

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

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

**MEETING DATE:** Tuesday, February 11, 2020

**TIME:** 10:00 a.m.—12:00 noon

**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	<b>SB 1406</b> Broxson (Similar H 99)	Youth Athletic Activities; Defining the term “athletics personnel”; requiring an entity that administers or conducts a high-risk youth athletic activity or related training on certain property to require unpaid or volunteer athletics personnel to complete a specified course; requiring such personnel to complete the course within a specified timeframe after their initial involvement, and annually thereafter, etc.  HP 02/11/2020 Favorable CF RC	Favorable Yeas 9 Nays 0
2	<b>SB 190</b> Montford (Similar CS/H 81)	Medicaid School-based Services; Revising applicable provisions for the reimbursement of school-based services by the Agency for Health Care Administration to certain school districts; deleting a requirement specifying the use of certified state and local education funds for school-based services; revising a requirement for the agency’s reimbursement of school-based services to certain charter and private schools; specifying the federal agency that may waive certain school-based provider qualifications, etc.  ED 01/27/2020 Favorable HP 02/11/2020 Fav/CS AP	Fav/CS Yeas 9 Nays 0
3	<b>CS/SB 772</b> Community Affairs / Hutson (Similar CS/CS/H 647)	Recreational Vehicle Parks; Providing a timeframe for certain owners or transferees to apply for a permit; preempting to the Department of Health the regulatory authority for permitting standards; providing that evidence of a certain length of stay in a guest register creates a rebuttable presumption that a guest is transient; specifying when certain property becomes abandoned; authorizing a park operator to refuse certain individuals access to the premises and to eject transient guests or visitors based on specified conduct; providing that a person who refuses to leave the park premises commits the offense of trespass, etc.  CA 01/27/2020 Fav/CS HP 02/11/2020 Fav/CS RC	Fav/CS Yeas 10 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Health Policy

Tuesday, February 11, 2020, 10:00 a.m.—12:00 noon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>CS/SB 1668</b> Judiciary / Simmons (Compare CS/H 9)	Damages; Requiring that certain medical expenses in personal injury claims be based on certain usual and customary charges; specifying what constitutes a usual and customary charge, etc.  JU 01/28/2020 Fav/CS HP 02/11/2020 Fav/CS BI RC	Fav/CS Yeas 5 Nays 4
5	<b>SB 46</b> Farmer (Identical H 67)	Eye Care for Newborns and Infants; Requiring a certain eye examination for newborns; requiring that coverage for children under health insurance policies and health maintenance contracts include certain eye examinations for newborns and infants, etc.  HP 02/11/2020 Fav/CS BI AP	Fav/CS Yeas 9 Nays 0
6	<b>CS/SB 736</b> Banking and Insurance / Diaz (Similar CS/CS/H 747)	Coverage for Air Ambulance Services; Requiring health insurers and health maintenance organizations, respectively, to provide reasonable reimbursement to air ambulance services for certain covered services; providing that such reimbursement may be reduced only by certain amounts; providing that reasonable reimbursement must serve as full and final payment to the air ambulance service, etc.  BI 01/21/2020 Fav/CS HP 02/11/2020 Fav/CS RC	Fav/CS Yeas 9 Nays 1
7	<b>SB 1094</b> Diaz (Similar CS/CS/H 599)	Consultant Pharmacists; Authorizing a consultant pharmacist to perform specified services under certain conditions; prohibiting a consultant pharmacist from modifying or discontinuing medicinal drugs prescribed by a health care practitioner under certain conditions; revising the responsibilities of a consultant pharmacist; requiring a consultant pharmacist and a collaborating practitioner to maintain collaborative practice agreements, etc.  HP 02/11/2020 Fav/CS AHS AP	Fav/CS Yeas 10 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Health Policy

