon placement of a newborn infant inside and which has an interior point of access that allows individuals inside the building to safely retrieve the newborn infant.”

The bill authorizes a hospital, an EMS station, or a fire station, that is staffed 24 hours per day, to utilize a newborn safety device for accepting surrendered newborn infants if the device is:

- Physically part of the hospital, EMS station, or fire station;
- Located such that the interior point of access is in an area that is conspicuous and visible to facility employees; and
- Equipped with a dual alarm system connected to the physical location of the device.

Facilities that use a newborn safety device are also required to:

- Check the device at least twice a day; and
- Test the device at least once a week to ensure that the alarm system is in working order.

The bill authorizes EMS stations and fire stations to accept newborn infants via a newborn safety device in addition to acceptance by a firefighter, an emergency medical technician or a paramedic, and to indicate that placement of a newborn infant in a newborn safety device is considered consent for treatment and transport of the infant.

The bill specifies that, except when there is actual or suspected child abuse or neglect, any person who leaves a newborn infant in a newborn safety device has the absolute right to remain anonymous, consistent with the current process for surrender of a newborn infant.

The bill stipulates that a criminal investigation shall not be initiated solely because a newborn infant is left at an EMS station or a fire station, unless there is actual or suspected child abuse or neglect, consistent with the current process for newborn infants surrendered at a hospital.

**Section 2** amends s. 63.0423, F.S., to incorporate a conforming cross-reference revision.

**Section 3** provides an effective date of July 1, 2020.

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

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Private sector facilities that opt to use a newborn safety device as a means for the relinquishment of a newborn will need to fund the acquisition and installation of the new device.

C. Government Sector Impact:

Public sector facilities that opt to use a newborn safety device as a means for the relinquishment of a newborn will need to fund the acquisition and installation of the new device.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 383.50 and 63.0423.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

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

**CS by Health Policy on January 14, 2020:**

Clarifies the bill's requirements for the placement of the newborn safety device within a hospital, an EMS station, or a fire station.

B. Amendments:

None.

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

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By Senator Baxley

12-00583-20

2020864\_\_

1                   A bill to be entitled  
2       An act relating to surrendered newborn infants;  
3       amending s. 383.50, F.S.; revising the definition of  
4       the term "newborn infant"; defining the term "newborn  
5       safety device"; authorizing hospitals, emergency  
6       medical services stations, and fire stations to use  
7       newborn safety devices to accept surrendered newborn  
8       infants under certain circumstances; requiring such  
9       hospital, emergency medical services station, or fire  
10      station to visually check and test the device within  
11      specified timeframes; conforming provisions to changes  
12      made by the act; providing additional locations under  
13      which the prohibition on the initiation of criminal  
14      investigations based solely on the surrendering of a  
15      newborn infant applies; amending s. 63.0423, F.S.;  
16      conforming a cross-reference; providing an effective  
17      date.

18  
19 Be It Enacted by the Legislature of the State of Florida:

20  
21       Section 1. Present subsections (2) through (10) of section  
22       383.50, Florida Statutes, are redesignated as subsections (3)  
23       through (11), respectively, a new subsection (2) is added to  
24       that section, and present subsections (1), (3), (5), and (10) of  
25       that section are amended, to read:

26       383.50 Treatment of surrendered newborn infant.—

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

28       (a) "Newborn infant" means a child who a licensed physician  
29       reasonably believes is approximately 30 7 days old or younger at

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30 the time the child is left at a hospital, an emergency medical  
31 services station, or a fire station.

32 (b) "Newborn safety device" means a fixture installed in an  
33 exterior wall of a building which has an exterior point of  
34 access that locks and automatically triggers an alarm inside the  
35 building upon placement of a newborn infant inside and which has  
36 an interior point of access that allows individuals inside the  
37 building to safely retrieve the newborn infant.

38 (2) (a) A hospital, an emergency medical services station,  
39 or a fire station that is staffed 24 hours per day may use a  
40 newborn safety device to accept surrendered newborn infants  
41 under this section if the device is:

42 1. Physically located inside the hospital, emergency  
43 medical services station, or fire station;

44 2. Located in an area that is conspicuous and visible to  
45 the employees of the hospital, emergency medical services  
46 station, or fire station; and

47 3. Equipped with a dual alarm system connected to the  
48 physical location of the device.

49 (b) A hospital, an emergency medical services station, or a  
50 fire station that uses a newborn safety device to accept  
51 surrendered newborn infants must visually check the device at  
52 least twice a day and must test the device at least once a week  
53 to ensure the alarm system is in working order.

54 (4) ~~(3)~~ Each emergency medical services station or fire  
55 station staffed with ~~full-time~~ firefighters, emergency medical  
56 technicians, or paramedics 24 hours per day shall accept any  
57 newborn infant left with a firefighter, an emergency medical  
58 technician, or a paramedic, or in a newborn safety device that

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59 is physically part of the emergency medical services station or  
60 fire station. The firefighter, emergency medical technician, or  
61 paramedic shall consider these actions as implied consent to and  
62 shall:

63 (a) Provide emergency medical services to the newborn  
64 infant to the extent he or she is trained to provide those  
65 services, and

66 (b) Arrange for the immediate transportation of the newborn  
67 infant to the nearest hospital having emergency services.

68  
69 A licensee as defined in s. 401.23, a fire department, or an  
70 employee or agent of a licensee or fire department may treat and  
71 transport a newborn infant pursuant to this section. If a  
72 newborn infant is placed in the physical custody of an employee  
73 or agent of a licensee or fire department, or in a newborn  
74 safety device that is physically part of an emergency medical  
75 services station or a fire station, such placement shall be  
76 considered implied consent for treatment and transport. A  
77 licensee, a fire department, or an employee or agent of a  
78 licensee or fire department is immune from criminal or civil  
79 liability for acting in good faith pursuant to this section.  
80 Nothing in this subsection limits liability for negligence.

81 (6) ~~(5)~~ Except when there is actual or suspected child abuse  
82 or neglect, any parent who leaves a newborn infant in a newborn  
83 safety device or with a firefighter, an emergency medical  
84 technician, or a paramedic at a fire station or emergency  
85 medical services station, leaves a newborn infant in a newborn  
86 safety device at a hospital, or brings a newborn infant to an  
87 emergency room of a hospital and expresses an intent to leave

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88 the newborn infant and not return, has the absolute right to  
89 remain anonymous and to leave at any time and may not be pursued  
90 or followed unless the parent seeks to reclaim the newborn  
91 infant. When an infant is born in a hospital and the mother  
92 expresses intent to leave the infant and not return, upon the  
93 mother's request, the hospital or registrar shall complete the  
94 infant's birth certificate without naming the mother thereon.

95 (11)~~(10)~~ A criminal investigation shall not be initiated  
96 solely because a newborn infant is left at a hospital, an  
97 emergency medical services station, or a fire station under this  
98 section unless there is actual or suspected child abuse or  
99 neglect.

100 Section 2. Subsection (4) of section 63.0423, Florida  
101 Statutes, is amended to read:

102 63.0423 Procedures with respect to surrendered infants.—

103 (4) The parent who surrenders the infant in accordance with  
104 s. 383.50 is presumed to have consented to termination of  
105 parental rights, and express consent is not required. Except  
106 when there is actual or suspected child abuse or neglect, the  
107 licensed child-placing agency shall not attempt to pursue,  
108 search for, or notify that parent as provided in s. 63.088 and  
109 chapter 49. For purposes of s. 383.50 and this section, an  
110 infant who tests positive for illegal drugs, narcotic  
111 prescription drugs, alcohol, or other substances, but shows no  
112 other signs of child abuse or neglect, shall be placed in the  
113 custody of a licensed child-placing agency. Such a placement  
114 does not eliminate the reporting requirement under s. 383.50(8)  
115 ~~s. 383.50(7)~~. When the department is contacted regarding an  
116 infant properly surrendered under this section and s. 383.50,

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117 the department shall provide instruction to contact a licensed  
118 child-placing agency and may not take custody of the infant  
119 unless reasonable efforts to contact a licensed child-placing  
120 agency to accept the infant have not been successful.

121 Section 3. This act shall take effect July 1, 2020.

# DON'T PANIC

## Don't abandon your baby



We're here to help.  
You are not alone.

Give your baby to a staff member at a hospital,  
24/7 fire station or ambulance station.

*A Safe Haven For Newborns* provides anonymous alternatives  
to infant abandonment through education, prevention,  
direct assistance and grassroots community involvement.

For more information visit: [asafehavenfornewborns.com](http://asafehavenfornewborns.com)



The Gloria M. Silverio Foundation, 501(c)3

Sponsored By The Florida Department of Health

**1.877.767.BABY (2229) EVERY CALL IS CONFIDENTIAL**

# A Safe Haven for Newborns Opposition of Baby Boxes in the State of Florida, Senate Bill 864 and House Bill 1217

A Safe Haven for Newborns, Gloria M. Silverio Foundation (501©3), [www.asafehavenfornewborns.com](http://www.asafehavenfornewborns.com) is recommending Florida legislators “**oppose**” Senate Bill 864 and House Bill 1217. The proposed legislation is both unnecessary, ineffective and places an undue hardship as well as homeland safety and security concerns on the Fire/EMS and Hospital facilities in the State of Florida. Statistics captured since inception of FS 383.50 demonstrate the current language of the law as written does not warrant the proposed changes to include baby boxes or extending the surrendered infant time frame. The current law providing for all 24/7 Fire & EMS Stations and Hospitals to accept a surrendered newborn infant of 7 days of age or less has been effective in its goal to address infant abandonment and maintain anonymity for the mother.

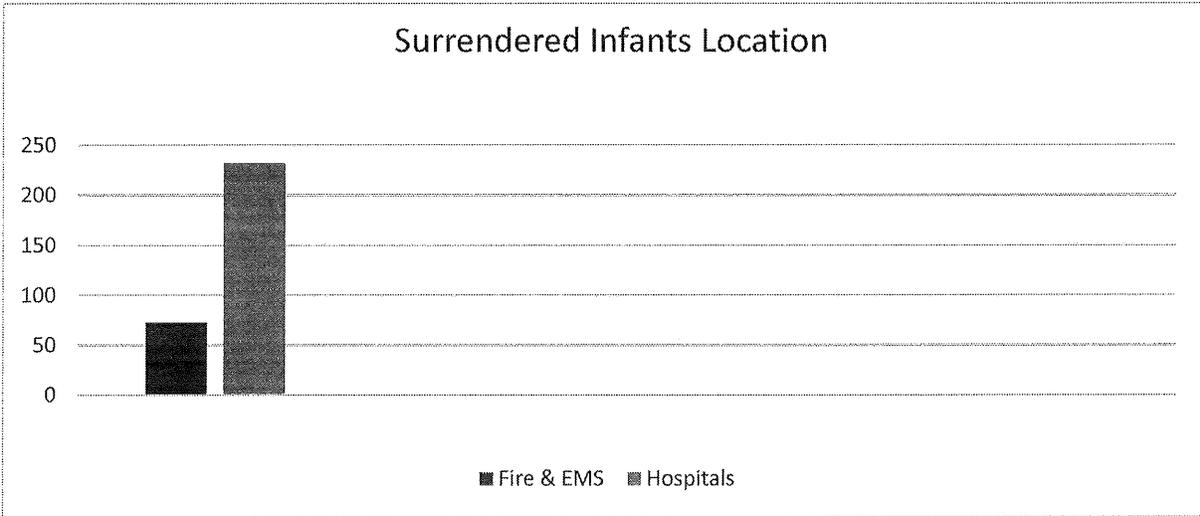
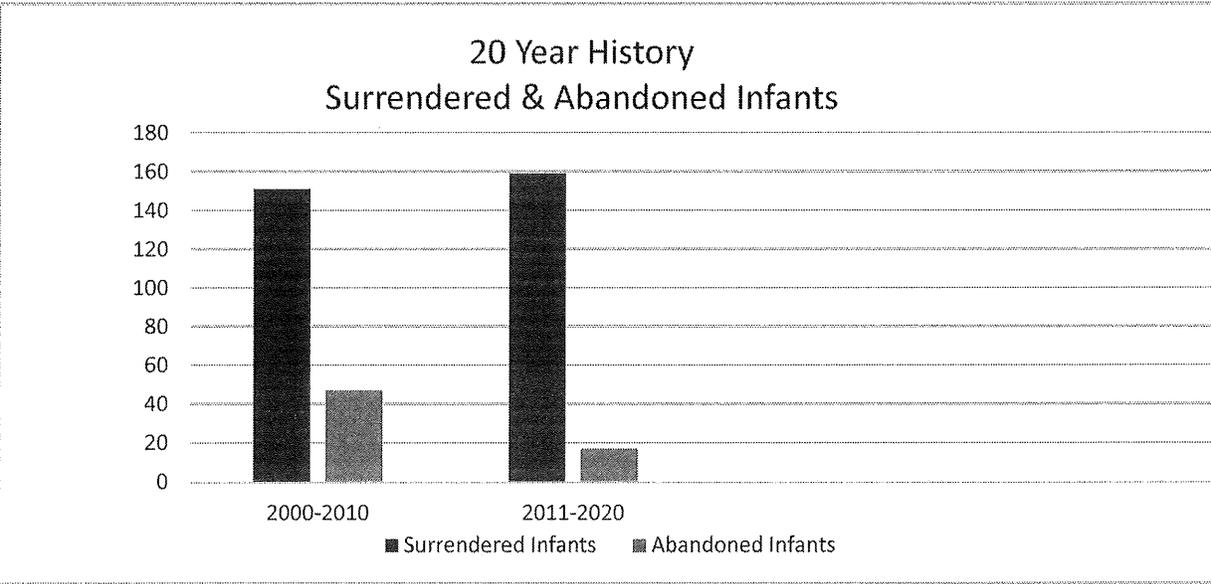
Reasons to “oppose” the proposed legislation include:

- There has not been a single occurrence among the 310 surrendered infants in which the anonymity of the mother was compromised and the success of the law and safe haven program has been the ability to provide the mother with counseling and medical service. The Safe Haven Program has also been successful in providing over 5000 women with counseling and health needs assistance, 68 mothers with direct adoption, 5 mothers from other states, 1 from the Honduras and also assisted 5 mothers regain parental rights to their newborn in accordance with the law.
- Fire & EMS Facilities and Hospitals are considered a “soft target” according to Homeland Security and Law Enforcement and susceptible to criminal and hazardous situations which are more susceptible with drop off containers such as Baby boxes.
- As an example of improper use, a baby box at an Indiana Fire Station was improperly used for the disposal of kittens requiring removing the box from service for cleaning and disinfecting.
- Baby boxes do not allow for the opportunity to offer the mother medical services or support such as counseling as recognized as the most humane method for a surrendered infant occurrence.
- Baby boxes would rely exclusively on electronic connectivity in order to transmit alerts which are inherently subject to failure due to a multitude of potential disruptions such as loss of service, cut lines, power failures etc. and require frequent testing and maintenance. The proposed legislation in fact requires personnel to inspect the device twice daily and test weekly.
- Baby boxes require communication equipment that may be subject to failure, ongoing maintenance and subject to no power loss and require emergency generator backup support.

- Many of the Fire & EMS Stations and Hospitals are not designed for the installation of a baby box and not suitable for such facility alteration and may not provide for constant climate control capabilities.
- Many facilities would require substantial building alterations and cost associated with permitting, product purchase, contractor procurement, and contractual monitoring services.
- Baby boxes would need to be capable of transmitting an on-site alarm notification as well as a monitored alarm notification transmitted to the proper responders.
- Fire stations have diesel exhaust emissions and the location of baby boxes would not always be feasible due to the design or space limitations of a facility and particularly space challenged or older facilities.
- Baby boxes assume an unnecessary cost and ongoing monthly cost for monitoring and testing connectivity to already budget strapped fire and EMS agencies or hospitals.
- As a proposed voluntary measure for baby boxes, it simply creates an inconsistent and confusing environment for mothers not knowing what facilities may include baby boxes and those that do not.
- Although the current proposed bill language stipulates “voluntary”, it is reasonable to anticipate and expect future law revisions would incorporate a mandatory provision.
- Baby boxes are estimated between \$10,000 and \$17,000 per fire station. There are an estimated 475 individual fire stations in the state of Florida (Citation: United States Fire Administration). This would demonstrate an estimated cost to the fire service between \$4,750,000 to \$8,075,000 unnecessary expense.
- There are an estimated 214 hospitals (Citation: American Hospital Directory) not including the free-standing emergency departments in the state of Florida and growing. This would demonstrate an estimated cost to the hospital networks between \$2,140,000 to \$3,638,000 unnecessary expense.

### Statistics

The statistical analysis of the past twenty years since creation of FS 383:50 and A Safe Haven for Newborns clearly demonstrate an effective law and safe haven program that is having a positive impact on saving newborn infant lives. From 2000 to 2010 there were 151 surrendered newborn infants and 47 newborn abandonments. From 2011 to 2020 there have been 159 surrendered newborn infants and 17 abandonments. (Citation: A Safe Haven for Newborns, Statistics) This demonstrates an increase in surrendered infants a decline in abandonments reflecting a law and safe haven program that is working.



(Citation: A Safe Haven for Newborns, Statistics)

**Who We Are:**

A Safe Haven for Newborns, Gloria M. Silverio Foundation (501(c)3), was established in Florida in 2000, in direct response to the illegal and sometimes tragic outcomes of newborn infant abandonment. The foundation was established at the same time frame as the first Florida abandon infant law (FS 383.50) was enacted. A Safe Haven for Newborns has been providing legislative assistance on the Florida Surrendered Infant law (FS 383.50) to our legislators since creation of the law in 2000.

Since the creation of A Safe Haven for Newborns, **310 newborn infants** in Florida have been lawfully surrendered and all safely placed for adoption and thereby freed from the dangers of abandonment while maintaining complete anonymity of the mother. A Safe Haven has also assisted 68 mothers who chose direct adoption of their choice from utilizing the 24/7 multi lingual helpline and also provided assistance for 5 mothers surrendering their newborn infants from other states and 1 from Honduras. Additionally, 5 mothers were guided to re-gained parental control of their newborn infant in accordance with the law. A Safe Haven for Newborns also assisted the country of Panama in developing their Safe Haven law. The Florida Safe Haven program is recognized as the most successful in the nation largely attributed to the many impactful programs created and offered to hospitals, fire, ems, law enforcement, department of children and families and other social services, a multitude of organizations and affiliations, media, educational institutions public and private and much more. Safe Haven for Newborns hosts statewide awareness campaigns utilizing billboards and social media. A new initiative was recently launched with a community service social media app geared towards high school and higher education students fulfilling community service goals. A Safe Haven for Newborns has assisted other states with development of their training programs as well. Alliances have also been established with many organizations and associations like the Florida Fire Chiefs Association who oversees legislative and other activities for the fire service in the state.

A Safe Haven for Newborns host a 24/7 multilingual helpline (1-877-767-2229) that has assisted over **5000 women** with counseling and health need's assistance. A Safe Haven for Newborns also provides the only training curriculum available in the state at "no cost" to Firefighter Paramedics, EMT's, Nurses and Hospital Staff, Law Enforcement, and Department of Children and Families. Safe Haven signs have been placed on all 24/7 fire stations and EMS stations and hospitals at "no cost" and clearly recognized as an important feature in identification of these safe places for a mother to anonymously surrender their newborn infant. The fire service and hospitals in the state already recognize the Safe Haven for Newborns and the law as widely successful and not in need of any alteration.

Although one might on face value assume a "Baby Box" would offer another alternative, the fact remains this concept is plagued with inherent risks and potential failures that could result in terrible outcomes. Had it been the case that the current methods of surrendering a newborn infant in Florida were simply not effective then other alternatives would be worthy of consideration however this simply is not justified in the statistics for the past 20 years. As mentioned earlier, 310 newborn infants have been surrendered and successfully adopted under current state law and importantly in all of these cases the mothers have remained completely anonymous and many have received support and assistance in their time of need/crisis. A Safe Haven for Newborns encourages mothers to have a healthy pregnancy and healthy baby and to be born at a hospital which affords the best medical care.

Florida Statue 383.50 allows a mother to surrender her newborn infant up to 7 days of age to any 24/7 staffed fire station, EMS station or hospital. In 2008, A Safe Haven for Newborns championed an amendment to the law extending the surrendered infant time frame from 3 days to 7 days. The law is widely recognized by the fire service, EMS, and hospitals as successful in the mission of saving lives of both the mother and newborn infant. The current law language remains the “most humane” method to surrender a newborn infant while maintaining anonymity for the mother and affording an opportunity to offer the mother any medical care or support she may require. Fire Chief’s and Hospitals see no logical reason or justification to alter this law and its effectiveness.

Logical analysis concludes there is no statistical or factual information or reasoning to support “Baby Boxes” as a need nor would extending the surrendered time frame have any positive impact on the already successful Florida Surrender Infant law based on historical analysis of the past 20 years. The Florida Surrendered Infant law as written is highly successful and does not require any alterations.

We suggest you consider the much-respected analogy that “if something is not broken it does not require fixing.” The Florida Statue 383.50 was well crafted and has been highly successful. Further amendments to the law are simply not warranted and unnecessarily costly to local government and the medical community and lacking sound justification. We would encourage any legislative changes to be discarded towards this effort.

For more information please contact Nick Silverio at A Safe Haven for Newborns at 786-246-1304 or e mail: [safehaven@asafehavenfornewborns.com](mailto:safehaven@asafehavenfornewborns.com). Web site: [www.asafehavenfornewborns.com](http://www.asafehavenfornewborns.com) or Lars White at 407-664-6870 or [lwhite146@cfl.rr.com](mailto:lwhite146@cfl.rr.com).

Nick Silverio  
Founder, A Safe Haven for Newborns

Lars White  
Fire Chief, Retired  
Ambassador, A Safe Haven for Newborns

#### Citations & Reference

A Safe Haven for Newborns, Statistics

<https://asafehavenfornewborns.com/what-we-do/safe-haven-statistics/>

United States Fire Administration

<https://apps.usfa.fema.gov/registry/summary>

American Hospital Directory

[https://www.ahd.com/state\\_statistics.html](https://www.ahd.com/state_statistics.html)

Florida Proposed Senate Bill 864 & House Bill 1217, FS 383:50

<https://www.flsenate.gov/Session/Bill/2020/864>

<https://www.flsenate.gov/Session/Bill/2020/1217>

[www.flsenate.gov/Laws/Statutes/2011/383.50](http://www.flsenate.gov/Laws/Statutes/2011/383.50)

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**From:** Heather Burner <hburner@nationalsafehavenalliance.org>

**Sent:** Tuesday, December 31, 2019 8:32 PM

**To:** Williams, Phil <Williams.Phil@flsenate.gov>

**Subject:** Re: State specific details

Hello Mr. Williams,

I am so glad you were able to connect with Mr. White for FL specific information.