Tuesday, February 11, 2020, 10:00 a.m.—12:00 noon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	<b>SB 1006</b> Baxley (Similar H 125)	Coverage for Hearing Aids for Children; Requiring certain individual health insurance policies to provide coverage for hearing aids for children 21 years of age or younger; specifying health care providers who may prescribe, fit, and dispense the hearing aids; specifying a minimum coverage limit within a certain timeframe; providing that an insured is responsible for certain costs that exceed the policy limit, etc.  BI 01/21/2020 Favorable HP 02/11/2020 Fav/CS AP	Fav/CS Yeas 9 Nays 0
9	<b>CS/SB 880</b> Banking and Insurance / Baxley (Similar CS/H 437)	Nurse Registry; Authorizing the use of licensed nurse registries for the placement of attendant care provided for workers' compensation purposes, etc.  BI 01/15/2020 Fav/CS HP 02/11/2020 Not Considered RC	Not Considered
10	<b>SB 1370</b> Harrell (Compare CS/H 763)	Patient Safety Culture Surveys; Requiring the Agency for Health Care Administration to develop surveys to assess patient safety culture in certain health care facilities; requiring the agency to conduct and make available the results of such surveys; revising requirements for the submission of health care data to the agency, etc.  HP 02/11/2020 Fav/CS AHS AP	Fav/CS Yeas 9 Nays 0
11	<b>SB 584</b> Harrell (Identical H 471, Compare CS/H 607)	Council on Physician Assistants; Revising requirements relating to the Council on Physician Assistants membership, etc.  HP 02/11/2020 Not Considered AHS AP	Not Considered

Other Related Meeting Documents

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

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

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

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BILL: SB 1406

INTRODUCER: Senator Broxson

SUBJECT: Youth Athletic Activities

DATE: February 10, 2020

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

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

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**I. Summary:**

SB 1406 creates s. 381.796, F.S., to require unpaid or volunteer athletics personnel, as defined by the bill, who are involved with high-risk youth athletic activities (HRYAA) conducted on state land to complete a training course approved by the Department of Health (DOH) on the prevention of serious physical injury to participants in the HRYAA. The bill specifies topics to be covered by the course, exempts licensed athletic trainers<sup>1</sup> from the requirement to take the course, requires record keeping, and requires the DOH to adopt rules to implement the new section of statute.

The bill takes effect July 1, 2020.

**II. Present Situation:**

**Florida High School Athletics Association**

The Florida High School Athletic Association is a membership-driven organization that encompasses 700 member combination/senior high schools and 88 member middle schools that believe sportsmanship and fair play will foster positive futures for its student-athletes

Any public or private school in Florida, recognized by the Florida Department of Education, or any formal home education cooperative, may become a member of the FHSAA by completing a membership application on which it agrees to adopt and abide by the FHSAA Bylaws, as well as all regulations and policies established by the association's Board of Directors.<sup>2</sup>

The FHSAA sponsors over 3,600 championship series games through which 141 teams and 294 individuals are crowned state champions in 32 sports each year. Over 2,000 student athletes each

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<sup>1</sup> Licensed under ch. 468, F.S.

<sup>2</sup> See <https://www.fhsaa.org/about> (last visited on Feb. 6, 2020)



year experience winning a championship. Through participation in these athletic programs, over 800,000 students annually are extended opportunities to receive lessons in leadership, sportsmanship, and citizenship.<sup>3</sup>

### **Concussions in Youth Sports**

A concussion is a type of traumatic brain injury, or TBI, caused by a bump, blow, or jolt to the head or by a hit to the body that causes the head and brain to move rapidly back and forth. This sudden movement can cause the brain to bounce around or twist in the skull, creating chemical changes in the brain and sometimes stretching and damaging brain cells.<sup>4</sup> Some signs and symptoms of a concussion can include poor recall, appearing dazed or stunned, confusion, awkward movements, loss of consciousness, headache, nausea or vomiting, balance problems, and mood, behavior, or personality changes.<sup>5</sup> Concussions are serious injuries and require immediate treatment. The federal Centers for Disease Control and Prevention has established the “Heads Up” program to provide information to parents, coaches, referees, and others who are involved in youth sports.<sup>6</sup>

### **Heat Illnesses in Youth Sports**

Children perspire less than adults. This makes it harder for children to cool off. Parents and coaches are advised to make sure that children become slowly acclimated to heat and humidity. There are other reasons why a child may become ill from a heat illness. Those who have a low level of fitness, who are sick, or who have suffered from dehydration or heat illness in the past should be closely watched. A medical professional such as a certified athletic trainer should be on site to monitor the health and safety of all participants during games and practice, especially when it is very hot and humid.<sup>7</sup> Illness that can be caused by heat may include dehydration, heat cramps, heat exhaustion, and exertional heat stroke.<sup>8</sup>

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

SB 1406 creates s. 381.796, F.S., to require that any entity that administers or conducts a HRYAA, or training for such activity, on land owned, leased, operated, or maintained by the state or a political subdivision of the state, must require any unpaid or volunteer athletics personnel to complete a DOH-approved course that provides them with information on the avoidance or prevention of serious physical injury to participants in the HRYAA. The bill:

- Defines “athletics personnel” to mean an individual who is actively involved with in organizing, conducting, or coaching a HRYAA or an individual who is involved with training a child for participation in a HRYAA.
- Requires the DOH to define HRYAA in rule.
- Requires the course to be offered at no charge and that the course must include information on:

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<sup>3</sup> Supra note 2.