In answer to your question the National Safe Haven Alliance hotline receives 30-50 calls per month with an average of about 300-400 calls per year. It has only been tracked the last 3 years.

Please keep me posted and reach out with any further questions you may have. We are working toward communication with congress and to move awareness efforts to the forefront to assist parents in crisis.

Thank you again,

Heather

On Dec 30, 2019, at 12:31 PM, Williams, Phil <[Williams.Phil@flsenate.gov](mailto:Williams.Phil@flsenate.gov)> wrote:

Ms. Burner—First thank you for putting me in touch with a Florida point of contact. I communicated with Lars White, one of your Safe Haven ambassadors, and he answered my questions very capably.

I now have another question which seems to take me back to your central office. Can you provide me with some indication as to the volume of calls on your crisis hotline? I think that would be good information for me to reflect in a bill analysis I am developing. This can be for any time period you wish, whether long term, annual, or year-to-date—whatever is most easily captured.

Thanks in advance for your assistance.

Happy New Year!

Phil

Phil E. Williams  
Deputy Staff Director  
Committee on Health Policy  
Florida Senate  
850.487.5824  
[williams.phil@flsenate.gov](mailto:williams.phil@flsenate.gov)

**From:** Heather Burner <[hburner@nationalsafehavenalliance.org](mailto:hburner@nationalsafehavenalliance.org)>  
**Sent:** Friday, December 13, 2019 11:31 AM  
**To:** Nick Silverio <[safehaven@asafehavenfornewborns.com](mailto:safehaven@asafehavenfornewborns.com)>; Williams, Phil <[Williams.Phil@flsenate.gov](mailto:Williams.Phil@flsenate.gov)>  
**Subject:** Re: State specific details

Hello Mr. Williams, I have included Nick Silverio, he is the Safe Haven for Newborns Director of the FL program and will have all information you may need.  
Please let me know if we can be of further assistance.

Thank you,  
Heather Burner

On Fri, Dec 13, 2019 at 9:27 AM Williams, Phil <[Williams.Phil@flsenate.gov](mailto:Williams.Phil@flsenate.gov)> wrote:

Greeting from Florida.

I am doing some staff work on SB 864 that has been filed in Florida for the upcoming 2020 session. I am wondering if you might have any details to the volume of abandoned newborns in Florida over some period of recent years, perhaps even since the implementation of Florida's law in the year 2000.

Thanks for any assistance.

Happy Holidays!

Phil

Phil E. Williams  
Deputy Staff Director  
Committee on Health Policy  
Florida Senate  
850.487.5824  
[williams.phil@flsenate.gov](mailto:williams.phil@flsenate.gov)

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*Heather Burner RN, B.S.N.*  
*Executive Director, National Safe Haven Alliance*  
*AZ Safe Baby Haven Board President*  
*Director, NSHAC; Crisis Pregnancy Safety & Prevention*  
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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)

1/14/20  
Meeting Date

864  
Bill Number (if applicable)

Topic Surrender Newborns

Amendment Barcode (if applicable)

Name Doug Bell

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

Address 119 S. Monroe St.  
Street

Phone 205-9080

TLH  
City State Zip

Email doug.belle@mhdfirm.com

Speaking:  For  Against  Information

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

Representing Florida 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)

1/14/2020  
Meeting Date

864  
Bill Number (if applicable)

Topic SB 864 Surrendered Newborn Infants

Amendment Barcode (if applicable)

Name LARS WHITE

Job Title FIRE CHIEF, RET / Ambassador A Safe Haven For Newborns

Address 6955 NW 77th Ave Suite 302

Phone 407-664-6870

Street Miami  
City FL State 33166 Zip

Email lwhite146@cpf-rr.com

Speaking:  For  Against  Information

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

Representing A Safe Haven For Newborns

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.)

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

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BILL: SB 1020

INTRODUCER: Senator Bean

SUBJECT: Institutional Formularies Established by Nursing Home Facilities

DATE: January 13, 2020

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kibbey	Brown	HP	<b>Favorable</b>
2.			AHS	
3.			AP	

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**I. Summary:**

SB 1020 authorizes a nursing home facility to establish and implement an institutional formulary (a list of medicinal drugs) for which a pharmacist may use a therapeutic substitution (replacing a prescribed medicinal drug with another chemically different drug that is expected to have the same clinical effect) for a medicinal drug prescribed to a resident of the facility. The bill provides definitions, requirements, and operational parameters for a nursing home facility's implementation of such a formulary and for participation by prescribers and pharmacists.

A nursing home facility that implements an institutional formulary under the bill must establish a committee to develop the institutional formulary and perform quarterly monitoring of clinical outcomes in circumstances in which therapeutic substitution has occurred.

The bill authorizes a prescriber to annually approve, for his or her patients, the use of a nursing home facility's institutional formulary and any subsequent changes made to the institutional formulary. The bill authorizes the prescriber to opt out of the institutional formulary with regard to a specific patient, a particular drug, or a class of drugs.

The bill may have an insignificant, negative, nonrecurring fiscal impact on the Agency for Health Care Administration (AHCA).

The bill provides an effective date of July 1, 2020.

## II. Present Situation:

### Substitution of Drug Products

To contain drug costs, virtually every state has adopted laws and regulations that encourage the substitution of drug products.<sup>1</sup> These state laws generally require either that substitution be limited to drugs on a specific list (the positive formulary approach) or that it be permitted for all drugs except those prohibited by a particular list (the negative formulary approach).<sup>2</sup> Florida law takes the negative formulary approach.

In Florida, the Board of Pharmacy and the Board of Medicine establish a formulary of generic drug type and brand name drug products which are determined by the boards to demonstrate clinically significant biological or therapeutic inequivalence and which, if substituted, would pose a threat to the health and safety of patients receiving prescription medication.<sup>3</sup>

Florida law requires pharmacists to substitute a less expensive generic medication for a prescribed brand name medication.<sup>4</sup> Generic drugs are chemically very similar to their corresponding brand-name drugs. They contain the same active ingredient, have the same strength, use the same dosage form and route of administration, and meet the same quality standards as those of brand-name drugs.<sup>5</sup>

Florida law authorizes, but does not require, a pharmacist to substitute a biosimilar<sup>6</sup> for a prescribed biological product<sup>7</sup> if the biosimilar has been determined by the U.S. Food and Drug Administration to be interchangeable with the prescribed biological product and the prescriber does not express a preference against substitution in writing, orally, or electronically.<sup>8</sup>

For generic and biosimilar substitutions, the pharmacist must notify the patient and advise the patient of the right to reject the substitution and request the prescribed brand name medication or biologic.<sup>9</sup>

Without the express authorization of the prescriber, Florida law does not provide for the substitution of a medicinal drug that is therapeutically equivalent to, but chemically different from, the originally prescribed drug and that is expected to produce a similar patient outcome as

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<sup>1</sup> U.S. Food and Drug Administration, *Orange Book Preface* (Feb. 5, 2018), available at <https://www.fda.gov/drugs/development-approval-process-drugs/orange-book-preface> (last visited Jan. 8, 2020).

<sup>2</sup> *Id.*

<sup>3</sup> Section 465.025(6), F.S.; see also Rule 64B-16.27.500, F.A.C.

<sup>4</sup> Section 465.025(2), F.S.

<sup>5</sup> U.S. Food and Drug Administration, *Understanding Generic Drugs* (Sept. 13, 2017), available at <https://www.fda.gov/drugs/generic-drugs/overview-basics> (last visited Jan. 8, 2020).

<sup>6</sup> 42 U.S.C. s. 262 (i)(2) defines a “biosimilar” is a biological product that is highly similar to the licensed biological product or reference product, that has no clinically meaningful differences in terms of safety, purity, and potency of the product.

<sup>7</sup> 42 U.S.C. s. 262 (i)(1) defines “biological product” as a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, protein, or analogous product, or arsphenamine or derivative of arsphenamine, applicable to the prevention, treatment, or cure of a disease or condition of human beings.

<sup>8</sup> Section 465.0252(2), F.S.

<sup>9</sup> Sections 465.025(3)(a) and 465.0252(2)(c), F.S., respectively.

the reference drug or treatment. Possible consequences of such therapeutic substitution may include different adverse effects and under- or over-treatment.<sup>10</sup>

### Therapeutic Substitution in Other States

There is little research available on the approaches to and outcomes of therapeutic substitution laws and regulations in other states. Research that is available pertains to three states that authorize therapeutic substitution in community pharmacies.<sup>11</sup>

In 2003, Kentucky was the first state to pass a law authorizing therapeutic substitution in community pharmacies. Arkansas followed suit in 2015, and Idaho's legislation took effect on July 1, 2018.<sup>12</sup> In all three states, a prescriber must opt in to allow the therapeutic substitution and the pharmacist must notify the prescriber of any interchanges made to ensure a complete and accurate medical record.<sup>13, 14, 15</sup> Arkansas and Kentucky require a pharmacist to notify the prescriber in the first 24 business hours after a therapeutic substitution.<sup>16</sup> Idaho requires such notification within five days.<sup>17</sup> In Idaho and Arkansas, but not in Kentucky, the patient is notified and has a right to refuse the therapeutic substitution.<sup>18</sup>

Idaho and Kentucky require that the substitution be in compliance with the patient's health plan formulary, such as changing from a nonpreferred drug to a preferred drug.<sup>19</sup> Arkansas states that the substitution must be to a drug "that is at a lower cost to the patient."<sup>20</sup> Idaho adopts this lower cost language for patients who do not have health plan coverage.<sup>21</sup>

Several states, including Idaho, have authorized therapeutic substitution in institutional settings.<sup>22</sup> Additionally, Connecticut authorizes a medical director of a nursing home facility to make a substitution for a drug prescribed to a patient of the facility after obtaining authorization from the prescriber.<sup>23</sup> Wisconsin authorizes a pharmacist to make therapeutic substitutions for a

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<sup>10</sup> Robert L. Talbert., *Therapeutic Substitution*, National Conference of State Legislatures, available at <http://www.ncsl.org/documents/statetribe/RTalbert61010.pdf> (last visited Jan. 8, 2020).

<sup>11</sup> Section 465.003(11)(a)1., F.S., defines a community pharmacy is a location where medicinal drugs compounded, dispensed, stored, or sold or where prescriptions are filled or dispensed on an outpatient basis.

<sup>12</sup> Thomas Vanderholm, Donald Klepser, Alex J. Adams, *State Approaches to Therapeutic Interchange in Community Pharmacy Settings: Legislative and Regulatory Authority*, *Journal of Managed Care & Specialty Pharmacy*, Dec. 2018, 24(12): 1260-1263, <https://www.jmcp.org/doi/10.18553/jmcp.2018.24.12.1260> (last visited Jan. 8, 2020).

<sup>13</sup> 201 K.A.R. 2:280, <https://apps.legislature.ky.gov/law/kar/201/002/280.pdf> (last visited Jan 9, 2020).

<sup>14</sup> Section 54-1768, Idaho Code, <https://legislature.idaho.gov/statutesrules/idstat/Title54/T54CH17/SECT54-1768/> (last visited Jan 8, 2020).

<sup>15</sup> Arkansas Register, Regulation 7—drug products/prescriptions. 07-00-0010: Therapeutic substitution, <https://www.sos.arkansas.gov/uploads/rulesRegs/Arkansas%20Register/2014/dec2014/070.00.14-006.pdf> (last visited Jan. 9, 2020).

<sup>16</sup> *Supra* notes 13 and 15

<sup>17</sup> *Supra* note 14.

<sup>18</sup> *Supra* notes 14 and 15.

<sup>19</sup> *Supra* note 12.

<sup>20</sup> *Id.*

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

<sup>22</sup> *Supra* note 14.

<sup>23</sup> Conn. Gen. Stat. Ch. 368v 19a-521d., [https://www.cga.ct.gov/current/pub/chap\\_368v.htm#sec\\_19a-521d](https://www.cga.ct.gov/current/pub/chap_368v.htm#sec_19a-521d) (last visited Jan. 9, 2020).

nursing home patient if approved by the patient's attending physician for the patient's period of stay within the facility.<sup>24</sup>

### **Institutional Formulary Systems in Florida**

Section 465.019, F.S., authorizes a Class II<sup>25</sup> or Class III<sup>26</sup> institutional pharmacy to adopt an institutional formulary system for use with approval of the medical staff for the purpose of identifying those medicinal drugs, proprietary preparations, biologics, biosimilars, and biosimilar interchangeables that may be dispensed by the pharmacists employed in such institution. The term "institutional formulary system" means "a method whereby the medical staff evaluates, appraises, and selects those medicinal drugs or proprietary preparations which in the medical staff's clinical judgment are most useful in patient care, and which are available for dispensing by a practicing pharmacist in a Class II or Class III institutional pharmacy."<sup>27</sup>

A facility that adopts an institutional formulary system under section 465.019, F.S., must establish policies and procedures for the development of the system in accordance with the joint standards of the American Hospital Association and American Society of Hospital Pharmacists (now known as the American Society of Health-System Pharmacists<sup>28</sup>) for the utilization of a hospital formulary system, which formulary must be approved by the medical staff.

### **Nursing Homes and Residents' Rights**

Federal law requires nursing home facilities to provide routine and emergency drugs to residents, or to obtain them under an agreement.<sup>29</sup> A nursing home facility must employ or obtain the services of a licensed pharmacist and provide pharmaceutical services to meet the needs of each resident.<sup>30</sup> Florida law requires the AHCA to license and regulate nursing homes pursuant to part II of chapter 408 and part II of chapter 400, F.S., respectively.

Section 400.022, F.S., requires a nursing home facility to adopt a statement of residents' rights and to provide a copy of the statement to each resident or the resident's legal representative at or before the resident's admission to the facility. The statement must assure each resident the right to:

- Civil and religious liberties, including knowledge of available choices and the right to independent personal decision, which will not be infringed upon, and the right to

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<sup>24</sup> Wis. Stat. s. 450.01(16)(hm) <https://docs.legis.wisconsin.gov/statutes/statutes/450/13> (last visited Jan. 8, 2020).

<sup>25</sup> Section 465.019(2)(b), F.S. defines "class II institutional pharmacies" as those institutional pharmacies which employ the services of a registered pharmacist or pharmacists who, in practicing institutional pharmacy, shall provide dispensing and consulting services on the premises to patients of that institution, for use on the premises of that institution.

<sup>26</sup> Section 465.019(2)(d)1., F.S., defines "class III institutional pharmacies" as those institutional pharmacies, including central distribution facilities, affiliated with a hospital that provide the same services that are authorized by a Class II institutional pharmacy permit that may also dispense, distribute, compound, and fill prescriptions for medicinal drugs and prepare prepackaged drug products.

<sup>27</sup> Section 465.003, F.S.

<sup>28</sup> American Society of Health-System Pharmacists, *ASHP History*, <https://www.ashp.org/About-ASHP/Our-History/ASHP-History> (last visited Jan. 9, 2020).

<sup>29</sup> 42 CFR § 483.45.

<sup>30</sup> *Id.*

encouragement and assistance from the staff of the facility in the fullest possible exercise of these rights.

- Be adequately informed of his or her medical condition and proposed treatment, unless the resident is determined to be unable to provide informed consent under Florida law, or the right to be fully informed in advance of any nonemergency changes in care or treatment that may affect the resident's well-being; and, except with respect to a resident adjudged incompetent, the right to participate in the planning of all medical treatment, including the right to refuse medication and treatment, unless otherwise indicated by the resident's physician; and to know the consequences of such actions.
- Receive adequate and appropriate health care and protective and support services.
- Obtain pharmaceutical supplies and services from a pharmacy of the resident's choice, at the resident's own expense or through Medicaid.

A nursing home who violates the statement of resident's rights set forth in s. 400.022, F.S., may be subject to administrative fines, emergency moratorium on admissions, or denial, suspension, or revocation of license if it violates a resident's rights, depending on the nature of the violation and the gravity of its probable effect on clients.<sup>31</sup>

### III. Effect of Proposed Changes:

**Section 1** creates s. 400.143, F.S., to authorize a nursing home facility to establish and implement an institutional formulary for which a pharmacist may use a therapeutic substitution for a medicinal drug prescribed to a resident of the facility.

A nursing home facility that implements an institutional formulary must establish a committee to develop the institutional formulary and written guidelines or procedures for the formulary. The committee membership must include, at a minimum, the facility's medical director, the facility's director of nursing services, and a consultant pharmacist. The committee must establish methods and criteria for selecting pharmaceutical products that may be used as therapeutic substitutes, as well as policies and procedures for developing and maintaining the formulary and notifying prescribers of the formulary. The committee must also perform quarterly monitoring of clinical outcomes where therapeutic substitution has occurred. The nursing home facility must maintain and make available all written policies and procedures for the institutional formulary.

The bill authorizes a prescriber to annually approve, for his or her patients, the use of a nursing home facility's institutional formulary and any subsequent changes made to the institutional formulary. The prescriber may opt out of the institutional formulary with regard to a specific patient, a particular drug, or a class of drugs. A prescriber may prevent a therapeutic substitution for a specific medication order by indicating verbally or electronically on the prescription "NO THERAPEUTIC SUBSTITUTION."

A nursing home is prohibited under the bill from taking adverse action against a prescriber for refusing to authorize and use the institutional formulary for his or her patients.

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<sup>31</sup> Sections 400.022 and 408.813, F.S.

**Section 2** amends s. 465.025, F.S., to authorize, but not require, a pharmacist to therapeutically substitute medicinal drugs for a resident of a nursing home, regardless of cost, in accordance with the nursing home's institutional formulary if the prescriber has agreed to the use of the institutional formulary and has not indicated "NO THERAPEUTIC SUBSTITUTION."

**Section 3** provides that the bill takes effect on July 1, 2020.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Patients and nursing homes may experience cost savings if a less expensive medicinal drug is therapeutically substituted for a prescribed medicinal drug, in instances where patients and nursing homes incur drug costs. It is unclear if SB 1020 would have a fiscal impact on private insurers that use their own formularies.

C. Government Sector Impact:

AHCA may experience an insignificant, nonrecurring, negative fiscal impact to amend rules (pursuant to statutory authority granted in ss. 400.23 and 408.819, F.S.) and survey materials to ensure nursing homes that adopt institutional formularies are in compliance with the bill's requirements.

The bill should not impact the Medicaid program, which uses a preferred drug list and prior authorization protocol. The institutional formularies authorized in the bill should not apply to Medicaid patients.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 400.143 of the Florida Statutes.

This bill substantially amends section 465.025 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 Bean

4-01221-20

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1                   A bill to be entitled  
2           An act relating to institutional formularies  
3           established by nursing home facilities; creating s.  
4           400.143, F.S.; defining terms; authorizing a nursing  
5           home facility to establish and implement an  
6           institutional formulary; requiring such formulary to  
7           be developed by a committee established by the nursing  
8           home facility; providing for committee membership;  
9           providing requirements for the development and  
10          implementation of the institutional formulary;  
11          requiring a nursing home facility to maintain written  
12          policies and procedures for the institutional  
13          formulary; requiring a nursing home facility to make  
14          available such policies and procedures to the Agency  
15          for Health Care Administration, upon request;  
16          requiring a prescriber to annually authorize the use  
17          of the institutional formulary for certain patients;  
18          requiring the prescriber to opt into any changes made  
19          to the institutional formulary; authorizing a  
20          prescriber to opt out of use of the institutional  
21          formulary or to prevent a therapeutic substitution,  
22          under certain circumstances; prohibiting a nursing  
23          home facility from taking adverse action against a  
24          prescriber for refusing to agree to the use of the  
25          institutional formulary; amending s. 465.025, F.S.;  
26          authorizing a pharmacist to therapeutically substitute  
27          medicinal drugs under an institutional formulary  
28          established by a nursing home facility, under certain  
29          circumstances; prohibiting a pharmacist from

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30 therapeutically substituting a medicinal drug, under  
 31 certain circumstances; providing an effective date.

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

35 Section 1. Section 400.143, Florida Statutes, is created to  
 36 read:

37 400.143 Institutional formularies established by nursing  
 38 home facilities.-

39 (1) For purposes of this section, the term:

40 (a) "Institutional formulary" means a list of medicinal  
 41 drugs established by a nursing home facility under this section  
 42 for which a pharmacist may use a therapeutic substitution for a  
 43 medicinal drug prescribed to a resident of the facility.

44 (b) "Medicinal drug" has the same meaning as provided in s.  
 45 465.003(8).

46 (c) "Prescriber" has the same meaning as provided in s.  
 47 465.025(1).

48 (d) "Therapeutic substitution" means the practice of  
 49 replacing a nursing home facility resident's prescribed  
 50 medicinal drug with another chemically different medicinal drug  
 51 that is expected to have the same clinical effect.

52 (2) A nursing home facility may establish and implement an  
 53 institutional formulary in accordance with the requirements of  
 54 this section.

55 (3) A nursing home facility that implements an  
 56 institutional formulary under this section shall:

57 (a) Establish a committee to develop the institutional  
 58 formulary and written guidelines or procedures for such

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59 institutional formulary. The committee must consist of, at a  
60 minimum, all of the following:

- 61 1. The facility's medical director.
- 62 2. The facility's director of nursing services.
- 63 3. A consultant pharmacist licensed by the Department of  
64 Health and certified under s. 465.0125.

65 (b) Establish methods and criteria for selecting and  
66 objectively evaluating all available pharmaceutical products  
67 that may be used as therapeutic substitutes.

68 (c) Establish policies and procedures for developing and  
69 maintaining the institutional formulary and for approving,  
70 disseminating, and notifying prescribers of the institutional  
71 formulary.

72 (d) Perform quarterly monitoring to ensure compliance with  
73 the policies and procedures established under paragraph (c) and  
74 monitor the clinical outcomes in circumstances in which a  
75 therapeutic substitution has occurred.

76 (4) The nursing home facility shall maintain all written  
77 policies and procedures for the institutional formulary  
78 established under this section. Each nursing home facility shall  
79 make available such policies and procedures to the agency, upon  
80 request.

81 (5) (a) A prescriber shall annually authorize the  
82 institutional formulary for his or her patients and shall opt  
83 into any subsequent changes made to a nursing home facility's  
84 institutional formulary.

85 (b) A prescriber may opt out of the nursing home facility's  
86 institutional formulary with respect to a particular patient,  
87 medicinal drug, or class of medicinal drugs.

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88       (c) A prescriber may prevent a therapeutic substitution for  
89 a specific medication order if such order is provided verbally  
90 or generated and transmitted electronically by indicating "NO  
91 THERAPEUTIC SUBSTITUTION" on the prescription.

92       (d) A nursing home facility may not take adverse action  
93 against a prescriber for refusing to agree to the use of the  
94 facility's institutional formulary.