<sup>4</sup> See [https://www.cdc.gov/headsup/basics/concussion\\_whatitis.html](https://www.cdc.gov/headsup/basics/concussion_whatitis.html) (last visited February 6, 2020).

<sup>5</sup> See [https://www.cdc.gov/headsup/basics/concussion\\_symptoms.html](https://www.cdc.gov/headsup/basics/concussion_symptoms.html) (last visited February 6, 2020).

<sup>6</sup> See <https://www.cdc.gov/headsup/index.html> (last visited February 6, 2020).

<sup>7</sup> See <https://www.nata.org/sites/default/files/heat-illness-parent-coach-guide.pdf> (last visited February, 2020).

<sup>8</sup> Id.

- Emergency preparedness, planning, and rehearsal in relation to traumatic injuries;
- Concussions and head trauma;
- Injuries resulting from heat or extreme weather; and
- Physical conditioning and the proper use of training equipment.
- Requires that, except for licensed athletic trainers,<sup>9</sup> volunteer or unpaid athletics personnel serving in such a position must complete the course within 30 days after his or her initial involvement with the HRYAA, and annually thereafter.
- Requires the entity which administers or conducts the HRYAA must maintain a record of each individual who completes the course for the entirety of his or her unpaid volunteer service.
- Requires the DOH to adopt rules to administer the bill's provisions.

The bill 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:

None.

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<sup>9</sup> Licensed under ch. 468, F.S.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

SB 1406 requires that volunteer and unpaid athletics personnel complete a specified training course under certain circumstances. The bill defines “athletics personnel” as an individual who is actively involved in organizing, conducting, or coaching a high-risk youth athletic activity or an individual who is involved with training a child for participation in a high-risk youth athletic activity. As defined, it is unclear to whom the bill may potentially apply and the bill does not limit the activities conducted that may require the athletics personnel to take the specified training course to activities taking place on the property controlled by the entity conducting the HRYAA. Additionally, it is unclear what authority the entity conducting the HRYAA would have over requiring such training for activities that may be conducted out of its control and without its knowledge.

The bill establishes a requirement that certain volunteer and unpaid athletics personnel complete a specified training course. The bill places this requirement both on the entities conducting the HRYAA to ensure the athletics personnel are trained and on the athletics personnel themselves to complete the course. However, the bill does not establish a penalty for noncompliance and it is unclear what penalty, if any, may be assessed against either the entity or the individual athletics personnel for not completing the training.

Lines 49-53 of the bill require that each unpaid or volunteer athletics personnel complete the required course within 30 days after his or her initial involvement with the HRYAA and annually thereafter. As written, the bill may require each individual athletics personnel to complete this course annually regardless of whether he or she continues to be involved in HRYAA.

Lines 52-53 exempt licensed athletic trainers from the above individual requirement. However, lines 32-39 require any entity administering HRYAA to ensure that all unpaid or volunteer athletics personnel complete the required course. Although exempt from the individual requirement, there is no exemption for athletic trainers in the requirement established by lines 32-39.

**VIII. Statutes Affected:**

This bill creates section 381.796 of the Florida Statutes.

**IX. Additional Information:**

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

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

None.

**B. Amendments:**

None.

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

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By Senator Broxson

1-00553A-20

20201406\_\_

A bill to be entitled  
An act relating to youth athletic activities; creating  
s. 381.796, F.S.; defining the term "athletics  
personnel"; requiring the Department of Health to  
define a term by rule; requiring an entity that  
administers or conducts a high-risk youth athletic  
activity or related training on certain property to  
require unpaid or volunteer athletics personnel to  
complete a specified course; providing that the course  
must be offered at no charge to such personnel;  
providing that the course may be offered online or in  
person; providing requirements for course content;  
requiring such personnel to complete the course within  
a specified timeframe after their initial involvement,  
and annually thereafter; providing an exemption;  
requiring entities to maintain specified records;  
requiring the department to adopt rules; providing an  
effective date.

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

Section 1. Section 381.796, Florida Statutes, is created to  
read:

381.796 High-risk youth athletic activities.—

(1) For the purposes of this section, the term "athletics  
personnel" means an individual who is actively involved in  
organizing, conducting, or coaching a high-risk youth athletic  
activity or an individual who is involved with training a child  
for participation in a high-risk youth athletic activity. The

1-00553A-20

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department shall define by rule what constitutes a high-risk youth athletic activity for purposes of this section.

(2) Any entity that administers or conducts a high-risk youth athletic activity, or training for such activity, on land owned, leased, operated, or maintained by the state or a political subdivision of the state shall require any unpaid or volunteer athletics personnel to complete a course approved by the department which provides them with information on the avoidance or prevention of serious physical injury to participants in high-risk youth athletic activities.

(a) The course, which must be offered at no charge to the athletics personnel, may be offered online or in person and must include information on:

1. Emergency preparedness, planning, and rehearsal in relation to traumatic injuries;
2. Concussions and head trauma;
3. Injuries resulting from heat or extreme weather; and
4. Physical conditioning and the proper use of training equipment.

(b) Each individual who serves in such a position shall complete the course within 30 days after his or her initial involvement with the high-risk youth athletic activity, and annually thereafter; however, this paragraph does not apply to an athletic trainer licensed under chapter 468.

(c) The entity shall maintain a record of each individual who completes the course for the entirety of his or her unpaid or volunteer service.

(3) The department shall adopt rules to implement this section.

1-00553A-20

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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:** January 30, 2020

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I respectfully request that **Senate Bill #1406**, relating to Youth Athletic Activities, be placed on the:

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

A handwritten signature in cursive script, appearing to read "Doug Broxson".

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Senator Doug Broxson  
Florida Senate, District 1



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

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

2/11/2020

Meeting Date

SB 1406

Bill Number (if applicable)

Topic YOUTH ATHLETIC ACTIVITIES

Amendment Barcode (if applicable)

Name MEISSA RAFFENSPERGER

Job Title FL PTA LEGISLATIVE COM.

Address 1747 ORLANDO CENTRAL PARKWAY

Street

Phone 800.373.5782

ORLANDO

City

FL

State

32809

Zip

Email legislation@floridapta.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FL PTA

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)

2/11/2020  
Meeting Date

1406  
Bill Number (if applicable)

Topic 1406

Amendment Barcode (if applicable)

Name Ashton Hayward

Job Title President

Address 1020 Gulf Breeze Pkwy  
Street

Phone 850 516 3264

Gulf Breeze FL 32561  
City State Zip

Email ahayward@andruset.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Andrews Research Education Foundation

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: CS/SB 190

INTRODUCER: Health Policy Committee; and Senators Montford, Harrell, Berman, and others

SUBJECT: Medicaid School-based Services

DATE: February 12, 2020

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brick	Sikes	ED	<b>Favorable</b>
2.	Kibbey	Brown	HP	<b>Fav/CS</b>
3.			AP	

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 190 authorizes school districts, private schools, and charter schools to certify for reimbursement eligible school-based health services provided to any student enrolled in Medicaid, regardless of whether that student qualifies for Part B or H of the IDEA, the exceptional student education program, or has an individualized education plan. The bill aligns Florida law with updated federal guidance that authorizes the federal reimbursement of Medicaid-eligible, school-based health services for all students enrolled in Medicaid.

The bill removes the current-law requirement for health care practitioners who are employed by or contracted with a private or charter school to independently enroll in Florida Medicaid as credentialed providers to deliver Medicaid-covered, school-based services.

It is unclear what fiscal impact this bill will have on state and local governments. This bill is likely to result in an indeterminate increase in federal Medicaid expenditures.

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

## II. Present Situation:

### The Medicaid Program

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

A Medicaid state plan is an agreement between a state and the federal government describing how the state administers its Medicaid programs. The state plan establishes groups of individuals covered under the Medicaid program, services that are provided, payment methodologies, and other administrative and organizational requirements.<sup>2</sup> In order to participate in Medicaid, federal law requires states to cover certain population groups (mandatory eligibility groups) and gives them the flexibility to cover other population groups (optional eligibility groups).<sup>3</sup> States set individual eligibility criteria within federal minimum standards. The AHCA may seek an amendment to the state plan as necessary to comply with federal or state laws or to implement program changes.