95       Section 2. Subsection (9) is added to section 465.025,  
96 Florida Statutes, to read:

97       465.025 Substitution of drugs.—

98       (9) A pharmacist may therapeutically substitute medicinal  
99 drugs in accordance with an institutional formulary established  
100 under s. 400.143 for the resident of a nursing home facility if  
101 the prescriber has agreed to the use of such institutional  
102 formulary. The pharmacist may not therapeutically substitute a  
103 medicinal drug pursuant to the facility's institutional  
104 formulary if the prescriber indicates verbally or electronically  
105 on the prescription "NO THERAPEUTIC SUBSTITUTION," as authorized  
106 under s. 400.143(5)(c).

107       Section 3. This act shall take effect July 1, 2020.



The Florida Senate

## Committee Agenda Request

**To:** Senator Gayle Harrell, Chair  
Committee on Health Policy

**Subject:** Committee Agenda Request

**Date:** December 19, 2019

---

I respectfully request that **Senate Bill #1020**, relating to Institutional Formularies Established by Nursing Homes Facilities, be placed on the:

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

A handwritten signature in black ink that reads "Aaron Bean".

---

Senator Aaron Bean  
Florida Senate, District 4

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

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

January 14, 2020

*Meeting Date*

SB1020

*Bill Number (if applicable)*

Topic Institutional Formularies Established by Nursing Home Facilities

*Amendment Barcode (if applicable)*

Name Michael 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  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  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)

1-14-2020  
Meeting Date

SB 1020  
Bill Number (if applicable)

Topic Institutional Formularies

Amendment Barcode (if applicable)

Name Carlos Cruz

Job Title Govt Consultant

Address 307 West Park Avenue  
Street

Phone 904-214-5724

Tallahassee, FL 32301  
City State Zip

Email CRUZ@CONVERGEGOV.COM

Speaking:  For  Against  Information

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

Representing Polaris Pharmacy ~~Services~~ Services

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)

1-14-2020

Meeting Date

SB 1020

Bill Number (if applicable)

Topic Institutional Formulas

Amendment Barcode (if applicable)

Name Deborah Franklin

Job Title Sr Director of Quality

Address 301 S. Park Ave

Phone 850 224 3907

Tallahassee FL 32301

Email dfranklin@fhca.org

City State Zip

Speaking:  For  Against  Information

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

Representing FHCA

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

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

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

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

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BILL: CS/SB 500

INTRODUCER: Health Policy Committee and Senator Harrell

SUBJECT: Prohibited Acts by Health Care Practitioners

DATE: January 15, 2020

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Brown	HP	Fav/CS
2.	_____	_____	AP	_____
3.	_____	_____	RC	_____

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

COMMITTEE SUBSTITUTE - Substantial Changes

**I. Summary:**

CS/SB 500 creates s. 456.0465, F.S., to prohibit a health care practitioner from using certain professional titles that are typically used by allopathic, osteopathic, and podiatric physicians, and dentists, unless the practitioner is licensed or registered by the Department of Health (DOH) to practice as such. The bill creates exceptions for chiropractic physicians, diplomates, and fellows, and dentists who have achieved diplomate or board certification status. The bill authorizes the DOH to issue emergency cease and desist orders and take disciplinary action against offending practitioners and gives the DOH rule making authority.

The bill takes effect upon becoming a law.

**II. Present Situation:**

**The Department of Health**

The Legislature created the DOH to protect and promote the health of all residents and visitors in the state.<sup>1</sup> The DOH is charged with the regulation of health practitioners for the preservation of the health, safety, and welfare of the public. The Division of Medical Quality Assurance (MQA)

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<sup>1</sup> Section 20.43, F.S.

is responsible for the boards<sup>2</sup> and professions within the DOH.<sup>3</sup> The health care practitioners licensed by the DOH include the following:

- Acupuncturist;<sup>4</sup>
- Allopathic physicians and physician assistants;<sup>5</sup>
- Osteopathic physicians and physician assistants;<sup>6</sup>
- Chiropractic physicians, physician assistants, and registered chiropractic assistants;<sup>7</sup>
- Podiatric physicians;<sup>8</sup>
- Naturopathic physicians;<sup>9</sup>
- Optometrists;<sup>10</sup>
- Advanced practice registered nurses, registered nurses, licensed practical nurses and certified nursing assistant;<sup>11</sup>
- Pharmacists;<sup>12</sup>
- Dentists, dental hygienist and dental laboratories;<sup>13</sup>
- Midwives;<sup>14</sup>
- Speech and language pathologists;<sup>15</sup>
- Audiologists;<sup>16</sup>
- Occupational therapists;<sup>17</sup>
- Respiratory therapists;<sup>18</sup>
- Dieticians and nutritionists;<sup>19</sup>
- Athletic trainers;<sup>20</sup>
- Orthotists, prosthetists, and pedorthists;<sup>21</sup>
- Electrologists;<sup>22</sup>
- Massage therapists;<sup>23</sup>
- Clinical laboratory personnel;<sup>24</sup>

<sup>2</sup> Under s. 456.001(1), F.S., “board” is defined as any board, commission, or other statutorily created entity, to the extent such entity is authorized to exercise regulatory or rulemaking functions within the DOH or, in some cases, within the DOH MQA.

<sup>3</sup> Section 20.43, F.S.

<sup>4</sup> Chapter 457, F.S.

<sup>5</sup> Chapter 458, F.S.

<sup>6</sup> Chapter 459, F.S.

<sup>7</sup> Chapter 460, F.S.

<sup>8</sup> Chapter 461, F.S.

<sup>9</sup> Chapter 462, F.S.

<sup>10</sup> Chapter 463, F.S.

<sup>11</sup> Chapter 464, F.S.

<sup>12</sup> Chapter 465, F.S.

<sup>13</sup> Chapter 466, F.S.

<sup>14</sup> Chapter 467, F.S.

<sup>15</sup> Part I, Chapter 468, F.S.

<sup>16</sup> *Id.*

<sup>17</sup> Part III, Chapter 468, F.S.

<sup>18</sup> Part V, Chapter 468, F.S.

<sup>19</sup> Part X, Chapter 468, F.S.

<sup>20</sup> Part XIII, Chapter 468, F.S.

<sup>21</sup> Part XIV, Chapter 468, F.S.

<sup>22</sup> Chapter 478, F.S.

<sup>23</sup> Chapter 480, F.S.

<sup>24</sup> Part II, Chapter 483, F.S.

- Medical physicists;<sup>25</sup>
- Opticians;<sup>26</sup>
- Hearing aid specialists;<sup>27</sup>
- Physical therapists;<sup>28</sup>
- Psychologists and school psychologists;<sup>29</sup> and
- Clinical social workers, mental health counselors and marriage and family therapists.<sup>30</sup>

For each profession under the jurisdiction of the DOH, the DOH appoints the board executive director, subject to board approval.<sup>31</sup> The duties conferred on the boards do not include the enlargement, modification, or contravention of the scope of practice of a profession regulated by each board, unless expressly and specifically granted by statute, but the boards may take disciplinary action against a licensee or issue a declaratory statement.<sup>32</sup> Each board member is appointed by the Governor and accountable to the Governor for the proper performance of his or her duties as a member of a board.<sup>33</sup>

#### ***Board of Medicine (BOM)***

The BOM was established to ensure that every physician practicing in this state meets minimum requirements for safe practice. The practice of medicine is a privilege granted by the state. The BOM, through efficient and dedicated organization, is directed to license, monitor, discipline, educate, and, when appropriate, rehabilitate physicians and other practitioners to assure their fitness and competence.<sup>34</sup>

#### ***Board of Osteopathic Medicine (BOOM)***

The BOOM was legislatively established to ensure that every osteopathic physician practicing in this state meets minimum requirements for safe practice. The BOOM is responsible for licensing, monitoring, disciplining, and educating osteopathic physicians to assure competency and safety to practice in Florida.<sup>35</sup>

#### ***Board of Podiatric Medicine (BPM)***

The BPM was established to ensure that every podiatric physician practicing in this state meets minimum requirements for safe practice. The BPM is directed to license, monitor, discipline, educate, and, when appropriate, rehabilitate practitioners to assure their competence.<sup>36</sup>

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<sup>25</sup> Part III, Chapter 483, F.S.

<sup>26</sup> Part I, Chapter 484, F.S.

<sup>27</sup> Part II, Chapter 484, F.S.

<sup>28</sup> Chapter 486, F.S.

<sup>29</sup> Chapter 490, F.S.

<sup>30</sup> Chapter 491, F.S.

<sup>31</sup> Section 456.004, F.S.

<sup>32</sup> Section 456.003(6), F.S.

<sup>33</sup> Section 456.008, F.S.

<sup>34</sup> The Department of Health, *Board of Medicine*, available at: <https://flboardofmedicine.gov/> (last visited Jan. 7, 2020).

<sup>35</sup> The Department of Health, *Board of Osteopathic Medicine*, available at: <https://floridasosteopathicmedicine.gov/> (last visited Jan. 7, 2020).

<sup>36</sup> The Department of Health, *Board of Podiatric Medicine*, available at: <https://floridaspodiatricmedicine.gov/> (last visited Jan. 7, 2020).

***Board of Dentistry (BOD)***

The BOD was established to ensure that every dentist practicing in this state meets minimum requirements for safe practice. The practice of the profession is a privilege granted by the state. The BOD is responsible for licensure and ensuring the safe practice of dentists and dental hygienists.<sup>37</sup>

***Board of Chiropractic Medicine (BCM)***

The BCM was established to ensure that every chiropractic physician practicing in this state meets minimum requirements for safe practice. The BCM is responsible for licensure and ensuring the safe practice of chiropractic professionals to assure competency and safety to practice.<sup>38</sup>

***Board of Nursing (BON)***

The BON licenses, monitors, disciplines, educates, and, when appropriate, rehabilitates its licensees to assure their fitness and competence in providing health care services for the people of Florida. The sole legislative purpose in enacting the Nurse Practice Act is to ensure that every nurse practicing in Florida meets minimum requirements for safe practice. It is the intent of the Legislature that nurses who fall below minimum competency or who otherwise present a danger to the public shall be prohibited from practicing in Florida.<sup>39</sup>

Section 468.015, F.S., clearly specifies the permissible nursing titles a person may use that holds a valid nursing license in this state, or a multistate license, as follows:

- Licensed Practical Nurse - L.P.N.;
- Registered Nurse - R.N.;
- Clinical Nurse Specialist - C.N.S.;
- Certified Registered Nurse Anesthetist - C.R.N.A. or nurse anesthetist;
- Certified Nurse Midwife - C.N.M. or nurse midwife; and
- Advanced Practice Registered Nurse - A.P.R.N.

A person may not practice or advertise as a registered nurse, licensed practical nurse, clinical nurse specialist, certified registered nurse anesthetist, certified nurse midwife, certified nurse practitioner, or advanced practice registered nurse, or use the abbreviation R.N., L.P.N., C.N.S., C.R.N.A., C.N.M., C.N.P., or A.P.R.N., or take any other action that would lead the public to believe that the person was authorized by law to practice professional nursing, if the person is not licensed as such, and to do so is a first degree misdemeanor.<sup>40</sup>

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<sup>37</sup> The Department of Health, *Board of Dentistry*, available at: <https://floridasdentistry.gov/> (last visited Jan. 10, 2020).

<sup>38</sup> The Department of Health, *Board of Chiropractic Medicine*, available at: <https://floridaschiropracticmedicine.gov/> (last visited Jan. 10, 2020).

<sup>39</sup> The Department of Health, *Board of Nursing*, available at: <https://floridasnursing.gov/> (last visited Jan. 7, 2020).

<sup>40</sup> Section 464.015, F.S.

On August 8, 2019, at the general BON meeting, the BON considered requests for declaratory statements.<sup>41</sup> The second request for a declaratory statement was made by John P. McDonough, A.P.R.N., license number A.P.R.N. 3344982.<sup>42</sup>

McDonough's Petition for Declaratory Statement acknowledged that the type of Florida nursing license he holds is as a *A.P.R.N.*, and that he is a certified registered nurse anesthetist (C.R.N.A.), but requested that he be permitted to use the phrase "nurse anesthesiologist" as a descriptor for him or his practice, and that the BON not subject him to discipline under ss. 456.072 and 464.018, F.S.,<sup>43</sup> based on the following grounds:

- A New Hampshire Board of Nursing's Position Statement that the nomenclature, *Nurse Anesthesiologist* and *Certified Registered Nurse Anesthesiologist*, are not title changes or an expansion of scope of practice, but are optional, accurate descriptors;<sup>44</sup> and
- Florida law grants no title protection to the words *anesthesiologist* or *anesthetist*.<sup>45</sup>

The Florida Association of Nurse Anesthetists (FANA) and the Florida Medical Association, Inc. (FMA), Florida Society of Anesthesiologists, Inc. (FSA), and Florida Osteopathic Medical Association, Inc. (FOMA), filed timely and legally sufficient<sup>46</sup> motions to intervene<sup>47</sup> pursuant to Florida Administrative Code Rule 28-106.205.<sup>48</sup> The FANA's petition<sup>49</sup> was in support of

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<sup>41</sup> Section 120.565, F.S. Provides that, "[a]ny substantially affected person may seek a declaratory statement regarding an agency's opinion as to the applicability of a statutory provision as it applies to the petitioner's particular set of circumstances. The agency must give notice of the filing of a petition in the Florida Administrative Register, provide copies of the petition to the board, and issue a declaratory statement or deny the petition within 90 days after the filing. The declaratory statement or denial of the petition is then noticed in the next Florida Administrative Register, and disposition of a petition is a final agency action."

<sup>42</sup> The Florida Board of Nursing, Meeting Minutes, Disciplinary Hearings & General Business, Section I. Other, E. *Declaratory Statements*, No. 2, Aug. 8, 2019, p. 9, available at: <https://www10.doh.state.fl.us/pub/bon/Board%20Meetings/August%207-9,%202019/Minutes/August%202019%20Full%20Board%20Minutes.pdf> pp. 32-33 (last visited Jan. 3, 2020).

<sup>43</sup> *Petition for Declaratory Statement Before the Board of Nursing, In re: John P. McDonough, A.P.R.N., C.R.N.A., Ed.D.*, filed at the Department of Health, July 10, 2019, (on file with the Senate Committee on Health Policy).

<sup>44</sup> New Hampshire Board of Nursing, *Petition Statement Regarding the use of Nurse Anesthesiologist as a communication tool and Optional [D]escriptor for Certified Registered Nurse Anesthetists (CRNAs)*, Nov. 20, 2018, available at: <https://www.oplc.nh.gov/nursing/documents/nh-bon-nurse-anesthesiologist.pdf> (last visited Nov. 6, 2019).

<sup>45</sup> *Id.*

<sup>46</sup> Fla. Adm. Code R. 28-105.0027(2) and 28.106.205(2) (2019), both of which state that to be legally sufficient, a motion to intervene in a proceeding on a petition for a declaratory statement must contain the following information: (a) The name, address, the e-mail address, and facsimile number, if any, of the intervenor; if the intervenor is not represented by an attorney or qualified representative; (b) The name, address, e-mail address, telephone number, and any facsimile number of the intervenor's attorney or qualified representative, if any; (c) Allegations sufficient to demonstrate that the intervenor is entitled to participate in the proceeding as a matter of constitutional or statutory right or pursuant to agency rule, or *that the substantial interests of the intervenor are subject to determination or will be affected by the declaratory statement*; (d) The signature of the intervenor or intervenor's attorney or qualified representative; and (e) The date.

<sup>47</sup> The Florida Medical Association, Inc., Florida Society of Anesthesiologists, Inc., and Florida Osteopathic Medical Association, Inc., *Motion to Intervene In Florida Board of Nursing's Consideration of the Petition for Declaratory Statement in Opposition of Petitioner John P. McDonough, A.P.R.N., C.R.N.A., Ed.D.*, filed at the Department of Health, Aug. 1, 2019, (available in the Office of Senate Health Policy Committee).

<sup>48</sup> Fla. Adm. Code. R. 28-106.205 (2019), in pertinent part, provides, "Persons other than the original parties to a pending proceeding whose substantial interest will be affected by the proceeding and who desire to become parties may move the presiding officer for leave to intervene."

<sup>49</sup> *Florida Association of Nurse Anesthetists Motion to Intervene*, filed at the Department of Health, July 31, 2019, (on file with the Senate Committee on Health Policy).

petitioner's Declaratory Statement while the motion filed jointly by the FMA, FSA, and FOMA was in opposition.

The FMA, FSA, and FOMA argued they were entitled to participate in the proceedings, on behalf of their members, as the substantial interests of their members, some 32,300, would be adversely affected by the proceeding.<sup>50, 51</sup> Specifically, the FMA, FSA and FOMA argued that the substantial interests of their respective members would be adversely affected by the issuance of a Declaratory Statement that petitioner could use the term "nurse anesthesiologist," without violating ss. 456.072 and 464.018, F.S., on the grounds that:

- A substantial number of their members use the term "anesthesiologist" with the intent and understanding that patients, and potential patients, would recognize the term to refer to them as physicians licensed under Chapters 458 or 459, F.S., not "nurse anesthetists;"
- Sections 458.3475(1)(a) and 459.023(1)(a), F.S., both define the term "anesthesiologist" as a licensed allopathic or osteopathic physician and do not include in those definitions a "nurse anesthetist;"
- The Merriam-Webster Dictionary defines an "anesthesiologist" as a "physician specializing in anesthesiology," not as a nurse specializing in anesthesia; and
- The Legislature clearly intended a distinction between the titles to be used by physicians practicing anesthesiology and nurses delivering anesthesia, to avoid confusion, as s. 464.015(6), F.S., specifically states that:
  - Only persons who hold valid certificates to practice as certified registered nurse anesthetists in this state may use the title "Certified Registered Nurse Anesthetist" and the abbreviations "C.R.N.A." or "nurse anesthetist;" and
  - Petitioner is licensed as a "registered nurse anesthetist" under s. 464.012(1)(a), F.S., and the term "nurse anesthesiologist" is not found in statute.

At the hearing, the attorney for the BON advised the BON that, "[t]he first thing the Board need[ed] to do [was] determine whether or not the organizations that [had] filed petitions to intervene have standing in order to participate in the discussion of the Declaratory Statement"<sup>52</sup> and that:

"Basically in order to make a determination of whether an organization has standing, they have to show that the members of their organization would have an actual injury in fact, or suffer an immediate harm of some sort of immediacy were the Board to issue this particular Declaratory Statement, and then the Board also has to make a determination of whether the nature of the injury would be within the zone of interest that the statute is addressing."<sup>53</sup>

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<sup>50</sup> *Supra* note 47.

<sup>51</sup> See also *Florida Home Builders Association, et al., Petitioners, v. Department of Labor And Employment Security, Respondent*, 412 S.2d 351 (Fla. 1982), holding that a trade association does have standing under section 120.56(1) to challenge the validity of an agency ruling on behalf of its members when that association fairly represents members who have been substantially affected by the ruling.

<sup>52</sup> Record at p. 3, ll. 13-17. Declaratory Statement, Dr. John P. McDonough, Before the Board of Nurses, State of Florida, Department of Health, Sanibel Harbor Marriott. (on file with the Senate Committee on Health Policy).

<sup>53</sup> *Id.* p. 3-4, ll. 22- 25, 1-6.

However, the above special injury standard,<sup>54</sup> provided by board counsel to the BON to apply to determine the organizations' standing to intervene, based on their members' substantial interests being affected by the declaratory statement, was held inapplicable to trade associations in *Florida Home Builders Ass'n. v. Department of Labor and Employment Security*, 412 So.2d 351 (Fla. 1982). The Florida Supreme Court, in *Florida Home Builders, Ass'n.*, held that a trade or professional association is able to challenge an agency action on behalf of its members, even though each member could individually challenge the agency action, if the organization could demonstrate that:

- A substantial number of the association members, though not necessarily a majority, would be "substantially affected" by the challenged action;
- The subject matter of the challenged action is within the association's scope of interest and activity; and
- The relief requested is appropriate for the association's members.<sup>55</sup>

Thus, the FANA's motion to intervene was granted, based on the application of an incorrect standard, without the BON making the findings required by *Florida Home Builders, Ass'n.* The motion to intervene filed by the FMA, FSA, and FOMA was denied, also based on the application of an incorrect standard, on the grounds that:

- Their members are regulated by the Board of Medicine, not the Board of Nursing;
- Nursing disciplinary guidelines were being discussed;
- Their members licenses and discipline would not be affected by an interpretation of nursing discipline;<sup>56</sup>and
- Their members are not regulated by the Nurse Practice Act.

A motion was made to approve McDonough's Petition for Declaratory Statement, and it passed unanimously. Accordingly, McDonough may now use of the term "nurse anesthesiologist" as a descriptor, and such use is not grounds for discipline against his nursing license. However, while s. 120.565, F.S., provides that any person may seek a declaratory statement regarding the potential impact of a statute, rule or agency opinion on a petitioner's particular situation, approval or denial of the petition only applies to the petitioner. It is not a method of obtaining a policy statement from a board of general applicability.<sup>57</sup>

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<sup>54</sup> *United States Steel Corp. v. Save Sand Key, Inc.*, 303 So.2d 9 (Fla. 1974).

<sup>55</sup> *Florida Home Builders Ass'n. v. Department of Labor and Employment Security*, 412 So.2d 351 (Fla. 1982), pp. 353-354.

<sup>56</sup> Record at p. 7, ll. 1-13. Declaratory Statement, Dr. John P. McDonough, Before the Board of Nurses, State of Florida, Department of Health, Sanibel Harbor Marriott. (on file with the Senate Committee on Health Policy).

<sup>57</sup> Florida Department of Health, Board of Nursing, *What is a Declaratory Statement?*, available at: <https://floridasnursing.gov/help-center/what-is-a-declaratory-statement/> (last visited Dec. 13, 2019).

News media have reported that the BON's Declaratory Statement in favor of McDonough has created significant concern for patient safety and the potential for confusion in the use of the moniker "anesthesiologist" among Florida's medical professionals.<sup>58, 59, 60</sup>

### III. Effect of Proposed Changes:

The bill creates s. 456.0465, F.S., to prohibit a licensed health care practitioner from using certain professional names or titles that are typically used by allopathic physicians, osteopathic physicians, podiatric physicians, or dentists licensed under chs. 458, 459, 461, and 466, F.S., unless the practitioner is licensed or registered by the DOH to practice as such. The DOH must take disciplinary action against any licensed health care practitioner who uses any of the following names, titles, or initials to indicate or imply that he or she is authorized by those chapters to practice under those chapters when he or she is not so authorized:

Physician, surgeon, dentist, medical doctor, doctor of osteopathy, doctor of dental medicine, doctor of dental surgery, M.D., D.M.D., D.D.S., anesthesiologist, cardiologist, dermatologist, endocrinologist, endodontist, gastroenterologist, general practitioner, gynecologist, hematologist, hospitalist, internist, interventional pain medicine physician, laryngologist, nephrologist, neurologist, obstetrician, oncologist, ophthalmologist, oral and maxillofacial surgeon, orthodontist, orthopedic surgeon, orthopedist, osteopath, otologist, otolaryngologist, otorhinolaryngologist, pathologist, pediatrician, physiatrist, pedodontist, periodontist, podiatrist, primary care physician, proctologist, prosthodontist, psychiatrist, radiologist, rheumatologist, rhinologist, or urologist, or any other words, letters, abbreviations, or insignia indicating or implying that he or she is licensed or authorized by chapter 458, chapter 459, chapter 461, or chapter 466 to practice as such.