Eligibility for Medicaid is based on a person's income relative to the federal poverty level. Medicaid provides coverage to infants from birth to age 1 who are at or below 200 percent of the federal poverty level and children ages 1 through age 18 who are at or below 133 percent of the federal poverty level.<sup>4</sup> Federal Medicaid spending grew three percent to \$597.4 billion in 2018.<sup>5</sup> According to the most recently published estimates, approximately 3.8 million Floridians are currently enrolled in Medicaid, and the program's projected expenditures for the 2020-2021 fiscal year are \$29.2 billion,<sup>6</sup> and approximately 2.1 million enrollees are children.<sup>7</sup>

### Florida Medicaid Certified School Match Program

#### *Certified Public Expenditures*

The Florida Medicaid Certified School Match Program governs the Medicaid reimbursement process for school districts.<sup>8</sup> Each school district is authorized to provide students with a category of required Medicaid services termed "school-based services," which are reimbursable

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<sup>1</sup> Section 20.42, F.S.

<sup>2</sup> Agency for Health Care Administration, *Senate Bill 190 Analysis* (October 21, 2019) (on file with the Senate Committee on Health Policy).

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

<sup>4</sup> Florida Healthy Kids, *Florida Kidcare Health and Dental Insurance 2019 General Annual Income Guidelines*, (effective April 2019) available at [https://www.healthykids.org/kidcare/eligibility/Florida\\_KidCare\\_Income\\_Guidelines.pdf](https://www.healthykids.org/kidcare/eligibility/Florida_KidCare_Income_Guidelines.pdf) (last visited Feb. 9, 2020).

<sup>5</sup> CMS.gov, *NHE Fact Sheet*, (last modified December 5, 2019) available at <https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/NHE-Fact-Sheet> (last visited Feb. 7, 2020).

<sup>6</sup> See Social Services Estimating Conference, Medicaid Caseloads and Expenditures, December 20, 2019, and January 7, 2020, respectively, available at <http://edr.state.fl.us/Content/conferences/medicaid/index.cfm> (last visited Jan. 22, 2020).

<sup>7</sup> AHCA, *Florida Statewide Medicaid Monthly Enrollment Report*, [https://ahca.myflorida.com/Medicaid/Finance/data\\_analytics/enrollment\\_report/index.shtml](https://ahca.myflorida.com/Medicaid/Finance/data_analytics/enrollment_report/index.shtml), follow hyperlink "December" (2019) (last visited Feb. 7, 2020).

<sup>8</sup> Rule 59G.4.035, F.A.C.

under the federal Medicaid program.<sup>9</sup> To qualify for reimbursement, school districts must provide a certified public expenditure to AHCA. The certified public expenditure certifies that state or local funds were expended for eligible school-based services.<sup>10</sup> Medicaid then reimburses school districts at the federal Medicaid matching percentage rate, which is 61 percent for the fiscal year 2020.<sup>11</sup>

### ***Eligible Services***

Florida law requires any state or local funds certified by school districts to be expended for children with specified disabilities who are eligible for Medicaid and either part B<sup>12</sup> or part H<sup>13</sup> of the Individuals with Disabilities Education Act (IDEA),<sup>14</sup> the exceptional student education program, or an individualized educational plan (IEP).<sup>15</sup>

Eligible services include physical, occupational, and speech therapy services, behavioral health services, mental health services, transportation services, administrative outreach for the purpose of determining eligibility for exceptional student education, and any other such services.<sup>16</sup> Eligible services do not include family planning, immunizations, or prenatal care.<sup>17</sup>

All 67 school districts participate in the Certified School Match Program.<sup>18</sup> The Legislature allocated approximately \$98 million from the Medical Care Trust Fund for Medicaid school refinancing for the 2019-2020 fiscal year.<sup>19</sup>

### **Private and Charter School Providers**

In 2016, the Florida Legislature created s. 409.9072, F.S., to authorize the AHCA to reimburse private schools for providing Medicaid school-based services identical to those offered under the Medicaid certified school match program and under the same eligibility criteria as children eligible for services under that program.<sup>20</sup> This reimbursement is subject to a specific appropriation by the Legislature.<sup>21</sup> Unlike school districts, however, private and charter schools do not use certified public expenditures or other local funds as a match to draw down federal Medicaid funding. Instead, the Legislature has appropriated state general revenue to serve as

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<sup>9</sup> Section 1011.70, F.S. Formerly s. 236.0812, F.S., until renumbered in s. 662, ch. 2002-387, L.O.F.

<sup>10</sup> Section 1011.70, F.S.

<sup>11</sup> Medicaid and CHIP Payment and Access Commission, *EXHIBIT 6. Federal Medical Assistance Percentages (FMAPs) and Enhanced FMAPs (E-FMAPs) by State*, <https://www.macpac.gov/publication/federal-medical-assistance-percentages-fmaps-and-enhanced-fmaps-e-fmaps-by-state-selected-periods/> (last visited Feb 7, 2020).

<sup>12</sup> 20 U.S.C. s. 1411, et seq. Part B applies to children of the ages three through 21 with disabilities.

<sup>13</sup> 20 U.S.C. s. 1431, et seq. Part H applies to infants and toddlers under the age of three with disabilities.

<sup>14</sup> 20 U.S.C. s. 1400, et seq.

<sup>15</sup> The individualized education plan is the primary vehicle for communicating the school district's commitment to addressing the unique educational needs of a student with a disability. Florida Department of Education, *Developing Quality Individual Education Plans* (2015), available at <http://www.fldoe.org/core/fileparse.php/7690/urlt/0070122-qualityieps.pdf>, at 9.

<sup>16</sup> Section 1011.70, F.S.

<sup>17</sup> Section 1011.70, F.S.

<sup>18</sup> Agency for Health Care Administration, *Senate Bill 190 Analysis* (October 21, 2019) (on file with the Senate Committee on Health Policy).

<sup>19</sup> Specific Appropriation 216, s. 3, ch. 2019-115, L.O.F.

<sup>20</sup> House of Representatives, Health Care Appropriations Subcommittee, *Final Bill Analysis: HB 5101* (March 23, 2016), available at <http://www.flsenate.gov/Session/Bill/2016/5101/Analyses/h5101z.HCAS.PDF> (last visited Jan. 31, 2020).

<sup>21</sup> Section 409.9072(1), F.S.

matching funds.<sup>22</sup> Currently, one charter school is enrolled and delivering services in the Florida Medicaid program.<sup>23</sup>

The Legislature appropriated \$10.3 million for the 2019-2020 fiscal year for eligible school-based services provided by private schools or charter schools that are not participating in the school district's certified match program.<sup>24</sup>

### **Centers for Medicare and Medicaid Services Policy**

The federal CMS historically had a policy that precluded school districts from seeking payment for services not detailed on an IEP or an individualized family support plan (IFSP).<sup>25</sup> In December 2014, the federal CMS updated its policy.<sup>26</sup> The updated guidance clarified that a school-based health service delivered to any student enrolled in Medicaid is eligible for reimbursement.<sup>27</sup>

In response to this updated federal CMS guidance, the AHCA received federal approval for a state plan amendment in October 2016 that authorizes reimbursement for eligible school-based services provided to any Medicaid recipients, regardless of whether the recipient has an IEP or IFSP.<sup>28</sup>

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

**Section 1** amends s. 409.9071, F.S., to authorize school districts to certify for reimbursement eligible health services provided to any student enrolled in Medicaid, regardless of whether the student qualifies for Part B or H of the IDEA or has an individualized education plan. The bill also deletes the requirement for school districts to develop and maintain student records relating to individual education plans, updates a statutory citation, and deletes an obsolete provision.

**Section 2** amends s. 409.9072, F.S., to authorize public schools and charter schools to certify for reimbursement eligible health services provided to any student enrolled in Medicaid, regardless of whether the student qualifies for Part B or H of the IDEA or has an individualized education plan. The bill also deletes the requirement for private or charter schools to develop and maintain student records relating to individual education plans.

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<sup>22</sup> See Chapter 2016-65, s. 18, L.O.F., available at <http://laws.flrules.org/2016/65> (last visited Jan. 31, 2020).

<sup>23</sup> Agency for Health Care Administration, *Senate Bill 190 Analysis* (October 21, 2019) (on file with the Senate Committee on Health Policy).