The bill provides that an allopathic, osteopathic, or podiatric physician, or dentist, who is not licensed by the DOH but is registered as an out-of-state telehealth provider under s. 456.47(4), F.S., is not subject to the prohibition.

The bill provides that, notwithstanding the bill's prohibition, a licensed dentist who has achieved diplomate status or board certification from the American Board of Dental Public Health, the American Board of Endodontics, the American Board of Oral and Maxillofacial Pathology, the American Board of Oral and Maxillofacial Radiology, the American Board of Oral and Maxillofacial Surgery, the American Board of Orthodontics, the American Board of Pediatric Dentistry, the American Board of Periodontology, the American Board of Prosthodontics, the American Board of Oral Implantology/Implant Dentistry, the American Board of Oral Medicine, the American Board of Orofacial Pain, the American Dental Board of Anesthesiology, or the

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<sup>58</sup> Christine Sexton, The News Service of Florida, "Nursing Board Signs Off On 'Anesthesiologist' Title," August 16, 2019, The Gainesville Sun, available at: <https://www.gainesville.com/news/20190816/nursing-board-signs-off-on-anesthesiologist-title> (last visited Dec. 13, 2019).

<sup>59</sup> Christine Sexton, The News Service of Florida, "Florida Lawmaker Takes Aim At Health Care Titles," October 10, 2019, Health News Florida, available at: <https://health.wusf.usf.edu/post/florida-lawmaker-takes-aim-health-care-titles> (last visited Dec. 13, 2019).

<sup>60</sup> Christine Section, The News Service of Florida, "What's In A Name? Health Panel Seeks Clarity on Health Care Providers," November 14, 2019, available at: <https://health.wusf.usf.edu/post/what-s-name-health-panel-seeks-clarity-health-care-providers> (last visited Dec. 13, 2019).

American Board of General Dentistry, in a specific specialty or subspecialty, may use the following as appropriate for his or her diplomate or board certification status:

- Dental anesthesiologist;
- Doctor of oral medicine;
- Dental oral and maxillofacial radiologist;
- Dental orthodontic and dentofacial orthopedist;
- Dental oral and maxillofacial pathologist; or
- Any other names or titles associated with such diplomate or board certification status.

Additionally, a licensed doctor of chiropractic medicine, or a chiropractic physician registered with the BCM as a telehealth provider, may use the name or title “doctor of chiropractic medicine” or “chiropractic physician” under the bill. A licensed chiropractic physician who has achieved diplomate or fellow status from the American Board of Chiropractic Specialties, American Chiropractic Board of Sports Physicians, American College of Chiropractic Orthopedists, American Chiropractic Neurology Board, International Chiropractors Association, or International Chiropractic Pediatric Association, or in a specific specialty or subspecialty, may use, as appropriate for his or her diplomate or fellow status, the following:

- Chiropractic radiologist;
- Chiropractic internist;
- Chiropractic neurologist;
- Chiropractic orthopedist;
- Chiropractic pediatrician; or
- Any other names or titles associated with such diplomate or fellow status.

If the DOH finds that any licensed health care practitioner is utilizing any of the listed names, titles, words, letters, abbreviations or insignia, without authorization, the bill requires the DOH to issue to the practitioner an emergency order to cease and desist and send the order to the practitioner by certified mail and email, or to any other mailing address or email address by which the DOH believes the practitioner may be reached.

If the practitioner does not immediately cease and desist his or her actions upon receipt of the emergency cease and desist order, the DOH must enter an order imposing one or more of the following penalties until the practitioner complies:

- A citation and a daily fine.
- A reprimand or a letter of concern.
- Suspension of license.

The bill authorizes the DOH to make rules to implement the bill.

The bill 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.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 456.0465 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 the Health Policy Committee on January 14, 2020:**

The CS creates s. 456.0465, F.S., and:

- Changes the focus of the bill from “a person” to “a licensed health care practitioner”;

- Removes the requirement that the DOH prove that the offending party “knowingly” misused one of the listed monikers;
- Eliminates the specific definitions for “anesthesiologist”;
- Creates exceptions for the use of the monikers “doctor of chiropractic” and “chiropractic physician” and for those chiropractic titles associated with achieving diplomate or fellow status;
- Creates exceptions for the titles used by dentists who has achieved diplomate or board certification status;
- Enumerates specific penalties for the violation of the bill’s provisions; and
- Grants the DOH rule making authority.

**B. Amendments:**

None.

By Senator Harrell

25-00797-20

2020500\_\_

1                                   A bill to be entitled  
 2       An act relating to prohibited acts by health care  
 3       practitioners; amending s. 456.072, F.S.; authorizing  
 4       disciplinary action to be enforced by the Department  
 5       of Health for the use of specified names or titles  
 6       without a valid license or certification to practice  
 7       as such; providing a definition; providing an  
 8       effective date.

9  
 10 Be It Enacted by the Legislature of the State of Florida:

11  
 12       Section 1. Paragraph (pp) is added to subsection (1) of  
 13 section 456.072, Florida Statutes, to read:

14       456.072 Grounds for discipline; penalties; enforcement.—

15       (1) The following acts shall constitute grounds for which  
 16 the disciplinary actions specified in subsection (2) may be  
 17 taken:

18       (pp)1. Knowingly using the name or title "physician,"  
 19 "surgeon," "medical doctor," "doctor of osteopathy," "M.D.,"  
 20 "anesthesiologist," "cardiologist," "dermatologist,"  
 21 "endocrinologist," "gastroenterologist," "general practitioner,"  
 22 "gynecologist," "hematologist," "hospitalist," "internist,"  
 23 "interventional pain medicine physician," "laryngologist,"  
 24 "nephrologist," "neurologist," "obstetrician," "oncologist,"  
 25 "ophthalmologist," "orthopedic surgeon," "orthopedist,"  
 26 "osteopath," "otologist," "otolaryngologist,"  
 27 "otorhinolaryngologist," "pathologist," "pediatrician,"  
 28 "podiatrist," "primary care physician," "proctologist,"  
 29 "psychiatrist," "radiologist," "rheumatologist," "rhinologist,"

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30 or "urologist," or any other words, letters, abbreviations, or  
31 insignia indicating or implying that he or she is authorized by  
32 chapter 458, chapter 459, or chapter 461 to practice as such. If  
33 the department finds any person guilty of the grounds set forth  
34 in this paragraph, it may enter an order imposing one or more of  
35 the penalties provided in subsection (2).

36 2. For purposes of this paragraph, "anesthesiologist" has  
37 the same meaning as provided in s. 458.3475 or s. 459.023.

38 Section 2. This act shall take effect upon becoming a law.

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/14/20

Meeting Date

500

Bill Number (if applicable)

\* 215 354

Amendment Barcode (if applicable)

Topic Medical titles

Name PAUL LAMBERT

Job Title General Counsel

Address 263 Rosehill Dr. N.

Street

Tallahassee FL 32312

City

State

Zip

Phone 850 597-2696

Email plambert@paul Lambert Law, com

com

Speaking:  For  Against  Information

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

Representing Florida Chiropractic Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

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

January 14, 2020

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

SB 500

*Meeting Date*

*Bill Number (if applicable)*

215354

Topic Health Professional Titles

*Amendment Barcode (if applicable)*

Name Brence A. Sell, M.D.

Job Title Anesthesiologist

Address 4770 Buckhead Court

Phone (850) 556-2897

*Street*

Tallahassee

FL

32309

Email Drsell@comcast.net

*City*

*State*

*Zip*

Speaking:  For  Against  Information

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

Representing Florida Society of Anesthesiologists

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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1/14/20

Meeting Date

500

Bill Number (if applicable)

215354

Amendment Barcode (if applicable)



Topic chiro amendmt

Name Ron Watson

Job Title Lobbyist

Address 3738 Murdon Way

Street

Tallahassee FL 32309

City

State

Zip

Phone 850 567-1202

Email watson.strategies@comcast.net

Speaking: [ ] For [ ] Against [ ] Information

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

Representing Florida Chiropractic Physician Assoc

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

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

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APPEARANCE RECORD

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1/14/20

Meeting Date

SB 500

Bill Number (if applicable)

215354

Amendment Barcode (if applicable)

Topic \_\_\_\_\_

Name Chris Lyon

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

Address 315 S. Calhoun St., Suite 830

Street

Phone 850/222-5702

Tallahassee

FL

32301

City

State

Zip

Email chlyon@lw-law.com

Speaking:  For  Against  Information

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

Representing Florida Association of Nurse Anesthetists

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE

APPEARANCE RECORD

1-14-2020

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

Meeting Date

SB 500

Bill Number (if applicable)

258952

Amendment Barcode (if applicable)

Topic Cruz Amendment

Name Stewart Heaton

Job Title Certified Anesthesiologist Assistant

Address 18545 NW 45th Avenue Rd 288

Phone 801-631-3648

Street

Citra, FL 32113

Email s\_heaton64@hotmail.com

City

State

Zip

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

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

Representing self

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

Lobbyist registered with Legislature: [ ] Yes [ ] No

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

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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)

January 14, 2020

SB 500

*Meeting Date*

*Bill Number (if applicable)*

258952

Topic Health Professional Titles

*Amendment Barcode (if applicable)*

Name Brence A. Sell, M.D.

Job Title Anesthesiologist

Address 4770 Buckhead Court

Phone (850) 556-2897

*Street*

Tallahassee

FL

32309

Email Drsell@comcast.net

*City*

*State*

*Zip*

Speaking:  For  Against  Information

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

Representing Florida Society of Anesthesiologists

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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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)

1/14/20

Meeting Date

SB 500

Bill Number (if applicable)

258952

Amendment Barcode (if applicable)

Topic Cruz Amendments

Name Jeff Carroll

Job Title Anesthesiologist Assistant

Address 2322 Major Street

Street

Phone 614 271 5814

Jacksonville

FL

32204

City

State

Zip

Email JcarrollFAAA@gmail.com

Speaking:  For  Against  Information

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

Representing Florida Academy of Anesthesiologist Assistant

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)

1-14-20

Meeting Date

SB580

Bill Number (if applicable)

258952

Amendment Barcode (if applicable)

Topic Cruz Amendment

Name Roosevelt Bennett

Job Title Anesthesiologist Assistant Certified

Address 577 Southern Oak Dr.

Phone 786-999-2764

Street

Rouge Vedra

City

FL

State

32081

Zip

Email Bennett1231@gmail.com

Speaking:  For  Against  Information

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

Representing SELF

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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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)

1/14/20

Meeting Date

SB500

Bill Number (if applicable)

258952

Amendment Barcode (if applicable)

Topic ~~Healthcare~~ Cruz Amendments

Name Jeremy Betts

Job Title General Counsel, AAAA

Address PO Box 54200

Phone 770-883-6597

Atlanta GA 30308

Email jbetts@jsbetts.com

Speaking:  For  Against  Information

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

Representing American Academy of Anesthesiologist 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

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

01/14/20

Meeting Date

SB500

Bill Number (if applicable)

931962

Amendment Barcode (if applicable)

Topic Cruz Amendments

Name Jeremy Rolfs

Job Title General Counsel, AAAA

Address PO Box 54200

Street

Phone

Atlanta

GA

30308

City

State

Zip

Email

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

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

Representing American Academy of Anesthesiologist Assistants

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

1-14-2020

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

Meeting Date

SB 500

Bill Number (if applicable)

931962

Amendment Barcode (if applicable)

Topic Cruz Amendment

Name Stewart Heaton

Job Title Certified Anesthesiologist Assistant

Address 18545 NW 45th Avenue Rd. 288

Phone 801-631-3648

Street

Citra, FL 32113

City

State

Zip

Email s\_heaton64@hotmail.com

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

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

Representing self

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

Lobbyist registered with Legislature: [ ] Yes [ ] No

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

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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)

1-14-20

Meeting Date

5B500

Bill Number (if applicable)

Topic

Cruz Amendment

931962

Amendment Barcode (if applicable)

Name

Roosevelt Bennett

Job Title

Anesthesiologist Assistant Certified

Address

577 Southern Oak Dr.

Phone

786-999-2764

Street

Route Vedra

Fl.

32081

Email

BennettRz.sr@gmail.com

City

State

Zip

Speaking:

For

Against

Information

Waive Speaking:

In Support

Against

(The Chair will read this information into the record.)

Representing

SELF

Appearing at request of Chair:

Yes

No

Lobbyist registered with Legislature:

Yes

No

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

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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)

1/14/20

Meeting Date

5B500

Bill Number (if applicable)

931962

Amendment Barcode (if applicable)

Topic Cruz Amendments

Name Jeff Carroll

Job Title Anesthesiologist Assistant

Address 2322 Myra Street

Street

Jacksonville

City

FL

State

32284

Zip

Phone 614 271 5814

Email JcarrollFAARegmail.com

Speaking:  For  Against  Information

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

Representing Florida Academy of Anesthesiologist Assistant

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)

January 14, 2020  
*Meeting Date*

SB 500  
*Bill Number (if applicable)*  
931962  
*Amendment Barcode (if applicable)*

Topic Health Professional Titles

Name Brence A. Sell, M.D.

Job Title Anesthesiologist

Address 4770 Buckhead Court  
*Street*

Phone (850) 556-2897

Tallahassee FL 32309  
*City State Zip*

Email Drsell@comcast.net

Speaking:  For  Against  Information

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

Representing Florida Society of Anesthesiologists

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)

1/14/20  
Meeting Date

500

Bill Number (if applicable)

Topic Medical titles

Amendment Barcode (if applicable)

Name PAUL LAMBERT

Job Title General Counsel

Address 263 Rosehill DR N

Phone 850 597-2696

Street

Tallahassee FL 32312

Email plambert@paulalambertlaw.com

City

State

Zip

Speaking:  For  Against  Information

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

Representing Florida Chiropractic Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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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)

1/14/20

Meeting Date

500

Bill Number (if applicable)

Topic Prohibited Acts by HC practitioners

Amendment Barcode (if applicable)

Name Ron Watson

as amended

Job Title Lobbyist

Address 3738 Murdon Way

Phone 850 567-1202

Tallahassee FL 32309

Email watson.stanley@comcast.net

Speaking: [ ] For [ ] Against [ ] Information

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

Representing Florida Chiropractic Physician Assoc

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

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

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# APPEARANCE RECORD

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

1/14/2020

*Meeting Date*

SB 500 (As Amended)

*Bill Number (if applicable)*

Topic Prohibited Acts by Health Care Practitioners

*Amendment Barcode (if applicable)*

Name Jessica Love

Job Title Government Consultant

Address PO Box 11189

Phone 850-577-9090

*Street*

Tallahassee

FL

32302

Email jessica.love@gray-robinson.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

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

Representing Florida Society of Oral and Maxillofacial Surgeons

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)

1/14/20

Meeting Date

SB 500

Bill Number (if applicable)

Topic Prohibited Acts by Healthcare Professionals

Amendment Barcode (if applicable)

Name Steve Winn

Job Title Executive Director

Address 2544 Blairstone Pines Dr

Phone

Street

Tallahassee

FL

32301

City

State

Zip

Email winnsr@earthlink.net

Speaking: [ ] For [ ] Against [ ] Information

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

Representing Florida Osteopathic Medical Assoc

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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1/14/2020

Meeting Date

500

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name Chris Adland

Job Title

Address 4427 Herschel St

Street

Phone 904-355-233-3051

Jacksonville, FL 32210

City

State

Zip

Email nlandlaw@aol.com

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

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

Representing Florida Society of Plastic Surgeons Florida Society of Dermatology & Dermatologic Surgery

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

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

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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)

1/14/20/20 Meeting Date

500 Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name ROHAN A. JOSEPH, MD

Job Title GENERAL SURGEON

Address 2626 CARE DR, STE 206 Street

Phone 850-545-4953

TALLAHASSEE, FLORIDA 32312 City State Zip

Email rohan.joseph@hcahealthcare.com

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

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

Representing Florida Chapter, American College of Surgeons

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

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

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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)

January 14, 2020

SB 500

Meeting Date

Bill Number (if applicable)

Topic Health Professional Titles

Amendment Barcode (if applicable)

Name Brence A. Sell, M.D.

Job Title Anesthesiologist

Address 4770 Buckhead Court

Phone (850) 556-2897

Street

Tallahassee

FL

32309

Email Drsell@comcast.net

City

State

Zip

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

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

Representing Florida Society of Anesthesiologists

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

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

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

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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)

1/13/20

Meeting Date

500

Bill Number (if applicable)

Topic Titles for Health care practitioners

Amendment Barcode (if applicable)

Name Alexandra Abboud

Job Title Gov. Affairs Liaison

Address 118 E. Jefferson street

Phone (850) 224-1089

Tallahassee

FL

32301

Email abbas@floridadental.org

City

State

Zip

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

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

Representing Florida Dental Association

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

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

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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)

1-14-20

Meeting Date

SB 500

Bill Number (if applicable)

Topic Use of the term "physician"

Amendment Barcode (if applicable)

Name DR. DARBY MILLER

Job Title Asst. Professor of Ophthalmology

Address Mayo Clinic

Phone 301-768-5178

Jacksonville FL 32224

Email darbymiller@gmail.com

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

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

Representing FLORIDA SOCIETY OF OPHTHALMOLOGY

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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1/14/20

SB 500

Meeting Date

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name Ronald Giffler

Job Title

Address 1430 Piedmont Drive E

Phone 850 224 6496

Tallahassee FL 32308

Email drgiffler@flmedical.org

Speaking: [X] 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 [X] No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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1/14/20

Meeting Date

SB 500

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name Chris Lyon

Job Title

Address 315 S. Calhoun St., Suite 830

Phone 850/222-5702

Street

Tallahassee

FL

32301

City

State

Zip

Email chyon@lw-law.com

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

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

Representing Florida Association of Nurse Anesthetists.

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

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

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

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

Meeting Date

Bill Number (if applicable)

Topic SENATE BILL 500

Amendment Barcode (if applicable)

Name MARK A. DOBBERTEN DOFACS

Job Title SURGEON

Address 684 KILCHURN DR

Phone 904 3434636

Street ORANGE PK FL 32073

Email M/dobb@aol.com

City State Zip

Speaking:  For  Against  Information

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

Representing FOMA

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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DECLARATORY STATEMENT

DR. JOHN P. McDONOUGH

BEFORE THE

BOARD OF NURSES, STATE OF FLORIDA DEPARTMENT OF HEALTH

August 8, 2019

Sanibel Harbor Marriott  
17620 Harbor Pointe Drive  
Fort Myers, Florida 33908

Reported by: Gerard "Bo" Kriegshauser, RPR

MARTINA-MIKULICE REPORTING SERVICES  
2069 First Street -- Suite 201  
Fort Myers, Florida 33901  
(239) 334-6545

1 MS. SUTTON-JOHNSON: John P. McDonough,  
2 Bates 26056. 26056.

3 CHAIR WHITSON: Good afternoon.

4 DR. McDONOUGH: Good afternoon.

5 CHAIR WHITSON: If you all could state your  
6 name, please.

7 DR. McDONOUGH: I'm sorry, I didn't hear  
8 you.

9 CHAIR WHITSON: If you all could state your  
10 names for the record, please.

11 DR. McDONOUGH: Oh. I'm Dr. John McDonough,  
12 the Petitioner.

13 CHAIR WHITSON: Thank you.

14 MS. MIKOS: I'm Cynthia Mikos with the Law  
15 Firm of Johnson Pope on behalf of Dr. McDonough.

16 MR. WINN: Jason Winn on behalf of the  
17 Florida Osteopathic Medical Association, the Florida  
18 Medical Association, and the Florida Society of  
19 Anesthesiologists.

20 MR. THOMAS: Glen Thomas on behalf of the  
21 Florida Association of Nurse Anesthetists.

22 CHAIR WHITSON: Thank you. And Dr.  
23 McDonough needs to be sworn in.

24 DR. JOHN McDONOUGH ADMINISTERED OATH

25 MS. LOUCKS: Board members, this is a

1 Petition for a Declaratory Statement that you received  
2 that you did have two petitions to intervene, and  
3 Dr. McDonough or Ms. Mikos, if I misstate what the  
4 petition is, please let me know. But basically  
5 Dr. McDonough is submitting a petition to the Board  
6 asking if he would be subject to disciplinary action  
7 by the Board were he to identify himself as a nurse  
8 anesthesiologist. It's my understanding from the  
9 petition that you're going to refer to yourself with  
10 your CRNA nurse anesthetist designation in addition to  
11 calling yourself a nurse anesthesiologist.

12 DR. McDONOUGH: That is correct, Counselor.

13 MS. LOUCKS: The first thing that the Board  
14 needs to do is determine whether or not the  
15 organizations that have filed the petitions to  
16 intervene have standing in order to participate in the  
17 discussion of the Declaratory Statement, and since we  
18 have two intervenors, the first petition to intervene  
19 was received by the Florida Association of Nurse  
20 Anesthetists, so I guess we'll go by order in which  
21 they were received.

22 Basically in order to make a determination  
23 of whether an organization has standing, they have to  
24 show that they're the members of their organization,  
25 would have an actual injury in fact, or suffer an

1 immediate harm of some sort of immediacy were the  
2 Board to issue this particular Declaratory Statement,  
3 and then they to -- the Board also has to make a  
4 determination of whether the nature of the injury  
5 would be within the zone of interest that the statute  
6 is addressing.

7 I know that -- I don't believe, Ms. Mikos,  
8 that you've filed any sort of objection to the Florida  
9 Association of Nurse Anesthetists participating in  
10 this.

11 MS. MIKOS: That's correct, I did not.

12 MS. LOUCKS: So, Board members, the first  
13 thing you need to do is make the determination of  
14 whether you believe that the Florida Association of  
15 Nurse Anesthetists would have standing to serve as  
16 intervenors in this particular petition.

17 CHAIR WHITSON: Do we need to do that with a  
18 vote? Or how do we --

19 MS. LOUCKS: Yes, you would need to make  
20 that in a form of a motion. If you were to deny it,  
21 you would need to specify why you believe that they  
22 don't have standing because we're looking at the  
23 standing issue first.