<sup>24</sup> Specific Appropriation 216, s. 3, ch. 2019-115, L.O.F. \$4 million was appropriated from general revenue, and \$6.3 million was appropriated from the Medical Care Trust Fund.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> Centers for Medicare & Medicaid Services (CMS), U.S. Department of Health and Human Services. *Letter from Cindy Mann to state Medicaid directors regarding "Medicaid payment for services provided without charge (free care)".* (Dec. 2014), available at <https://www.medicaid.gov/sites/default/files/federal-policy-guidance/downloads/smd-medicaid-payment-for-services-provided-without-charge-free-care.pdf>. See also Agency for Health Care Administration, *Senate Bill 190 Analysis* (October 21, 2019) (on file with the Senate Committee on Health Policy).

<sup>28</sup> Agency for Health Care Administration, *Senate Bill 190 Analysis* (October 21, 2019) (on file with the Senate Committee on Health Policy).

The bill also removes the requirement that health care practitioners who are employed by or contracted with a private or charter school under s. 409.9072, F.S., to independently enroll in Florida Medicaid to deliver Medicaid-covered school-based services. Under the bill, health care practitioners providing services in private and charter schools must meet the qualifications outlined in Medicaid policy, but those practitioners need not be enrolled as providers in the Medicaid program.<sup>29</sup> This aligns the requirements for health care practitioners who deliver Medicaid-covered, school-based services in private and charter schools under s. 409.9072, F.S., with those that are in place for health care practitioners delivering those services in public school districts under s. 409.9071, F.S.

**Section 3** amends s. 409.908, F.S., to update the name of the federal agency authorized to waive qualifications for Medicaid providers as the U.S. Department of Health and Human Services.

**Section 4** 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.

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<sup>29</sup> Agency for Health Care Administration, *Senate Bill 1650 Summary Analysis & Economic Impact Statement* (January 30, 2020) (on file with the Senate Committee on Health Policy).

**B. Private Sector Impact:**

Individuals who are providing or who will seek to provide covered services in a private or charter school under the program will be relieved of the duty to enroll in Florida Medicaid as providers.

**C. Government Sector Impact:**

CS/SB 190 enables all children who are eligible for Medicaid to receive certain school-based services. It is likely that more children will begin to receive school based-services in public, private, and charter schools. The AHCA may experience an increase in fee-for-service reimbursements, using a combination of general revenue and federal match, to private and charter schools for additional services for children.<sup>30</sup> This bill is likely to result in an indeterminate increase in federal Medicaid expenditures.<sup>31</sup>

Under the bill and in certain cases, funding that has already been appropriated for providing certain health-related services to students enrolled in public, private, and charter schools could be leveraged to draw down matching federal funding. This would be the case only if:

- The school district, private school, or charter school has enrolled as a Medicaid provider pursuant to ss. 409.9071 or 409.9072, F.S.;
- The child receiving services is eligible for Medicaid; and
- The funding was appropriated for a service that is an eligible school-based service.

For example, under the “Marjory Stoneman Douglas High School Public Safety Act” enacted by the Legislature in 2018, a recurring Mental Health Assistance Allocation is required to be annually allocated in the General Appropriations Act or in another law.<sup>32</sup> This funding is allocated to school districts and eligible charter schools for the purpose of assisting schools in establishing or expanding school-based mental health care. Certain behavioral and mental health services are considered to be eligible school-based services. The eligible school-based services provided to children enrolled in Medicaid could, under the bill, be leveraged to draw down federal funding. This would stretch the value of money already appropriated by the state and school districts.

Funding used for services that are already provided in public, private, and charter schools would be eligible to draw down federal funding. Inversely, it is likely that more children will receive school based-services, which may require additional funding (public expenditures and local funds for school districts or a general revenue appropriation for private and charter schools) in order to leverage federal funding. For these reasons, it is unclear what fiscal impact this bill will have on state and local governments.

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<sup>30</sup> Agency for Health Care Administration, *Senate Bill 190 Analysis* (October 21, 2019) (on file with the Senate Committee on Health Policy).

<sup>31</sup> *Id.*

<sup>32</sup> Chapter 2018-03, ss. 29 and 36, Laws of Fla.



This bill will have a minor operational impact to the AHCA as it finalizes changes to a proposed rule relating to the Medicaid Certified School Match Coverage Policy. The AHCA can complete this task within existing resources.<sup>33</sup>

To implement the changes made to s. 409.9072(5), F.S., the AHCA will need to modify the Florida Medicaid Management Information System to undo programming that has been put in place to implement the current law.<sup>34</sup> The AHCA can complete this task within existing resources.<sup>35</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 409.9071, 409.9072, and 409.908 of the Florida Statutes.