24 DR. GLYMPH: I make motion that they meet  
25 the standing.

1 MS. FORST: Second.

2 CHAIR WHITSON: All those in favor. Seeing  
3 none in opposition, the motion passes.

4 MS. LOUCKS: And the next petition that was  
5 received was a Petition to Intervene on behalf of the  
6 Florida Medical Association, the Florida Society of  
7 Anesthesiologists, and the Florida Osteopathic  
8 Medicine -- I'm sorry, Medical Association. Mr. Winn,  
9 did you want to make a presentation? I'm sorry,  
10 Mr. Thomas, I didn't give you the opportunity to make  
11 a presentation if you had wanted to, but did you want  
12 to make a presentation?

13 MR. THOMAS: Not anymore.

14 MS. LOUCKS: Mr. Winn, did you want to make  
15 a presentation on the standing issue?

16 MR. WINN: We'll stand by our petition.

17 MS. LOUCKS: And, Ms. Mikos, did you file an  
18 objection to their Petition to Intervene?

19 MS. MIKOS: I did file an objection to their  
20 Petition to Intervene, and since all of this happened  
21 in the last seven to ten days I'm not sure if the  
22 Board members have copies of that objection.

23 CHAIR WHITSON: We do.

24 MS. MIKOS: Okay. So I think it would  
25 suffice to say that we would object on two grounds as

1 to their standing. No. 1, they are not -- physicians  
2 are not governed by the Board of Nursing, and the  
3 question that we're asking is on behalf -- we're  
4 asking the Board of Nursing to discuss its rules and  
5 its laws related to one of its licensees and how that  
6 licensee may describe himself.

7           And, secondly, I would point out that we're  
8 not asking to use the term anesthesiologist as a  
9 freestanding term. We are asking that Dr. McDonough  
10 be able to describe himself as a nurse  
11 anesthesiologist, and therefore we do not believe that  
12 that falls within the realm of the members of the FMA,  
13 the FSA or the FOMA. thank you.

14           CHAIR WHITSON: Thank you. Do we need a  
15 motion?

16           MS. LOUCKS: Yes, you would need a motion as  
17 to whether the FMA, FSA and FOMA, that's just easier,  
18 sorry, whether they have standing to participate in  
19 the Petition to Intervene.

20           CHAIR WHITSON: We need a motion.

21           MS. LOUCKS: Yes.

22           DR. GLYMPH: I make a motion that they  
23 don't.

24           MS. FORST: Second.

25           CHAIR WHITSON: All those in favor.

1 MS. LOUCKS: And -- I'm sorry, and just to  
2 clarify, Dr. Glymph, the reasons that they don't have  
3 standing are the reasons that were articulated by  
4 Ms. Mikos?

5 DR. GLYMPH: Yeah, they're Board of  
6 Medicine, not Board of Nursing.

7 MS. LOUCKS: And these are nursing  
8 disciplinary guidelines that are being discussed?

9 DR. GLYMPH: Yes.

10 MS. LOUCKS: So their licensees and members  
11 wouldn't be affected by nursing discipline?

12 DR. GLYMPH: Yes.

13 MS. LOUCKS: Okay. Thank you.

14 Mr. Winn, did you have any additional  
15 comments you would want to make at this point, or do  
16 you want to...

17 MR. WINN: Well, we would argue that we have  
18 standing based upon the term that they're looking to  
19 use -- or the question to you about nurse  
20 anesthesiologists, and how anesthesiologist is defined  
21 in Florida statute in 459 and in 458. Any individual,  
22 whether it's before this Board or any other Board,  
23 that wants to use a term that's already in statute and  
24 the M.D. and D.O. statute would be in violation of  
25 that statute, it would then confuse the public,

1 mislead the public, and affect our members that are  
2 anesthesiologists that are M.D.s and D.O.s. Thank  
3 You.

4 CHAIR WHITSON: Thank you.

5 MS. LOUCKS: And, Board members, if you want  
6 to reconsider your vote on the standing for the FMA,  
7 FOMA and the anesthesiologists, you can do that. If  
8 not, then we can proceed with the Petition for  
9 Declaratory Statement.

10 CHAIR WHITSON: Shall we proceed or would  
11 you all like to --

12 MS. FORST: No, I think we can proceed.

13 CHAIR WHITSON: Okay. Mr. McDonough --  
14 Dr. McDonough, excuse me, would you like to address  
15 the Board.

16 DR. McDONOUGH: Thank you. Madam Chair, if  
17 it pleases the Board, I would like to present a very  
18 brief historical background why I consider this  
19 petition to be important. Contrary to what some  
20 people believe who are uninformed regarding  
21 anesthesia, people believe that the administration is  
22 the practice of medicine. It its absolutely not.  
23 Never has been. It's the practice of medicine only  
24 when it's done by physicians. It's a practice  
25 dentistry when it's done by dentists. It's done --

1 when it is done by nurses, it is the practice of  
2 nursing. There is a very long tradition. The first  
3 nurse recorded in the United States to administer  
4 anesthesia was Katherine Lawrence who administered  
5 ether and chloroform to soldiers during the Civil War.  
6 The first nurse who limited her nursing practice  
7 exclusively to the administration of anesthesia was in  
8 1887, Sister Mary Bernard, at St. Vincent's Hospital  
9 in Erie, Pennsylvania. The first organized  
10 educational program of any kind to teach the  
11 administration of anesthesia was established in 1915  
12 at the Lakeside Hospital School of Anesthesia in  
13 Cleveland, Ohio. The first class was six months long.  
14 It cost \$50. And the first class of graduates were  
15 two dentists, six physicians, and 12 nurses. The  
16 American Association of Nurse Anesthetists was founded  
17 in 1931. In 1936 the physicians who administered  
18 anesthesia established a group called the American  
19 Society of Anesthetists.

20 In 1939 a professor at the University of  
21 Illinois College of Medicine sent a letter to the  
22 American Society of Anesthetists stating that he  
23 claims to have coined the term anesthesiology and  
24 defined it as, and I quote, "The science that treats  
25 the means and methods of producing various degrees of

1 insensibility to pain with or without hypnosis. An  
2 anesthetist is a technician, and an anesthesiologist  
3 is an expert scientific authority on anesthesia and  
4 anesthetics. I cannot understand why your group does  
5 not term themselves the American Society of  
6 Anesthesiologists. Sincerely M.J. Syfert, M.D."

7           If the Board wishes, I have copies of these  
8 documents. I'll be happy to submit them as part of  
9 the record.

10           In 1945 the organization, which was then the  
11 American Society of Anesthetists, changed their name  
12 to the American Society of Anesthesiologists.

13 Regarding Dr. Syfert's opinion, I would like to state  
14 that I am not a technician. I am not an extender of  
15 anybody else's professional activity. I am not an  
16 assistant to any other profession. I am not a  
17 mid-level anything. I am an advanced practiced  
18 registered nurse whose speciality is anesthesiology.  
19 The fact that anesthesiology is not the practice of  
20 medicine was, in fact, ruled decades ago exactly on  
21 January the 18th, 2001, the Department of Health and  
22 Human Services in the Federal Register as part of the  
23 final rule governing participation in Part A,  
24 conditions of participation, Part A of Medicare in  
25 hospitals, and I quote partially, and if you wish I

1 have the entire document which we can supply to you as  
2 part of the record, "Anesthesia administration by  
3 nurse anesthetists have a long history in this  
4 country, including independent practice in Department  
5 of Defense hospitals. We cannot agree that the  
6 administration of anesthesia is the practice of  
7 medicine." Close quotes, period.

8           So although other people may claim that the  
9 word anesthesiology means physician, it does not.

10 Never has, never will. In fact, 55 percent of the  
11 people in the country when surveyed by the American  
12 Society of Anesthesiologists didn't realize an  
13 anesthesiologist was a physician. So, if this  
14 petition is granted, I don't think anybody is going to  
15 be confused. I think it will be, in fact, a benefit  
16 to the public to understand the person taking care of  
17 them is in fact a scientific expert in anesthesia.

18 All of our people are now minimally trained at the  
19 Master's level. The vast majority of our programs are  
20 now doctoral programs. They will all be doctoral  
21 programs by 2023.

22           If -- thank you, Counselor. I am in fact a  
23 member of the Committee for Proper Recognition of  
24 CRNAs. It is a group which is moving forward towards  
25 the descriptor change and the title change. The

1 American Association of Nurse Anesthetists has  
2 approved this title effective this year. Other states  
3 have already taken this action. The New Hampshire  
4 Board of Nursing has ruled that nurse  
5 anesthesiologists is an acceptable description for  
6 CRNAs, and as of last Friday Arizona Board of Nursing  
7 took precisely the same action. I am also prepared to  
8 submit documentation of these acts to the Board should  
9 you wish to have it in the record. I am open to any  
10 questions the Board may have.

11 CHAIR WHITSON: Board members. Dr. Glymph.

12 DR. GLYMPH: So you plan on using this in  
13 the facility, Tampa General, where you practice at.

14 DR. McDONOUGH: I practice clinically at  
15 Tampa General. I am professor and chair of the Nurse  
16 Anesthesiology Program at the University of North  
17 Florida in Jacksonville, and there as well.

18 CHAIR WHITSON: Are you -- so you're  
19 planning on using this just as a description of the  
20 services you provide. Not necessarily titling  
21 yourself --

22 DR. McDONOUGH: No, no, this --

23 CHAIR WHITSON: -- as an anesthesiologist?

24 DR. McDONOUGH: -- is a descriptor. This is  
25 not a title. A title is --

1 CHAIR WHITSON: It's just --

2 DR. McDONOUGH: A title is governed by  
3 statute, --

4 CHAIR WHITSON: Right.

5 DR. McDONOUGH: -- administrative rule.  
6 This is a descriptor.

7 CHAIR WHITSON: Right -- as if you're trying  
8 to explain your services or the differentiation to a  
9 patient.

10 DR. McDONOUGH: Exactly. Physician's  
11 Assistant, for instance, in this state now routinely  
12 tell people that they are their anesthetist. Excuse  
13 me, anesthesiology assistants tell patients that they  
14 are anesthetists. The American Academy of  
15 Anesthesiologists assistants has a website, their  
16 website, which is called anesthetist.org. When they  
17 had their national meeting in Florida last year the  
18 theme of the meeting was Meet Your New Anesthetist.  
19 And organized physician anesthesiologists are now  
20 referring -- they don't refer to nurse anesthetist as  
21 nurse anesthetist or CRNAs, they refer to them as  
22 anesthetist, and they refer to AAs as anesthetist as  
23 well, and I think this is causing a tremendous amount  
24 of confusion, and I for one would like to be sure that  
25 I am safe within the disciplinary guidelines of the

1 Board to try and bring some clarity to this by  
2 referring to -- to my role and my services of that as  
3 a nurse anesthesiologist.

4 CHAIR WHITSON: Are your plans to use this  
5 in conversation? Or printed? Thoughts. I mean, are  
6 you...

7 DR. McDONOUGH: In conversation I believe  
8 would be correct.

9 CHAIR WHITSON: Ms. McKeen.

10 MS. McKEEN: I'm not sure why at this point  
11 you would seek this statement from the Board.

12 DR. McDONOUGH: Well, because I don't want  
13 to risk getting into trouble by calling myself,  
14 discussing the fact that I'm a nurse anesthesiologist  
15 and then having someone raise a complaint with the  
16 Board of Nursing against me doing that.

17 MS. McKEEN: I think I meant your  
18 motivation, why the title is important.

19 DR. McDONOUGH: Well, the title is important  
20 because there's a lot of confusion on the part of the  
21 public because anesthesiologist's assistants are  
22 referring to themselves as anesthesiologists. This is the  
23 national trend. It has been approved at the national  
24 level by the American Association of Nurse  
25 Anesthetists that nurse anesthesiologist is an

1 appropriate descriptor. Other Boards of Nursing have  
2 changed, and I'm asking for permission for me to do  
3 that here in Florida.

4 MS. McKEEN: Thank you.

5 DR. McDONOUGH: You're welcome.

6 CHAIR WHITSON: I have another question on  
7 that. Just bouncing off your idea --

8 MS. NEUMAN: Ms. Whitson?

9 CHAIR WHITSON: Yes.

10 MS. NEUMAN: I'm sorry.

11 CHAIR WHITSON: Carry on.

12 MS. NEUMAN: Dr. McDonough, did I -- I think  
13 I read in your literature that is -- is it New  
14 Hampshire has already recognized -- I believe the  
15 State of New Hampshire?

16 DR. McDONOUGH: Yes, ma'am. The national --  
17 our National Association the AANA has recognized the  
18 change. The New Hampshire Board of Nursing recognized  
19 the change. I believe it was last month and last  
20 Friday the Arizona Board of Nursing also recognized  
21 the change.

22 MS. McKEEN: When you reference the change,  
23 do you mean the ability to use the phrase, the  
24 descriptor nurse anesthesiologist?

25 DR. McDONOUGH: Yes, that's what I was

1 referring to. The ability to use it as a descriptor.

2 MS. McKEEN: Right.

3 DR. McDONOUGH: I'm not asking for a title  
4 change. I'm asking for a descriptor.

5 MS. NEUMAN: It was very clear in the  
6 literature.

7 DR. McDONOUGH: Thank you.

8 MS. NEUMAN: Thank you.

9 MS. McKEEN: Ms. Whitson, you were saying?

10 CHAIR WHITSON: Do you think it would be  
11 better served for this to come out through the  
12 professional organizations as opposed to --

13 DR. McDONOUGH: It already has.

14 CHAIR WHITSON: -- us making a ruling on it?

15 DR. McDONOUGH: Well, the professional  
16 organization has in fact ruled on it. They have  
17 decided that nurse anesthiologists is an  
18 acceptable -- they actually use it as a title as well  
19 as a descriptor. However, my concern is I want to be  
20 safe in terms of the Board of Nursing. I have great  
21 respect for the Board and I don't want to do anything  
22 that's going to get me in trouble with the Board. So  
23 this is a matter of self-protection from my point of  
24 view. I think this is an appropriate thing to do, but  
25 I want to have the approval of the Board to do it

1 before so, before I would fully do it.

2 MS. JOHNSON: Ms. Whitson?

3 CHAIR WHITSON: Ms. Johnson.

4 MS. JOHNSON: May we hear from the other  
5 gentleman.

6 (Inaudible)

7 MS. JOHNSON: Oh, no, we voted one.

8 CHAIR WHITSON: The Association of Nurse  
9 Anesthetists.

10 MS. JOHNSON: There were two and we voted  
11 that one could, so I would like to hear from him,  
12 please.

13 MR. THOMAS: Sure. I just had a couple of  
14 legal points that I wanted to point out. The first is  
15 there was some mention that there is --

16 UNIDENTIFIED: We can't hear.

17 CHAIR WHITSON: Mr. Thomas, will you speak  
18 into the microphone, please?

19 MR. THOMAS: Okay. So there was some  
20 mention that the word of anesthesiologist is defined  
21 in statute. That's true. But if look at how it's  
22 defined, it's defined within the Anesthesiologist  
23 Assistant Practice Act, and those definitions are  
24 clear. These terms only apply to the use in this  
25 particular section. In other words, that -- you can't

1 use the term anesthesiologist to mean that outside of  
2 this. This is only what it means for the AA Practice  
3 Act which is where it's needed because only an  
4 anesthesiologist can supervise an AA to just -- in  
5 that statute it also says -- the term direct  
6 supervision says, it is defined as on-site personal  
7 supervision by an anesthesiologist. Now, we all know  
8 that the term "direct supervision" doesn't mean  
9 supervision by an anesthesiologist. It does in  
10 that -- in that one section of law. That's why those  
11 terms only apply in that very narrow section. So even  
12 though it is defined in those, it doesn't apply to any  
13 other section of law. And like Dr. McDonough said,  
14 even if it did apply, what we're seeking is the use of  
15 the term nurse anesthesiologist, not anesthesiologist  
16 by itself.

17           And I think to clarify, one of the -- one of  
18 the -- there is no law that directly governs what a  
19 CRNA can call themselves or directly governs whether  
20 they can use the term nurse anesthesiologist. The law  
21 prohibits the use of a term that's misleading,  
22 deceptive or fraudulent. In this case, we have the  
23 use of the word -- the term nurse anesthesiologist,  
24 the term ologist, the suffix applies to an expert in a  
25 scientific area, and the term anesthesiology refers to

1 a branch of medical science dealing with anesthesia.  
2 So I don't think you can say it's deceptive to use the  
3 term nurse anesthesiologist, which literally means a  
4 nurse who is an expert in the area of anesthesia. So,  
5 under Florida law I don't think this would be a  
6 violation so long as the practitioner advised a  
7 patient of their license under which they practice.

8 MS. MIKOS: And I would just like to add a  
9 couple of things that were in the petition but we  
10 haven't said here today that I just want make sure I  
11 understood. There is no title protection for the word  
12 anesthesiologist in any statute. The definition  
13 that's included, as Mr. Thomas just said, is a limited  
14 section governing anesthesia assistants and who they  
15 report to. But there is no title protection in either  
16 458 or 459, or anywhere else in Florida statutes for  
17 the term anesthesiologist. Thank you.

18 DR. McDONOUGH: If I may recognize, Madam  
19 Chair?

20 CHAIR WHITSON: Just a moment. Mr. Baker  
21 has a question.

22 MR. BAKER: The actions by New Hampshire and  
23 Arizona, were those based upon a petition or more of a  
24 blanket?

25 DR. McDONOUGH: They were based upon a

1 petition --

2 MR. BAKER: Petition? Thank you.

3 DR. McDONOUGH: -- from licensees.

4 I would also like to point out that the --  
5 the -- the addition of nurse anesthetologists as a  
6 permissible phrase to describe what I do is very  
7 consistent with the other types of anesthetologists,  
8 the two other types of anesthetologists who are not  
9 physicians. One is a dentist. We use in Florida the  
10 term dental anesthetologist all the time. The Board  
11 of Dentistry talks about it. I believe it's also in  
12 some administrative rule, but I'm not positive about  
13 that. I can check on that. And veterinary  
14 anesthetologist. So to be an anesthetologist does  
15 not mean you're a physician. It means you're a  
16 specialist in anesthesia, and than be preceded by  
17 dental anesthetologist, veterinary anesthetologist.  
18 In fact, the American Society of Anesthetologists,  
19 the physicians specialty group, now has routinely  
20 started referring to themselves physician  
21 anesthetologist.

22 CHAIR WHITSON: Ms. Desmond.

23 MS. DESMOND: I would just say that Dr.  
24 McDonough has made a very good presentation and it's a  
25 reasonable presentation in my mind that I don't feel

1 like there would be any Board action on my part. I  
2 mean, that is the concern. I don't see that there  
3 would be an issue with the Board with you using that  
4 descriptor. It's been approved in other places. It's  
5 used in other disciplines. And the professional  
6 organization has also condoned it. So, for me I  
7 don't -- I think he's made a very good presentation  
8 here to support his request.

9 MS. NEUMAN: Board counsel, I have a  
10 question just to reiterate. Now, Dr. McDonough is  
11 asking this in keeping with the rules of Declaratory  
12 Statement Request for himself only; is that correct?

13 DR. McDONOUGH: That is correct.

14 MS. LOUCKS: That's correct. And if the  
15 Board were to grant his petition, it wouldn't  
16 necessarily stop a complaint being filed or an  
17 investigation being opened on him. Using that term it  
18 would allow him individually to say I received this  
19 answer to my Declaratory Statement from the Board and  
20 the Board says it's okay for me to use it. Another  
21 CRNA who might have a complaint filed against them  
22 could make the argument that, "Well, the board said it  
23 was okay for Dr. McDonough," but it wouldn't put a  
24 stop on that particular investigation as it would for  
25 Dr. McDonough.

1 MS. NEUMAN: Exactly, because this is for  
2 just Dr. McDonough who obviously has the credentials  
3 to --

4 MS. LOUCKS: Right, right. If that was  
5 another CRNA that used that title and there was a  
6 complaint open, then they would have to demonstrate  
7 that they, you know, to the Probable Cause Panel or to  
8 whomever was reviewing it that they would have  
9 requirements that the Board would be satisfied with  
10 that they would be an anesthesiologist.

11 MS. DESMOND: But just to clarify, he's  
12 asking for a descriptor, --

13 MS. LOUCKS: He's only --

14 MS. DESMOND -- not a title.

15 MS. NEUMAN: Right. And he'll use that only  
16 to apply to himself as he describes for his clients.

17 MR. BAKER: I have a question.

18 CHAIR WHITSON: Mr. Baker.

19 MR. BAKER: I just want to get counsel's  
20 input as part of the discussion with the Board members  
21 that if granted, it's permissible for this type of  
22 Declaratory Statement to be binding on a future Board.

23 MS. LOUCKS: Yes.

24 MR. BAKER: Say ten years from now when none  
25 of these folks may be sitting here, a decision they

1 made can bind future appointees of this Board on what  
2 they might view as their role.

3 MS. LOUCKS: That's correct, as it relates  
4 to Dr. McDonough.

5 CHAIR WHITSON: Can I ask Dr. Glymph to --  
6 have you found any issues in your own practice with  
7 regard to that.

8 DR. GLYMPH: Yeah, I would say no. I mean,  
9 I think it's very clear what Dr. McDonough presented,  
10 especially with the prefix nurse anesthesiologist. No  
11 confusion whatsoever. So -- and, like I said, it's a  
12 descriptor. It's been approved by the national Board  
13 as well as other Boards have now approved it. So I  
14 think it's nothing in a stretch for Florida to do it.

15 CHAIR WHITSON: I make a motion to approve.

16 DR. GLYMPH: Second.

17 MS. LOUCKS: Just to clarify, you're  
18 approving that he can use that -- the term nurse  
19 anesthesiologist as a descriptor, but he still needs  
20 to identify himself additionally as a CRNA?

21 MS. NEUMAN: Yes.

22 MS. LOUCKS: Okay.

23 CHAIR WHITSON: So it's been moved and  
24 seconded. All those in favor.

25 Those opposed.

1           Seeing none, the motion passes.

2           MS. LOUCKS: Ms. Mikos, I can e-mail the  
3 order to you. Is that acceptable?

4           MS. MIKOS: That would be great. Thank you,  
5 very much.

6           MS. LOUCKS: Thank you.

7           CHAIR WHITSON: Thank you.

8           DR. McDONOUGH: Thank you.

9           DR. GLYMPH: Mr. Baker, let me ask you a  
10 question. So the Arizona and the -- so the blanket  
11 statement of the petition, that would affect the whole  
12 body of the profession, right?

13           MR. BAKER: Well, I asked that question  
14 because some Boards of Nursing have legal authority  
15 that have policy statements.

16           DR. GLYMPH: Ahhhh.

17           MR. BAKER: And that's why I was curious if  
18 they had responded to a petition or if they had  
19 granted a policy statement.

20           DR. McDONOUGH: Mr. Baker, I have an answer  
21 regarding New Hampshire for that. The answer is  
22 somewhat hyper, and the reason I know the answer is  
23 the petitioner was one of my graduates, Dr. Dwayne,  
24 Thibault, Dwayne, D-W-A-Y-N-E, Thibault,  
25 T-H-I-B-A-U-L-T, CRNA, petitioned the Board and they

1 actually changed -- the Board has the authority in New  
2 Hampshire to actually change the title. In fact, now  
3 in New Hampshire you can choose to be licensed in  
4 New Hampshire as an APRN with the title Certified  
5 Registered Nurse Anesthetist, or Certified Registered  
6 Nurse Anesthesiologist. There is a checkmark for each  
7 of those titles on the APRN application. So New  
8 Hampshire process is different from ours. He -- he  
9 actually asked for a title change and got it, and they  
10 have the authority to do that in New Hampshire. We do  
11 not here. So I'm just asking for me.

12 MS. MIKOS: And just to be clear, the New  
13 Hampshire document is labeled "A Position Statement".  
14 Thank you.

15 CHAIR WHITSON: Thank you.

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CERTIFICATE OF REPORTER

I, Gerard "Bo" Kriegshauser, Notary Public,  
State of Florida, do hereby certify that I was  
authorized to and did stenographically report the  
foregoing declaratory statement of Dr. John P.  
McDonough consisting of pages 2 through 25.

I further certify that I am not a relative,  
employee, attorney or counsel of any of the parties,  
nor am I a relative or employee of any of the parties'  
attorney or counsel connected with this action, nor am  
I financially interested in this action.

Dated this 5th day of October, 2019.

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Gerard "Bo" Kriegshauser

2. McDonough, John P APRN 3344982, 1711/200008; Reference: Section 456.072, FS and Section 464.018, FS, regarding whether licensee, John McDonough, may describe himself as, or his professional duties as those of, a “nurse anesthologist” without subjecting his Florida nursing licenses to discipline under Section 456.072, FS or Section 464.018, FS. –Present with Attorney Cynthia Mikos and sworn in. A motion was made by Whitson that FANA does meet the standing as an intervenor. Motion passed unanimously. A motion was made by Glymph that FMA, FOMA, and FSA do not meet the standing as an intervenor because their members are not regulated by the Nurse Practice Act. Motion passed unanimously. A motion was made by Newman to approve the use of the term “nurse anesthologist” as a descriptor along with CRNA and that such use would not be grounds for discipline against his license. Motion passed unanimously.

#### F. Petition for Waiver and Variance

1. All State Home Health Institute, 1509, 4402/537; Reference: 64B9-15.007, FAC, regarding approval and renewal of New Certified Nursing Assistant Training Programs- A motion was made by Newman to deny the petition. Motion passed unanimously.
2. Agape Academy of Sciences, 1504, 4402/539; Reference: 64B9-15.005, FAC, regarding standards for Certified Nursing Assistant Training Programs- A motion was made by Paschall to deny the petition. Motion passed unanimously.
3. Livecchi, Vicente Julius; 1701/644190; Reference: 64B9-3.0025(2), FAC, regarding Remedial Courses for Re-Examination- Represented by Attorney Cynthia Mikos. A motion was made by Paschall to grant the petition. Motion failed with Paschall, Forst, Talmadge and Whitson for. A motion was made by Desmond to reconsider. Motion passed with Newman and Johnson opposed. A motion was made by Paschall to approve. Motion passed with Johnson and Newman opposed.
4. Hendricks, Sarah; 1702/199862; Reference: 64B9-3.002(3), FAC, regarding Qualifications for Examination-Present and sworn in. A motion was made by Newman to continue to October meeting. Motion passed unanimously.

The meeting was recessed at 6:15 PM

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

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

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

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**BILL:** CS/SB 878

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

**SUBJECT:** Public Records/Emergency Room Health Care Practitioners

**DATE:** January 14, 2020      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Brown	HP	<b>Fav/CS</b>
2.	_____	_____	GO	_____
3.	_____	_____	RC	_____

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

**I. Summary:**

CS/SB 878 amends s. 119.071(5), F.S., to define an “emergency room health care practitioner” and to provide a new public records exemption for:

- The home addresses, telephone numbers, dates of birth, and photographs of current and former emergency room health care practitioners;
- The names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such practitioners; and
- The schools and day care facilities attended by the children of such practitioners.

The bill also provides a statement of public necessity.

The bill takes effect upon becoming a law.

**II. Present Situation:**

**Access to Public Records - Generally**

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.<sup>1</sup> The right to inspect or copy applies

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<sup>1</sup> FLA. CONST. art. I, s. 24(a).

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.<sup>2</sup>

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, s. 11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and the statutory provisions are adopted in the rules of each house of the Legislature.<sup>3</sup> Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.<sup>4</sup> Lastly, ch. 119, F.S., provides requirements for public records held by executive branch agencies.

### **Executive Branch Agency Records – The Public Records Act**

Chapter 119, F.S., known as the Public Records Act, provides that all state, county, and municipal records are open for personal inspection and copying by any person and that providing access to public records is a duty of each agency.<sup>5</sup>

A public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.<sup>6</sup> The Florida Supreme Court has interpreted the statutory definition of “public record” to include “material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.”<sup>7</sup>

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.<sup>8</sup> A violation of the Public Records Act may result in civil or criminal liability.<sup>9</sup>

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.<sup>10</sup> The exemption must state

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<sup>2</sup> *Id.*

<sup>3</sup> See Rule 1.48, *Rules and Manual of the Florida Senate*, (2018-2020) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 2, (2018-2020)

<sup>4</sup> *State v. Wooten*, 260 So.3d 1060 (Fla. 4<sup>th</sup> DCA 2018).

<sup>5</sup> Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” 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.”

<sup>6</sup> 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.”

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

<sup>8</sup> Section 119.07(1)(a), F.S.

<sup>9</sup> Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

<sup>10</sup> FLA. CONST. art. I, s. 24(c).

with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.<sup>11</sup>

General exemptions from the public records requirements are contained in the Public Records Act.<sup>12</sup> Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.<sup>13</sup>

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” Custodians of records designated as “exempt” are not prohibited from disclosing the record; rather, the exemption means that the custodian cannot be compelled to disclose the record.<sup>14</sup> Custodians of records designated as “confidential and exempt” may not disclose the record except under circumstances specifically defined by the Legislature.<sup>15</sup>

### ***Other Personal Information***

Section 119.071(5), F.S., provides two types of public records exemptions for personal identification and location information that any of the three branches of state government may have collected on any citizen for various consensual legitimate governmental purposes. One type of exemption is for confidential information and the other is for exempt information.

Confidential information is not subject to inspection by the public and may only be released to those persons and entities designated in the statute. Exempt information is not subject to the mandatory disclosure requirements of the public records law; however, an agency is not prohibited from disclosing such records under specific circumstances.<sup>16</sup>

## **Department of Health**

### ***Regulated Professions and Facilities***

The Department of Health (DOH) is responsible for licensing and regulating health care practitioners in order to preserve the health, safety, and welfare of the public.<sup>17</sup> Practitioner regulation is conducted by the Division of Medical Quality Assurance (MQA) and includes the following professions:

- Emergency Medical Technicians and Paramedics;<sup>18</sup>
- Acupuncturist;<sup>19</sup>
- Allopathic physicians and physician assistants;<sup>20</sup>

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<sup>11</sup> *Id. See, e.g., Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So.2d 567 (Fla. 1999) (holding 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); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So.2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

<sup>12</sup> *See, e.g., s. 119.071(1)(a), F.S.* (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

<sup>13</sup> *See, e.g., s. 213.053(2)(a), F.S.* (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

<sup>14</sup> *See Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA 1991).

<sup>15</sup> *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004).

<sup>16</sup> *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991).

<sup>17</sup> Section 20.43(1)(g), F.S.

<sup>18</sup> Part III, ch. 401, F.S.

<sup>19</sup> Chapter 457, F.S.

<sup>20</sup> Chapter 458, F.S.

- Osteopathic physicians and physician assistants;<sup>21</sup>
- Chiropractic physicians, physician assistants, and registered chiropractic assistants;<sup>22</sup>
- Podiatric physicians;<sup>23</sup>
- Naturopathic physicians;<sup>24</sup>
- Optometrists;<sup>25</sup>
- Advanced practice registered nurses, registered nurses, licensed practical nurses and certified nursing assistant;<sup>26</sup>
- Pharmacists;<sup>27</sup>
- Dentists, dental hygienist and dental laboratories;<sup>28</sup>
- Midwives;<sup>29</sup>
- Speech and language pathologists;<sup>30</sup>
- Audiologists;<sup>31</sup>
- Occupational therapists;<sup>32</sup>
- Respiratory therapists;<sup>33</sup>
- Dieticians and nutritionists;<sup>34</sup>
- Athletic trainers;<sup>35</sup>
- Orthotists, prosthetists, and pedorthists;<sup>36</sup>
- Electrologists;<sup>37</sup>
- Massage therapists;<sup>38</sup>
- Clinical laboratory personnel;<sup>39</sup>
- Medical physicists;<sup>40</sup>
- Opticians;<sup>41</sup>
- Hearing aid specialists;<sup>42</sup>
- Physical therapists;<sup>43</sup>

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<sup>21</sup> Chapter 459, F.S.

<sup>22</sup> Chapter 460, F.S.

<sup>23</sup> Chapter 461, F.S.

<sup>24</sup> Chapter 462, F.S.

<sup>25</sup> Chapter 463, F.S.

<sup>26</sup> Chapter 464, F.S.

<sup>27</sup> Chapter 465, F.S.

<sup>28</sup> Chapter 466, F.S.

<sup>29</sup> Chapter 467, F.S.

<sup>30</sup> Part I, ch. 468, F.S.

<sup>31</sup> *Id.*

<sup>32</sup> Part III, ch. 468, F.S.

<sup>33</sup> Part V, ch. 468, F.S.

<sup>34</sup> Part X, ch. 468, F.S.

<sup>35</sup> Part XIII, ch. 468, F.S.

<sup>36</sup> Part XIV, ch. 468, F.S.

<sup>37</sup> Chapter 478, F.S.

<sup>38</sup> Chapter 480, F.S.

<sup>39</sup> Part II, ch. 483, F.S.

<sup>40</sup> Part III, ch. 483, F.S.

<sup>41</sup> Part I, ch. 484, F.S.

<sup>42</sup> Part II, ch. 484, F.S.

<sup>43</sup> Chapter 486, F.S.

- Psychologists and school psychologists;<sup>44</sup> and
- Clinical social workers, mental health counselors and marriage and family therapists.<sup>45</sup>

The following relevant entities are also regulated or inspected by MQA:<sup>46</sup>

- EMS education programs;<sup>47</sup>
- EMS vehicle permittees;<sup>48</sup>
- Environmental testing laboratories;<sup>49</sup>
- Nursing education programs;<sup>50</sup>
- Pharmacies;<sup>51</sup> and
- Trauma centers.<sup>52</sup>

As part of the DOH's practitioner regulation responsibilities, information required by the DOH from applicants for regulated professions are public records and open to public inspection,<sup>53</sup> except for financial information, medical information, school transcripts, examination questions, answers, papers, grades, and grading keys, which are not to be discussed or made available to anyone except the program director of an approved or accredited nursing education program,<sup>54</sup> members of the DOH regulatory boards, and DOH staff who have a bona fide need to know such information. Any information supplied to the DOH by another agency, which is exempt from the provisions of ch. 119, F.S., or is confidential, shall remain exempt or confidential while in the custody of the DOH or any other agency.<sup>55</sup>

As part of the DOH's licensure and enforcement responsibilities, the DOH also collects information and investigates complaints against health care practitioners, many of which perform their professional duties in a hospital emergency department. The DOH must investigate any complaint that is written, signed by the complainant,<sup>56</sup> and legally sufficient,<sup>57</sup> and may initiate an investigation if it believes a violation of law or rule has occurred. Such an investigation may result in an administrative case against the health care practitioner's license.<sup>58</sup> The DOH also has

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<sup>44</sup> Chapter 490, F.S.

<sup>45</sup> Chapter 491, F.S.

<sup>46</sup> Other entities regulated by the DOH, although not the MQA, include tanning facilities, X-ray sites, and radioactive materials users, among others.

<sup>47</sup> Chapter 401, F.S.

<sup>48</sup> *Id.*

<sup>49</sup> Section 403.0625, F.S.

<sup>50</sup> Chapter 464, F.S.

<sup>51</sup> Chapter 465, F.S.

<sup>52</sup> Part II, ch. 395, F.S.

<sup>53</sup> Section 119.007, F.S.

<sup>54</sup> Section 464.019(6), F.S.

<sup>55</sup> Section 456.014, F.S.

<sup>56</sup> The DOH may investigate an anonymous complaint or a complaint by a confidential informant if the alleged violation of law or rule is substantial and the DOH has reason to believe, after preliminary inquiry, that the violations alleged in the complaint are true. *See s. 456.073(1), F.S.*

<sup>57</sup> A complaint is legally sufficient if it contains ultimate facts that show a violation of ch. 456, F.S., of any of the practice acts relating to the professions regulated by the DOH, or of any rule adopted by the DOH or one of its regulatory boards has occurred. *See s. 456.073(1), F.S.*

<sup>58</sup> Upon completion of an investigation, the DOH must submit a report to the probable cause panel of the appropriate regulatory board. *See s. 456.073(2), F.S.* If the probable cause panel finds that probable cause exists, it must direct the DOH to file a formal administrative complaint against the licensee. If the DOH declines to prosecute the complaint because it finds

a duty to notify the proper prosecuting authority when there is a criminal violation of any statute related to the practice of a profession regulated by the DOH.<sup>59</sup>

### **Hospital Emergency Room Health Care Practitioners**

Hospitals are licensed by the Agency for Health Care Administration (AHCA) under ch. 395, F.S., and the general licensure provisions of part II of ch. 408, F.S. A hospital is an establishment that offers a range of health care services, provided by myriads of the DOH's licensed health care practitioners, with beds for use beyond 24 hours by individuals requiring diagnosis, treatment, or care.<sup>60</sup> Hospitals must, at a minimum, make clinical laboratory services, diagnostic X-ray services, and treatment facilities for surgery or obstetrical care, or other definitive medical treatment, regularly available.<sup>61</sup>

Hospitals must maintain current state licensure but may choose to be Medicare-certified and may choose to be accredited by The Joint Commission, Healthcare Facilities Accreditation Program, Center for Improvement in Healthcare Quality or DNV GL Healthcare. Accredited hospitals meeting Chapter 59A-3.253(3), Florida Administrative Code, may be "deemed" to be in compliance with the licensure and certification requirements. Deemed hospitals are not scheduled for routine on-site licensure surveys.<sup>62</sup>

By definition, a facility providing "emergency services and care" must include medical screening, examination, and evaluation by a physician, or other appropriate personnel under the supervision of a physician, to determine if an emergency medical condition exists. If such condition does exist, the facility must provide care, treatment, or surgery by a physician necessary to relieve or eliminate the emergency medical condition, within the service capability of the facility.<sup>63, 64</sup>

The AHCA is required to maintain an inventory of hospitals that provide emergency services. The inventory must list all the emergency services the hospital provides, and such services must appear on the face of the hospital's license<sup>65</sup> and on a sign in the hospital located where individuals not yet admitted would reasonably be expected to present for emergency services.<sup>66</sup> As of December 1, 2019, 226 of the 306 licensed hospitals in Florida provide emergency room services, and 50 of the 226 also have off-site emergency departments.<sup>67</sup>

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that probable cause has been improvidently found by the panel, the regulatory board may still pursue and prosecute an administrative complaint. *See* s. 456.073(4), F.S.

<sup>59</sup> Section 456.066, F.S.

<sup>60</sup> Section 395.002(12), F.S.

<sup>61</sup> *Id.*

<sup>62</sup> Agency for Health Care Administration, Hospitals, *Licensure Information*, available at [https://ahca.myflorida.com/MCHQ/Health\\_Facility\\_Regulation/Hospital\\_Outpatient/hospital.shtml](https://ahca.myflorida.com/MCHQ/Health_Facility_Regulation/Hospital_Outpatient/hospital.shtml) (last visited Jan. 7, 2020).

<sup>63</sup> Section 395.002(9), F.S.

<sup>64</sup> Section 395.002(8), F.S., defines an "emergency medical condition" as a medical condition manifesting itself by acute, severe symptoms, include severe pain, such that the absence of immediate medical care could reasonably be expected to result in any of the following: serious jeopardy to patient health, including a pregnant woman or fetus; serious impairment to bodily functions; or serious dysfunction of any organ or part.

<sup>65</sup> Section 395.1041(2), F.S.

<sup>66</sup> Fla. Adm. Code. R. 59A-3.225(1) (2019).

<sup>67</sup> Agency for Health Care Administration, *Facility/Provider Search Results, Hospitals and Emergency*, available at <http://www.floridahealthfinder.gov/facilitylocator/ListFacilities.aspx> (reports generated on Jan. 6, 2020).

Hospitals offering emergency services and care to patients presenting in the emergency department must provide, among other services, emergency care 24 hour a day and adequate emergency room staff, with sufficient education and training to provide the following:

- An initial consultation with a physician within 30 minutes, either in person, or via two-way voice communication;
- A specialty consultation, if requested by the attending physician, or a transfer to a hospital where definitive care can be provided;
- Written policies and procedures specifying the scope and conduct of emergency services to be rendered to patients;
- A control register identifying all persons seeking emergency care and a medical record on every patient seeking emergency care containing specified information;
- Clinical laboratory services sufficient to perform routine studies and standard analyses of blood, urine, other body fluids, and to store and type and cross-match blood;
- An sufficient blood supply, either in-hospital or from outside sources;
- Diagnostic radiology services;
- Oxygen and administration equipment;
- Mechanical ventilation equipment, including airways, manual breathing bags, and a ventilator;
- A cardiac defibrillator with synchronization capability;
- Respiratory and cardiac monitoring equipment;
- Thoracenteses and closed thoracostomy sets;
- A tracheostomy or cricothyrotomy set;
- Tourniquets;
- Vascular cut-down sets;
- Laryngoscopes and endotracheal tubes;
- Urinary catheters with closed bag systems;
- Pleural and pericardial drainage sets;
- Minor surgical instruments;
- Splinting devices;
- Emergency obstetrical packs;
- Standard emergency drugs including common poison antidotes, parenteral fluids, infusion sets, and surgical supplies;
- Refrigeration storage for biologicals and other supplies; and
- Stable examination tables.<sup>68</sup>

The AHCA inventory of hospital emergency room services and the required equipment to provide those services could potentially require, at a minimum, DOH-licensed health care practitioners from all of the following licensed professions:

- Emergency medical technicians and paramedics;<sup>69</sup>
- Allopathic physicians and physician assistants;<sup>70</sup>

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<sup>68</sup> Fla. Adm. Code R. 59A-3.225(6), (2019).

<sup>69</sup> Part III, ch. 401, F.S.

<sup>70</sup> Chapter 458, F.S.

- Osteopathic physicians and physician assistants;<sup>71</sup>
- Podiatric physicians;<sup>72</sup>
- Advanced practice registered nurses, registered nurses, licensed practical nurses, and certified nursing assistant;<sup>73</sup>
- Pharmacists;<sup>74</sup>
- Dentists;<sup>75</sup>
- Midwives;<sup>76</sup>
- Respiratory therapists;<sup>77</sup>
- Dieticians;<sup>78</sup>
- Clinical laboratory personnel;<sup>79</sup>
- Medical physicists;<sup>80</sup>
- Physical therapists;<sup>81</sup> and
- Clinical social workers, mental health counselors, and marriage and family therapists.<sup>82</sup>

### **Emergency Room Personnel and Physical Violence, Harassment, and Intimidation**

Workplace violence (WPV) is defined as any act or threat of physical violence, harassment, intimidation, or other disruptive behavior that occurs at the work site and may cause physical or emotional harm. Health care professionals are among the workers at highest risk for WPV. According to a 2007 report of the U.S. Bureau of Labor Statistics, WPV occurs more often in health care and social assistance industries than in any other workforce sector, accounting for 60 percent of all nonfatal assaults.<sup>83</sup> Emergency room health care practitioners, by the nature of their duties, are often placed in traumatic circumstances in which loss of life and severe bodily injuries have occurred.

The Emergency Nurses Association reports that violence in emergency departments has reached epidemic levels and emergency room nurses are particularly vulnerable. The Association further reports that the healthcare industry leads all other sectors in the incidence of nonfatal workplace assaults, and the emergency department is a particularly vulnerable setting.<sup>84</sup>

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<sup>71</sup> Chapter 459, F.S.

<sup>72</sup> Chapter 467, F.S.

<sup>73</sup> Chapter 464, F.S.

<sup>74</sup> Chapter 465, F.S.

<sup>75</sup> Chapter 466, F.S.

<sup>76</sup> Chapter 467, F.S.

<sup>77</sup> Part V, ch. 468, F.S.

<sup>78</sup> Part X, ch. 468, F.S.

<sup>79</sup> Part II, ch. 483, F.S.

<sup>80</sup> Part III, ch. 483, F.S.

<sup>81</sup> Chapter 486, F.S.

<sup>82</sup> Chapter 491, F.S.

<sup>83</sup> Stene, Julie, MHA, MSN, RN; Larson, Erin, MSN, RN; Levy, Maria, RN; Dohlman, Michon, MSN, RN; *The Permanente Journal, Workplace Violence in the Emergency Department: Giving Staff the Tools and Support to Report*, Spring 2015, Vol. 19, No.2, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4403590/> (last visited Jan. 7, 2020).

<sup>84</sup> Emergency Nurses Association, *Workplace Violence* (2019), available at <https://www.ena.org/practice-resources/workplace-violence> (last visited Jan. 7, 2020).

According to surveys by the American College of Emergency Physicians and the Emergency Nurses Association, almost half of emergency physicians report being physically assaulted at work, while about 70 percent of emergency nurses report being hit and kicked while on the job. Furthermore, the vast majority – 80 percent – of emergency physicians say violence in the emergency department harms patient care. Similarly, emergency nurses report that the harmful consequences of experiencing a violent event at work interferes with the delivery of high-quality patient care.<sup>85</sup>

### III. Effect of Proposed Changes:

The bill creates s. 119.071(5)(1), F.S., to provide a new public records exemption for certain personal information pertaining to health care practitioners whose duties are currently, or were formerly, performed in a hospital emergency department. The exemption prevents the disclosure of their:

- Home addresses, telephone numbers, dates of birth, and photographs;
- Spouse’s and children’s names, home addresses, telephone numbers, dates of birth, and places of employment; and
- Children’s schools and day care facilities.

The bill defines an “emergency room health care practitioner” as:

- A physician or a physician assistant licensed under chapters 458 or 459, F.S.;
- An advanced practice registered nurse, a registered nurse, or a licensed practical nurse licensed under part I of chapter 464; or
- Any other licensed health care practitioner whose duties are performed in a hospital emergency department.

The bill mandates that the DOH, or any other agency, which has custody of an emergency room health care practitioner’s confidential identification and location information, must maintain the exempt status of that information and may release it only under a court order or some other legitimate state interest.

### IV. Constitutional Issues:

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

None.

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

##### **Vote Requirement**

Article I, Section 24(c), of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created public record exemption. The bill creates a public record exemption; thus, it requires a two-thirds vote for final passage.

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<sup>85</sup> *Id.*

**Public Necessity Statement**

Article I, Section 24(c), of the Florida Constitution requires a public necessity statement for a newly-created public record exemption. The bill creates a public record exemption and includes a public necessity statement.

**Breadth of Exemption**

Article I, Section 24(c), of the Florida Constitution requires a newly-created public record exemption to be no broader than necessary to accomplish the stated purpose of the law. Based on the legislative findings stated in the bill, and even though the bill potentially encompasses a large number of health care practitioners whose duties are performed in a hospital emergency department, the bill does not appear to be in conflict with this constitutional requirement.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

Government agencies may incur an indeterminate cost in determining if an individual whose information is requested is, or was, an emergency room health care practitioner.

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

**CS by the Health Policy Committee on October 14, 2020:**

The CS places the new public records exemption in s. 119.071(5), F.S., instead of in s. 119.071(4), F.S., as in the underlying bill, to make the exemption self-executing and affect more of the individuals the bill was designed to protect.

- B. **Amendments:**

None.

By Senator Harrell

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1                   A bill to be entitled  
2       An act relating to public records; amending s.  
3       119.071, F.S.; providing an exemption from public  
4       records requirements for the personal identifying and  
5       location information of current or former emergency  
6       room health care practitioners and the spouses and  
7       children of such practitioners; defining the term  
8       "emergency room health care practitioner"; providing  
9       for retroactive application; providing a statement of  
10      public necessity; providing an effective date.

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

13  
14       Section 1. Paragraph (d) of subsection (4) of section  
15      119.071, Florida Statutes, is amended to read:

16       119.071 General exemptions from inspection or copying of  
17      public records.—

18       (4) AGENCY PERSONNEL INFORMATION.—

19       (d)1. For purposes of this paragraph, the term:

20       a. "Home addresses" means the dwelling location at which an  
21      individual resides and includes the physical address, mailing  
22      address, street address, parcel identification number, plot  
23      identification number, legal property description, neighborhood  
24      name and lot number, GPS coordinates, and any other descriptive  
25      property information that may reveal the home address.

26       b. "Telephone numbers" includes home telephone numbers,  
27      personal cellular telephone numbers, personal pager telephone  
28      numbers, and telephone numbers associated with personal  
29      communications devices.

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30           2.a. The home addresses, telephone numbers, dates of birth,  
31 and photographs of active or former sworn law enforcement  
32 personnel or of active or former civilian personnel employed by  
33 a law enforcement agency, including correctional and  
34 correctional probation officers, personnel of the Department of  
35 Children and Families whose duties include the investigation of  
36 abuse, neglect, exploitation, fraud, theft, or other criminal  
37 activities, personnel of the Department of Health whose duties  
38 are to support the investigation of child abuse or neglect, and  
39 personnel of the Department of Revenue or local governments  
40 whose responsibilities include revenue collection and  
41 enforcement or child support enforcement; the names, home  
42 addresses, telephone numbers, photographs, dates of birth, and  
43 places of employment of the spouses and children of such  
44 personnel; and the names and locations of schools and day care  
45 facilities attended by the children of such personnel are exempt  
46 from s. 119.07(1) and s. 24(a), Art. I of the State  
47 Constitution.

48           b. The home addresses, telephone numbers, dates of birth,  
49 and photographs of current or former nonsworn investigative  
50 personnel of the Department of Financial Services whose duties  
51 include the investigation of fraud, theft, workers' compensation  
52 coverage requirements and compliance, other related criminal  
53 activities, or state regulatory requirement violations; the  
54 names, home addresses, telephone numbers, dates of birth, and  
55 places of employment of the spouses and children of such  
56 personnel; and the names and locations of schools and day care  
57 facilities attended by the children of such personnel are exempt  
58 from s. 119.07(1) and s. 24(a), Art. I of the State

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59 Constitution.

60 c. The home addresses, telephone numbers, dates of birth,  
61 and photographs of current or former nonsworn investigative  
62 personnel of the Office of Financial Regulation's Bureau of  
63 Financial Investigations whose duties include the investigation  
64 of fraud, theft, other related criminal activities, or state  
65 regulatory requirement violations; the names, home addresses,  
66 telephone numbers, dates of birth, and places of employment of  
67 the spouses and children of such personnel; and the names and  
68 locations of schools and day care facilities attended by the  
69 children of such personnel are exempt from s. 119.07(1) and s.  
70 24(a), Art. I of the State Constitution.

71 d. The home addresses, telephone numbers, dates of birth,  
72 and photographs of current or former firefighters certified in  
73 compliance with s. 633.408; the names, home addresses, telephone  
74 numbers, photographs, dates of birth, and places of employment  
75 of the spouses and children of such firefighters; and the names  
76 and locations of schools and day care facilities attended by the  
77 children of such firefighters are exempt from s. 119.07(1) and  
78 s. 24(a), Art. I of the State Constitution.

79 e. The home addresses, dates of birth, and telephone  
80 numbers of current or former justices of the Supreme Court,  
81 district court of appeal judges, circuit court judges, and  
82 county court judges; the names, home addresses, telephone  
83 numbers, dates of birth, and places of employment of the spouses  
84 and children of current or former justices and judges; and the  
85 names and locations of schools and day care facilities attended  
86 by the children of current or former justices and judges are  
87 exempt from s. 119.07(1) and s. 24(a), Art. I of the State

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88 Constitution.

89 f. The home addresses, telephone numbers, dates of birth,  
90 and photographs of current or former state attorneys, assistant  
91 state attorneys, statewide prosecutors, or assistant statewide  
92 prosecutors; the names, home addresses, telephone numbers,  
93 photographs, dates of birth, and places of employment of the  
94 spouses and children of current or former state attorneys,  
95 assistant state attorneys, statewide prosecutors, or assistant  
96 statewide prosecutors; and the names and locations of schools  
97 and day care facilities attended by the children of current or  
98 former state attorneys, assistant state attorneys, statewide  
99 prosecutors, or assistant statewide prosecutors are exempt from  
100 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

101 g. The home addresses, dates of birth, and telephone  
102 numbers of general magistrates, special magistrates, judges of  
103 compensation claims, administrative law judges of the Division  
104 of Administrative Hearings, and child support enforcement  
105 hearing officers; the names, home addresses, telephone numbers,  
106 dates of birth, and places of employment of the spouses and  
107 children of general magistrates, special magistrates, judges of  
108 compensation claims, administrative law judges of the Division  
109 of Administrative Hearings, and child support enforcement  
110 hearing officers; and the names and locations of schools and day  
111 care facilities attended by the children of general magistrates,  
112 special magistrates, judges of compensation claims,  
113 administrative law judges of the Division of Administrative  
114 Hearings, and child support enforcement hearing officers are  
115 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
116 Constitution.

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117 h. The home addresses, telephone numbers, dates of birth,  
118 and photographs of current or former human resource, labor  
119 relations, or employee relations directors, assistant directors,  
120 managers, or assistant managers of any local government agency  
121 or water management district whose duties include hiring and  
122 firing employees, labor contract negotiation, administration, or  
123 other personnel-related duties; the names, home addresses,  
124 telephone numbers, dates of birth, and places of employment of  
125 the spouses and children of such personnel; and the names and  
126 locations of schools and day care facilities attended by the  
127 children of such personnel are exempt from s. 119.07(1) and s.  
128 24(a), Art. I of the State Constitution.

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

137 j. The home addresses, telephone numbers, places of  
138 employment, dates of birth, and photographs of current or former  
139 guardians ad litem, as defined in s. 39.820; the names, home  
140 addresses, telephone numbers, dates of birth, and places of  
141 employment of the spouses and children of such persons; and the  
142 names and locations of schools and day care facilities attended  
143 by the children of such persons are exempt from s. 119.07(1) and  
144 s. 24(a), Art. I of the State Constitution.

145 k. The home addresses, telephone numbers, dates of birth,

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

162 1. The home addresses, telephone numbers, dates of birth,  
163 and photographs of current or former public defenders, assistant  
164 public defenders, criminal conflict and civil regional counsel,  
165 and assistant criminal conflict and civil regional counsel; the  
166 names, home addresses, telephone numbers, dates of birth, and  
167 places of employment of the spouses and children of current or  
168 former public defenders, assistant public defenders, criminal  
169 conflict and civil regional counsel, and assistant criminal  
170 conflict and civil regional counsel; and the names and locations  
171 of schools and day care facilities attended by the children of  
172 current or former public defenders, assistant public defenders,  
173 criminal conflict and civil regional counsel, and assistant  
174 criminal conflict and civil regional counsel are exempt from s.

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175 119.07(1) and s. 24(a), Art. I of the State Constitution.

176 m. The home addresses, telephone numbers, dates of birth,  
177 and photographs of current or former investigators or inspectors  
178 of the Department of Business and Professional Regulation; the  
179 names, home addresses, telephone numbers, dates of birth, and  
180 places of employment of the spouses and children of such current  
181 or former investigators and inspectors; and the names and  
182 locations of schools and day care facilities attended by the  
183 children of such current or former investigators and inspectors  
184 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
185 Constitution.

186 n. The home addresses, telephone numbers, and dates of  
187 birth of county tax collectors; the names, home addresses,  
188 telephone numbers, dates of birth, and places of employment of  
189 the spouses and children of such tax collectors; and the names  
190 and locations of schools and day care facilities attended by the  
191 children of such tax collectors are exempt from s. 119.07(1) and  
192 s. 24(a), Art. I of the State Constitution.

193 o. The home addresses, telephone numbers, dates of birth,  
194 and photographs of current or former personnel of the Department  
195 of Health whose duties include, or result in, the determination  
196 or adjudication of eligibility for social security disability  
197 benefits, the investigation or prosecution of complaints filed  
198 against health care practitioners, or the inspection of health  
199 care practitioners or health care facilities licensed by the  
200 Department of Health; the names, home addresses, telephone  
201 numbers, dates of birth, and places of employment of the spouses  
202 and children of such personnel; and the names and locations of  
203 schools and day care facilities attended by the children of such

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204 personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of  
205 the State Constitution.

206 p. The home addresses, telephone numbers, dates of birth,  
207 and photographs of current or former impaired practitioner  
208 consultants who are retained by an agency or current or former  
209 employees of an impaired practitioner consultant whose duties  
210 result in a determination of a person's skill and safety to  
211 practice a licensed profession; the names, home addresses,  
212 telephone numbers, dates of birth, and places of employment of  
213 the spouses and children of such consultants or their employees;  
214 and the names and locations of schools and day care facilities  
215 attended by the children of such consultants or employees are  
216 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
217 Constitution.

218 q. The home addresses, telephone numbers, dates of birth,  
219 and photographs of current or former emergency medical  
220 technicians or paramedics certified under chapter 401; the  
221 names, home addresses, telephone numbers, dates of birth, and  
222 places of employment of the spouses and children of such  
223 emergency medical technicians or paramedics; and the names and  
224 locations of schools and day care facilities attended by the  
225 children of such emergency medical technicians or paramedics are  
226 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
227 Constitution.

228 r. The home addresses, telephone numbers, dates of birth,  
229 and photographs of current or former personnel employed in an  
230 agency's office of inspector general or internal audit  
231 department whose duties include auditing or investigating waste,  
232 fraud, abuse, theft, exploitation, or other activities that

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233 could lead to criminal prosecution or administrative discipline;  
234 the names, home addresses, telephone numbers, dates of birth,  
235 and places of employment of spouses and children of such  
236 personnel; and the names and locations of schools and day care  
237 facilities attended by the children of such personnel are exempt  
238 from s. 119.07(1) and s. 24(a), Art. I of the State  
239 Constitution.

240 s. The home addresses, telephone numbers, dates of birth,  
241 and photographs of current or former directors, managers,  
242 supervisors, nurses, and clinical employees of an addiction  
243 treatment facility; the home addresses, telephone numbers,  
244 photographs, dates of birth, and places of employment of the  
245 spouses and children of such personnel; and the names and  
246 locations of schools and day care facilities attended by the  
247 children of such personnel are exempt from s. 119.07(1) and s.  
248 24(a), Art. I of the State Constitution. For purposes of this  
249 sub-subparagraph, the term "addiction treatment facility" means  
250 a county government, or agency thereof, that is licensed  
251 pursuant to s. 397.401 and provides substance abuse prevention,  
252 intervention, or clinical treatment, including any licensed  
253 service component described in s. 397.311(26).

254 t. The home addresses, telephone numbers, dates of birth,  
255 and photographs of current or former directors, managers,  
256 supervisors, and clinical employees of a child advocacy center  
257 that meets the standards of s. 39.3035(1) and fulfills the  
258 screening requirement of s. 39.3035(2), and the members of a  
259 Child Protection Team as described in s. 39.303 whose duties  
260 include supporting the investigation of child abuse or sexual  
261 abuse, child abandonment, child neglect, and child exploitation

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262 or to provide services as part of a multidisciplinary case  
263 review team; the names, home addresses, telephone numbers,  
264 photographs, dates of birth, and places of employment of the  
265 spouses and children of such personnel and members; and the  
266 names and locations of schools and day care facilities attended  
267 by the children of such personnel and members are exempt from s.  
268 119.07(1) and s. 24(a), Art. I of the State Constitution.

269 u.(I) The home addresses, telephone numbers, dates of  
270 birth, and photographs of current or former emergency room  
271 health care practitioners; the names, home addresses, telephone  
272 numbers, dates of birth, and places of employment of the spouses  
273 and children of such practitioners; and the names and locations  
274 of schools and day care facilities attended by the children of  
275 such practitioners are exempt from s. 119.07(1) and s. 24(a),  
276 Art. I of the State Constitution.

277 (II) For purposes of sub-sub-paragraph (I), the term  
278 "emergency room health care practitioner" means a physician or a  
279 physician assistant licensed under chapter 458 or chapter 459;  
280 an advanced practice registered nurse, a registered nurse, or a  
281 licensed practical nurse licensed under part I of chapter 464;  
282 or any other licensed health care personnel whose duties are  
283 performed in a hospital emergency department.

284 3. An agency that is the custodian of the information  
285 specified in subparagraph 2. and that is not the employer of the  
286 officer, employee, justice, judge, or other person specified in  
287 subparagraph 2. shall maintain the exempt status of that  
288 information only if the officer, employee, justice, judge, other  
289 person, or employing agency of the designated employee submits a  
290 written request for maintenance of the exemption to the

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291 custodial agency.

292 4. An officer, an employee, a justice, a judge, or other  
293 person specified in subparagraph 2. may submit a written request  
294 for the release of his or her exempt information to the  
295 custodial agency. The written request must be notarized and must  
296 specify the information to be released and the party that is  
297 authorized to receive the information. Upon receipt of the  
298 written request, the custodial agency shall release the  
299 specified information to the party authorized to receive such  
300 information.

301 5. The exemptions in this paragraph apply to information  
302 held by an agency before, on, or after the effective date of the  
303 exemption.

304 6. This paragraph is subject to the Open Government Sunset  
305 Review Act in accordance with s. 119.15 and shall stand repealed  
306 on October 2, 2024, unless reviewed and saved from repeal  
307 through reenactment by the Legislature.

308 Section 2. The Legislature finds that it is a public  
309 necessity that the home addresses, telephone numbers, dates of  
310 birth, and photographs of current or former emergency room  
311 health care practitioners; the names, home addresses, telephone  
312 numbers, and places of employment of the spouses and children of  
313 such practitioners; and the names and locations of schools and  
314 day care facilities attended by the children of such  
315 practitioners be exempt from public records requirements.  
316 Emergency room health care practitioners, by nature of their  
317 duties, are often placed in traumatic circumstances in which  
318 loss of life and severe bodily injuries have occurred. Such  
319 practitioners are particularly vulnerable to physical violence,

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320 harassment, and intimidation perpetrated by patients or  
321 relatives of patients who can be violent, angry, or mentally  
322 unstable. As a result, the Legislature finds that the release of  
323 identifying and location information of emergency room health  
324 care practitioners, or the spouses and children of such  
325 practitioners, could place them in danger of being physically or  
326 emotionally harmed or stalked by a person who has a hostile  
327 reaction to his or her encounter with such practitioners. The  
328 Legislature further finds that the harm that may result from the  
329 release of such identifying and location information outweighs  
330 any public benefit that may be derived from the disclosure of  
331 the information.

332 Section 3. This act shall take effect upon becoming a law.

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/14/20

Meeting Date

SB 878

Bill Number (if applicable)

Topic Public Records / ER Health Care Practitioners Amendment Barcode (if applicable)

Name Joe Annett Hart

Job Title Chief Legislative Officer

Address 118 W. Jefferson Street

Phone 850-224-1089

Tallahassee FL 32301

Email jaharta@floridadental.org

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

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

Representing Florida Dental Association

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

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

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/14/20

Meeting Date

878

Bill Number (if applicable)

Topic Public Records / Emergency Care Providers

Amendment Barcode (if applicable)

Name Toni Large

Job Title

Address 1100 Brookwood DR

Phone 850-556-1461

Street

Tallahassee

Email toni@largestrategies.com

City

State

Zip

Speaking:  For  Against  Information

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

Representing FI College of Emergency Physicians

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

WAIVE IN SUPPORT

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

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

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

---

BILL: CS/SB 1296

INTRODUCER: Health Policy Committee and Senator Berman

SUBJECT: Health Access Dental Licenses

DATE: January 14, 2020

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Brown	HP	Fav/CS
2.	_____	_____	AHS	_____
3.	_____	_____	AP	_____

---

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1296 revives, reenacts, and amends ss. 466.0067, 466.00671, and 466.00672, F.S., relating to health access dental licenses, notwithstanding their repeal on January 1, 2020.

The bill takes effect upon becoming a law.

**II. Present Situation:**

**Dentistry**

Section 466.004, F.S., establishes the Board of Dentistry (BOD) within the Department of Health (DOH) to regulate the practice of dentistry. The requirements for dental licensure by examination are found in s. 466.006, F.S. A person desiring to be licensed as a dentist must apply to the DOH to take the examinations. To take the examination, an applicant must be 18 years of age and be:

- A graduate from a dental school accredited by the American Dental Association (ADA) Commission on Dental Accreditation (CODA) or any other dental accrediting entity recognized by the U.S. Department of Education (DOE); or
- A dental student in the final year of a program at such an ADA CODA accredited dental school who has completed all the coursework necessary to prepare the student to perform the clinical and diagnostic procedures required to pass the examinations.

Dental school graduates from a school not accredited by the ADA CODA, a U.S. DOE-recognized dental accrediting entity, or approved by the BOD, desiring to take the Florida dental licensure examinations, are not entitled to take the examinations until the applicant:

- Demonstrates completion of a program of study defined by BOD rule, at an accredited American dental school and receipt of a D.D.S. or D.M.D. from the school; or
- Submits proof of successful completion of at least two consecutive years at a full-time supplemental general dentistry program accredited by the ADA CODA.<sup>1</sup>

The Legislature has authorized the BOD to use the American Dental Licensing Examination (ADLEX), developed by the American Board of Dental Examiners, Inc., in lieu of an independent state-developed practical or clinical examination.

### ***Health Access Dental Licenses***

In 2008, the Legislature established the health access dental license<sup>2</sup> in order to attract out-of-state dentists to practice in Florida's underserved health access settings.<sup>3</sup> On January 1, 2020, ss. 466.0067 through 466.00673, F.S., were repealed when the Legislature failed to reenact those statutes, as provided under s. 466.00673, F.S. However, health access dental licenses issued before January 1, 2020, are not affected by the repeal and remain valid under the provisions of the former ss. 466.0067-466.00673, F.S.<sup>4</sup>

With a health access dental license, a dentist actively licensed and in good standing in another state, the District of Columbia, or a U.S. territory, is authorized to practice dentistry in Florida in a health access setting if the dentist:

- Submits proof he or she graduated from a dental school accredited by the Commission on Dental Accreditation of the ADA or its successor agency;
- Submits proof he or she has successfully completed parts I and II of the National Board of Dental Examiners (NBDE) examination and a state or regional clinical dental licensing examination that the BOD has determined effectively measures the applicant's ability to practice safely;
- Submits ADLEX examination scores mailed to the BOD directly from the American Dental Association;
- Submits a final official transcript from a dental school sent to the BOD by the registrar's office;

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<sup>1</sup> Florida Dept. of Health, *Senate Bill 188 Analysis* (2019) (on file with the Senate Committee on Health Policy), p. 3. According to the DOH, it is unclear whether the two years of a full time supplemental general dentistry program includes specialty or advanced education programs.

<sup>2</sup> See ss. 466.0067, 466.00671, 466.00672, and 466.00673, F.S.

<sup>3</sup> A "health access setting" is defined in s. 466.003(14), F.S., as a program or institution of the Department of Children and Families, the Department of Health, or the Department of Juvenile Justice, a nonprofit community health center, a Head Start center, a federally qualified health center (FQHC) or FQHC look-alike as defined by federal law, a school-based prevention program, or a clinic operated by an accredited college of dentistry or an accredited dental hygiene program in this state if such community service programs and institutions immediately report to the Board of Dentistry practice act or standard of care violations related to the actions or inactions of a dentist, dental hygienist, or dental assistant engaged in the delivery of dental care in such settings.

<sup>4</sup> Section 466.00673, F.S., prior to January 1, 2020, provided that "Effective January 1, 2020, ss. 466.0067-466.00673, F.S., are repealed unless reenacted by the Legislature. Any health access dental license issued before January 1, 2020, shall remain valid according to ss. 466.0067-466.00673, F.S., without effect from repeal."

- Submits a certification of licensure from each state in which he or she currently holds or has held a dental or dental hygiene license;
- Submits proof of training in cardiopulmonary resuscitation (CPR) at the basic support level;
- Files a BOD-approved application and pays the applicable fees;
- Has not been convicted of, nor pled *nolo contendere* to, regardless of adjudication, any felony or misdemeanor related to the practice of a health care profession;
- Currently holds a valid, active dental license in good standing which has not been revoked, suspended, restricted, or otherwise disciplined from another state, the District of Columbia, or a U.S. territory;
- Has never had a license revoked from another state, the District of Columbia, or a U.S. territory;
- Has never failed an exam under s. 466.006, F.S., unless the applicant was reexamined and received a license to practice in Florida;
- Has not been reported to the NBDE, unless the applicant successfully appealed to have his or her name removed from the data bank;
- Submits proof that he or she has been engaged in the active, clinical practice of dentistry and has provided direct patient care for five years immediately preceding the date of application, or proof of continuous clinical practice, and has provided direct patient care since graduation if the applicant graduated less than five years from his or her application date;
- Submits documentation that she or he has completed, or will complete prior to licensure, continuing education equivalent to this state's requirement for dentists licensed under s. 466.006, F.S., for the last full reporting biennium before applying for a health access dental license;<sup>5</sup> and
- Successfully completes the examination covering the laws and rules of the practice of dentistry in this state.<sup>6,7</sup>

A health access dental license is subject to biennial renewal. The BOD will renew a health access dental license if the applicant:

- Submits a renewal application and has paid a renewal fee;
- Submits documentation from the employer in the health access setting that the licensee has at all times pertinent remained an employee;
- Has not been convicted of, nor pled *nolo contendere* to, regardless of adjudication, any felony or misdemeanor related to the practice of a health care profession;
- Has not failed the examination specified in s. 466.006, F.S., since initially receiving a health access dental license or since the last renewal; and
- Has not been reported to the National Practitioner Data Bank, unless the applicant successfully appealed to have his or her name removed from the data bank.

The BOD may undertake measures to independently verify the health access dental licensee's ongoing employment status in the health access setting.

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<sup>5</sup> See ch. 64B5-12.013, Fla. Admin. Code R. (2019), for continuing education requirements.

<sup>6</sup> Section 466.006(4)(a), F.S.

<sup>7</sup> Department of Health, Board of Dentistry, *Health Access Dentist*, available at <https://floridasdentistry.gov/licensing/health-access-dentist/> (last visited Jan. 8, 2020).

The BOD may revoke a health access dental license if the licensee is terminated from employment in the health access setting or practices outside of the health access setting, fails the Florida dental examination, or is found by the BOD to have committed a violation of ch. 466, F.S., (the Dental Practice Act), other than a violation that is a citation offense or a minor violation.

Currently, the DOH has issued 60 health access dental licenses. Of those, 39 are in-state active, one are in-state delinquent, 11 are out-of-state active, two are out-of-state delinquent, and seven are retired.<sup>8</sup> As of January 1, 2020, the DOH is no longer authorized to issue initial health access dental licenses. Current health access dental licenses expire at midnight EST, February 28, 2020. The DOH is renewing current health access dental licenses and taking requests to reactivate such a license in inactive or retired status with the payment of additional fees and proof of compliance with specific continuing education requirements.<sup>9</sup>

### III. Effect of Proposed Changes:

The bill revives, reenacts, and amends ss. 466.0067, 466.00671, and 466.00672, F.S., notwithstanding the January 1, 2020, repeal of those sections. The bill's amendments to those sections are for the purpose of grammatical corrections only.

The bill 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.

#### D. State Tax or Fee Increases:

None.

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<sup>8</sup> Florida Dept. of Health, Division of Medical Quality Assurance, *Annual Report and Long Range Plan FY 2018-2019*, p. 13, available at <http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/index.html> (last visited Jan. 8, 2020). "In-State Active" means the licensed practitioner has a Florida mailing address and is authorized to practice. "In-State Delinquent" means the licensed practitioner has a Florida mailing address and is not authorized to practice in the state because of failure to renew the license by the expiration date. "Out-of-State Active" means the licensed practitioner has an out-of-state mailing address and is authorized to practice. "Out-of-State Inactive" means the licensed practitioner has an out-of-state mailing address and is not authorized to practice. "Retired" means the licensed practitioner is not authorized to practice. The practitioner is not obligated to update licensure data. Section 456.036, F.S.

<sup>9</sup> Florida Dept. of Health, Board of Dentistry, *Health Access Dentist*, available at <https://floridasdentistry.gov/renewals/health-access-dentist/> (last visited Jan. 8, 2020).

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

CS/SB 1296 would authorize the BOD to again accept applications for initial health access dental licenses. This may result in an increased work load for BOD, which may, or may not, be offset by additional revenues received.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 466.0067, 466.00671, and 466.00672.

**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 the Health Policy Committee on January 14, 2020:**

The CS changes the effective date of the bill from July 1, 2020, to upon becoming a law.

B. Amendments:

None.

By Senator Berman

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1                   A bill to be entitled  
2       An act relating to health access dental licenses;  
3       reviving, reenacting, and amending s. 466.0067, F.S.,  
4       relating to the application for a health access dental  
5       license; reviving, reenacting, and amending s.  
6       466.00671, F.S., relating to the renewal of such  
7       license; reviving and reenacting s. 466.00672, F.S.,  
8       relating to the revocation of such license; providing  
9       an effective date.

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

12  
13       Section 1. Notwithstanding the January 1, 2020, repeal of  
14       section 466.0067, Florida Statutes, that section is revived,  
15       reenacted, and amended to read:

16       466.0067 Application for health access dental license.—The  
17       Legislature finds that there is an important state interest in  
18       attracting dentists to practice in underserved health access  
19       settings in this state and further, that allowing out-of-state  
20       dentists who meet certain criteria to practice in health access  
21       settings without the supervision of a dentist licensed in this  
22       state is substantially related to achieving this important state  
23       interest. Therefore, notwithstanding the requirements of s.  
24       466.006, the board shall grant a health access dental license to  
25       practice dentistry in this state in health access settings as  
26       defined in s. 466.003 to an applicant who ~~that~~:

27       (1) Files an appropriate application approved by the board;  
28       (2) Pays an application license fee for a health access  
29       dental license, laws-and-rule exam fee, and an initial licensure

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30 fee. The fees specified in this subsection may not differ from  
31 an applicant seeking licensure pursuant to s. 466.006;

32 (3) Has not been convicted of or pled nolo contendere to,  
33 regardless of adjudication, any felony or misdemeanor related to  
34 the practice of a health care profession;

35 (4) Submits proof of graduation from a dental school  
36 accredited by the Commission on Dental Accreditation of the  
37 American Dental Association or its successor agency;

38 (5) Submits documentation that she or he has completed, or  
39 will obtain before ~~prior to~~ licensure, continuing education  
40 equivalent to this state's requirement for dentists licensed  
41 under s. 466.006 for the last full reporting biennium before  
42 applying for a health access dental license;

43 (6) Submits proof of her or his successful completion of  
44 parts I and II of the dental examination by the National Board  
45 of Dental Examiners and a state or regional clinical dental  
46 licensing examination that the board has determined effectively  
47 measures the applicant's ability to practice safely;

48 (7) Currently holds a valid, active, dental license in good  
49 standing from another of the United States, the District of  
50 Columbia, or a United States territory which has not been  
51 revoked, suspended, restricted, or otherwise disciplined ~~from~~  
52 ~~another of the United States, the District of Columbia, or a~~  
53 ~~United States territory~~;

54 (8) Has never had a license revoked from another of the  
55 United States, the District of Columbia, or a United States  
56 territory;

57 (9) Has never failed the examination specified in s.  
58 466.006, unless the applicant was reexamined pursuant to s.

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59 466.006 and received a license to practice dentistry in this  
60 state;

61 (10) Has not been reported to the National Practitioner  
62 Data Bank, unless the applicant successfully appealed to have  
63 his or her name removed from the data bank;

64 (11) Submits proof that he or she has been engaged in the  
65 active, clinical practice of dentistry providing direct patient  
66 care for 5 years immediately preceding the date of application,  
67 or in instances when the applicant has graduated from an  
68 accredited dental school within the preceding 5 years, submits  
69 proof of continuous clinical practice providing direct patient  
70 care since graduation; and

71 (12) Has passed an examination covering the laws and rules  
72 of the practice of dentistry in this state as described in s.  
73 466.006(4)(a).

74 Section 2. Notwithstanding the January 1, 2020, repeal of  
75 section 466.00671, Florida Statutes, that section is revived,  
76 reenacted, and amended to read:

77 466.00671 Renewal of the health access dental license.—

78 (1) A health access dental licensee shall apply for renewal  
79 each biennium. At the time of renewal, the licensee shall sign a  
80 statement that she or he has complied with all continuing  
81 education requirements of an active dentist licensee. The board  
82 shall renew a health access dental license for an applicant who  
83 ~~that~~:

84 (a) Submits documentation, as approved by the board, from  
85 the employer in the health access setting that the licensee has  
86 at all times pertinent remained an employee;

87 (b) Has not been convicted of or pled nolo contendere to,

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88 regardless of adjudication, any felony or misdemeanor related to  
89 the practice of a health care profession;

90 (c) Has paid a renewal fee set by the board. The fee  
91 specified herein may not differ from the renewal fee adopted by  
92 the board pursuant to s. 466.013. The department may provide  
93 payment for these fees through the dentist's salary, benefits,  
94 or other department funds;

95 (d) Has not failed the examination specified in s. 466.006  
96 since initially receiving a health access dental license or  
97 since the last renewal; and

98 (e) Has not been reported to the National Practitioner Data  
99 Bank, unless the applicant successfully appealed to have his or  
100 her name removed from the data bank.

101 (2) The board may undertake measures to independently  
102 verify the health access dental licensee's ongoing employment  
103 status in the health access setting.

104 Section 3. Notwithstanding the January 1, 2020, repeal of  
105 section 466.00672, Florida Statutes, that section is revived and  
106 reenacted to read:

107 466.00672 Revocation of health access dental license.—

108 (1) The board shall revoke a health access dental license  
109 upon:

110 (a) The licensee's termination from employment from a  
111 qualifying health access setting;

112 (b) Final agency action determining that the licensee has  
113 violated any provision of s. 466.027 or s. 466.028, other than  
114 infractions constituting citation offenses or minor violations;  
115 or

116 (c) Failure of the Florida dental licensure examination.

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117 (2) Failure of an individual licensed pursuant to s.  
118 466.0067 to limit the practice of dentistry to health access  
119 settings as defined in s. 466.003 constitutes the unlicensed  
120 practice of dentistry.

121 Section 4. This act shall take effect July 1, 2020.



The Florida Senate

## Committee Agenda Request

**To:** Senator Gayle Harrell, Chair  
Committee on Health Policy

**Subject:** Committee Agenda Request

**Date:** January 9, 2020

---

I respectfully request that **Senate Bill #1296**, relating to **Health Access Dental Licenses**, be placed on the:

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

*Lori Berman*

---

Senator Lori Berman  
Florida Senate, District 31

cc: Allen Brown, Staff Director

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/14/20

Meeting Date

SB 1296

Bill Number (if applicable)

Topic Health Access Dental License

Amendment Barcode (if applicable)

Name Joe Anne Hart

Job Title Chief legislative officer

Address 118 E. Jefferson St.

Phone 850-224-1089

Street

Tallahassee FL 32301

City

State

Zip

Email jahart@floridadental.org

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

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

Representing Florida Dental Association

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

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

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

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

# CourtSmart Tag Report

Room: KN 412

Caption: Senate Health Policy Committee

Case:

Judge:

Type:

Started: 1/14/2020 2:35:13 PM

Ends: 1/14/2020 4:29:05 PM

Length: 01:53:53

2:35:12 PM Meeting called to order  
2:35:25 PM Chair  
2:35:37 PM Roll Call - Quorum is present  
2:35:57 PM Chair comments to room  
2:36:39 PM Tab 1 - Impact of the Medicaid Retroactive Eligibility Waiver by the ACA  
2:37:40 PM Beth Kidder, Dep. Sec., ACA  
2:37:41 PM Patti Grogan, Director, Economic Self-Sufficiency Policy and Programs, DCF  
2:42:26 PM Questions?  
2:42:30 PM Senator Berman  
2:42:49 PM Beth  
2:43:08 PM Senator Berman  
2:43:48 PM Beth  
2:44:17 PM Senator Berman  
2:44:34 PM Beth  
2:44:54 PM Chair Harrell  
2:45:08 PM Beth  
2:45:45 PM Senator Berman  
2:45:59 PM Beth  
2:46:06 PM Senator Berman  
2:46:16 PM Beth  
2:46:39 PM Chair  
2:46:48 PM Senator Cruz  
2:47:56 PM Beth  
2:48:14 PM Chair  
2:48:19 PM Senator Rouson  
2:48:38 PM Beth  
2:50:39 PM Chair  
2:50:55 PM Beth  
2:51:30 PM Chair  
2:52:05 PM Senator Baxley  
2:52:16 PM Beth  
2:52:53 PM Senator Baxley  
2:53:10 PM Beth  
2:53:49 PM Senator Bean  
2:54:06 PM Beth  
2:54:17 PM Senator Bean  
2:54:28 PM Beth  
2:54:35 PM Chair  
2:54:50 PM Gavel to Vice Chair Berman  
2:56:05 PM Tab 4 - SB 1080 by Senator Baxley - Surrendered Newborn Infants  
2:57:59 PM Questions?  
2:58:05 PM Appearance Cards  
2:58:19 PM Jenna Paladino, Public Affairs, waive in support  
2:58:24 PM Paul Ledford, President & CEO, Florida Hospice and Palliative Care Assn., waive in support  
2:58:34 PM Martha DeCastro, Florida Hospital Association, waive in support  
2:58:43 PM Debate?  
2:58:45 PM Senator Baxley to close  
2:59:32 PM Roll Call SB 1080 favorable  
2:59:55 PM Tab 5 - SB 864 by Senator Baxley - Surrendered Newborn Infants  
3:02:08 PM Chair  
3:02:13 PM Questions?  
3:02:18 PM Senator Rouson

3:04:06 PM Senator Baxley  
3:04:15 PM Senator Rouson  
3:04:47 PM Senator Baxley  
3:05:34 PM Senator Rouson  
3:05:39 PM Senator Baxley  
3:06:22 PM Senator Book  
3:07:51 PM Senator Baxley  
3:11:43 PM Senator Mayfield  
3:12:21 PM Senator Baxley  
3:13:06 PM Senator Mayfield  
3:13:11 PM Senator Baxley  
3:13:25 PM Senator Mayfield  
3:13:32 PM Senator Baxley  
3:14:33 PM Senator Cruz  
3:14:55 PM Senator Baxley  
3:17:22 PM Chair  
3:17:27 PM Amendment 975078 by Senator Baxley  
3:17:57 PM Questions?  
3:18:25 PM Appearance?  
3:18:28 PM Debate?  
3:18:31 PM Senator Baxley to close on amendment  
3:19:39 PM Chair  
3:20:39 PM All in favor of the amendment. Amendment is adopted  
3:20:40 PM Back on the bill as amended. Questions on the bill  
3:21:02 PM Senator Rouson  
3:22:36 PM Senator Book  
3:23:29 PM Senator Baxley  
3:24:45 PM Chair  
3:25:08 PM Appearance Cards  
3:25:13 PM Doug Bell, Florida Chapter, American Academy of Pediatrics, waives in support  
3:25:17 PM Lars White, Fire Chief, Ret./Ambassador A Safe Haven Newborns, speaking in support  
3:28:40 PM Chair  
3:29:42 PM Debate?  
3:29:46 PM Senator Book  
3:30:27 PM Senator Harrell  
3:31:39 PM Senator Mayfield  
3:34:04 PM Senator Cruz  
3:35:43 PM Senator Rouson  
3:37:10 PM Senator Hooper  
3:38:38 PM Senator Berman  
3:39:02 PM Senator Baxley to close  
3:41:17 PM Roll Call SB 864 - favorable  
3:42:23 PM Gavel returned to Chair Harrell  
3:42:39 PM Tab 3 - SB 518 by Senator Gruters - Cardiac Screening for Newborns  
3:43:49 PM Questions  
3:43:52 PM Senator Berman  
3:43:57 PM Senator Gruters  
3:44:09 PM Senator Berman  
3:44:23 PM Senator Gruters  
3:44:46 PM Questions?  
3:44:50 PM Appearance Cards?  
3:45:02 PM Mark Landreth, American Heart Association, waives in support  
3:45:07 PM Savannah Marquez, Student, Children with CHD, speaking in support  
3:46:08 PM Nicole Marquez, Mom, waives in support  
3:47:39 PM Debate?  
3:48:39 PM Senator Book  
3:49:25 PM Chair  
3:49:28 PM Senator Gruters to close  
3:49:41 PM Roll Call SB 518 - favorable  
3:50:29 PM Tab 2 - SB 708 by Senator Hutson - Automated Pharmacy Systems  
3:50:55 PM Questions on the bill?  
3:50:58 PM

3:51:50 PM  
3:51:56 PM Amendment 614232 by Senator Hutson  
3:52:05 PM Appearance Card  
3:52:12 PM Michael Jackson Fla. Pharmacy Assoc, waives in support  
3:52:18 PM Debate?  
3:52:23 PM Opposition to amendment? Amendment is adopted  
3:52:31 PM Questions on bill as amended  
3:52:46 PM Senator Cruz  
3:53:01 PM Senator Hutson  
3:53:09 PM Chair  
3:53:48 PM Diego Echeverri, Leg. Liaison, Americans for Prosperity, waives in support  
3:53:54 PM Ivonne Fernandez, AARP, waives in support  
3:54:00 PM Jake Farmer, Fl. Retail Federation, waives in support  
3:54:09 PM Carlos Cruz, waives in support  
3:54:20 PM Jules Kariher, Ascension St. Vincent's, waives in support  
3:54:34 PM Richard Pinskey, Medavail, waives in support  
3:54:43 PM Debate?  
3:54:48 PM Chair  
3:55:02 PM Senator Hutson to close  
3:55:11 PM Roll Call on SB 708 - favorable  
3:55:51 PM Tab 6 - SB 1020 by Senator Bean- Institutional Formularies Established by Nursing Home Facilities  
3:56:54 PM Questions?  
3:57:24 PM Appearance Cards  
3:57:28 PM Carlos Cruz, Polaris Pharmacy Services, waives in support  
3:57:32 PM Deborah Franklin, FHCA, waives in support  
3:57:39 PM Michael Jackson, Florida Pharmacy Association, waives in support  
3:57:47 PM Debate?  
3:57:54 PM Senator Bean waives close  
3:57:59 PM Roll Call on SB 1020 - favorable  
3:58:25 PM Gavel to Vice Chair Berman  
3:58:40 PM Tab 7 - SB 500 by Senator Harrell, Prohibited Acts by Health Care Practitioners  
4:00:06 PM Questions on the Bill?  
4:01:06 PM Senator Bean  
4:01:36 PM Senator Harrell  
4:02:23 PM Senator Bean  
4:02:42 PM Senator Harrell  
4:03:27 PM Amendment 215354 by Senator Harrell  
4:04:22 PM Questions?  
4:04:28 PM Amendment to Amendment 258952 by Senator Cruz. Withdrawn  
4:04:34 PM  
4:06:01 PM  
4:07:01 PM Back on amendment  
4:07:09 PM Paul Lambert, Fla. Chiro. Assoc., waives in support  
4:07:14 PM Brence A. Sell, MD, Fla. Society of Anesthesiologists, waives in support  
4:07:15 PM Ron Watson, Fla. Chiro. Physician Assoc., waives in support  
4:07:21 PM Chris Lyon, Florida Association of Nurse Anesthetists, speaking against the amendment  
4:08:52 PM Debate?  
4:09:02 PM Senator Harrell waives close  
4:09:12 PM Amendment is adopted  
4:09:17 PM Amendment 931962 by Senator Cruz. Withdrawn  
4:09:31 PM  
4:09:36 PM Back on bill as amended  
4:09:42 PM Questions?  
4:09:46 PM Appearance Cards?  
4:09:50 PM Paul Lambert, General Counsel, Florida Chiropractic Association, waives in support  
4:09:53 PM Ron Watson, Fla. Chiro. Physician Association, waives in support  
4:09:59 PM Jessica Love, Fla. Society of Oral and Maxillofacial Surgeons, waive in support  
4:10:05 PM Steve Winn, ED, Fla. Osteopathic Medical Association, waives in support  
4:10:13 PM Chris Nuland, Fla. Society of Plastic Surgeons, Fla. Soc. of Dermatology and Derm. Surgery, speaking for the bill  
4:11:28 PM Rohan A. Joseph, MD, Surgeon, Florida Chapter American College of Surgeons, speaking for the bill  
4:13:22 PM Brence A. Sell, M.D. Anesthesiologist, Fla. Society of Anes., speaking in support

4:15:24 PM Alexandra Abbot, Fla. Dental Association, waives in support  
4:15:33 PM Mark A. Dobbertien, Surgeon, DOFACS, FOMA, speaking for the bill  
4:15:35 PM Dr. Darby Miller, Association Society of Ophthalmology, speaking for the bill  
4:15:37 PM Ronald Giffler, FMA, speaking in support  
4:15:37 PM Chris Lyon, waives in opposition  
4:15:40 PM Dr. Darby Miller, Fla. Society of Ophthalmology, waives in support  
4:22:03 PM Debate? None  
4:22:07 PM Senator Harrell to close  
4:22:41 PM Roll Call on SB 500 - favorable  
4:22:55 PM Tab 8 - SB 878 Senator Harrell - Public Records/Emergency Room Health Care Practitioners  
4:24:46 PM Questions?  
4:24:51 PM Amendment 109904 by Senator Harrell  
4:25:05 PM Questions?  
4:25:13 PM Appearance?  
4:25:16 PM Debate?  
4:25:20 PM Amendment is adopted  
4:25:28 PM Back on the bill as amended. Questions?  
4:25:35 PM Jo Anne Hart, Fla. Dental Assn., waives in support  
4:25:40 PM Toni Large, Fla. college of Emergency Phy., waives in support  
4:25:46 PM Debate?  
4:25:49 PM Senator Harrell waives close  
4:25:55 PM Roll Call on SB 878 -favorable  
4:26:12 PM Gavel return to Chair Harrell  
4:26:43 PM Tab 9 SB 1296 by Senator Berman - Health Access Dental Licenses  
4:27:00 PM Questions?  
4:27:05 PM Amendment 202718 by Senator Berman  
4:27:22 PM Questions on bill as amended?  
4:27:24 PM Debate?  
4:27:33 PM Amendment is adopted  
4:27:38 PM Back on bill as amended  
4:27:42 PM Jo Anne Hart, Fla. Dental Assn., waives in support  
4:27:43 PM  
4:27:49 PM Debate?  
4:27:54 PM Senator Berman waives close  
4:28:00 PM Roll Call SB 1296 - favorable  
4:28:19 PM Chair Harrell and Senator Diaz, record yes vote on SB 1080  
4:28:44 PM Senator Diaz motion is adopted  
4:28:53 PM Further business? None. Senator Mayfield moves to adjourn. We are Adjourned.