**IX. Additional Information:**

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

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

**CS by Health Policy on February 11, 2020:**

The CS removes the current-law requirement for health care practitioners who are employed by or contracted with a private or charter school under s. 409.9072, F.S., to independently enroll in Florida Medicaid as credentialed providers to deliver Medicaid-covered, school-based services.

**B. Amendments:**

None.

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

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<sup>33</sup> Agency for Health Care Administration, *Senate Bill 190 Analysis* (October 21, 2019) (on file with the Senate Committee on Health Policy).

<sup>34</sup> Agency for Health Care Administration, *Senate Bill 1650 Analysis & Economic Impact Statement* (January 30, 2020) (on file with the Senate Committee on Health Policy).

<sup>35</sup> *Id.*

By Senator Montford

3-00173-20

2020190\_\_

A bill to be entitled  
An act relating to Medicaid school-based services;  
amending s. 409.9071, F.S.; revising applicable  
provisions for the reimbursement of school-based  
services by the Agency for Health Care Administration  
to certain school districts; deleting a requirement  
specifying the use of certified state and local  
education funds for school-based services; conforming  
a provision to changes made by the act; deleting an  
obsolete provision; amending s. 409.9072, F.S.;  
revising a requirement for the agency's reimbursement  
of school-based services to certain charter and  
private schools; conforming a provision to changes  
made by the act; amending s. 409.908, F.S.; specifying  
the federal agency that may waive certain school-based  
provider qualifications; providing an effective date.

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

Section 1. Subsection (1), paragraph (b) of subsection (2),  
and subsection (6) of section 409.9071, Florida Statutes, are  
amended to read:

409.9071 Medicaid provider agreements for school districts  
certifying state match.—

(1) The agency shall reimburse school-based services as  
provided in ss. 409.908(21) and 1011.70 ~~former s. 236.0812~~  
pursuant to the rehabilitative services option provided under 42  
U.S.C. s. 1396d(a)(13). For purposes of this section, billing  
agent consulting services are ~~shall be~~ considered billing agent

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2020190\_\_

30 services, as that term is used in s. 409.913(10), and, as such,  
31 payments to such persons may ~~shall~~ not be based on amounts for  
32 which they bill nor based on the amount a provider receives from  
33 the Medicaid program. This provision may ~~shall~~ not restrict  
34 privatization of Medicaid school-based services. Subject to any  
35 limitations provided for in the General Appropriations Act, the  
36 agency, in compliance with appropriate federal authorization,  
37 shall develop policies and procedures and shall allow for  
38 certification of state and local education funds that ~~which~~ have  
39 been provided for school-based services as specified in s.  
40 1011.70 and authorized by a physician's order where required by  
41 federal Medicaid law. ~~Any state or local funds certified~~  
42 ~~pursuant to this section shall be for children with specified~~  
43 ~~disabilities who are eligible for both Medicaid and part B or~~  
44 ~~part H of the Individuals with Disabilities Education Act~~  
45 ~~(IDEA), or the exceptional student education program, or who~~  
46 ~~have an individualized educational plan.~~

47 (2) School districts that wish to enroll as Medicaid  
48 providers and that certify state match in order to receive  
49 federal Medicaid reimbursements for services, pursuant to  
50 subsection (1), shall agree to:

51 (b) Develop and maintain the financial and other student  
52 ~~individual education plan~~ records needed to document the  
53 appropriate use of state and federal Medicaid funds.

54 ~~(6) Retroactive reimbursements for services as specified in~~  
55 ~~former s. 236.0812 as of July 1, 1996, including reimbursement~~  
56 ~~for the 1995-1996 and 1996-1997 school years, are subject to~~  
57 ~~federal approval.~~

58 Section 2. Subsection (1) and paragraph (b) of subsection

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2020190\_\_

(2) of section 409.9072, Florida Statutes, are amended to read:

409.9072 Medicaid provider agreements for charter schools and private schools.—

(1) Subject to a specific appropriation by the Legislature, the agency shall reimburse private schools as defined in s. 1002.01 and schools designated as charter schools under s. 1002.33 which are Medicaid providers for school-based services pursuant to the rehabilitative services option provided under 42 U.S.C. s. 1396d(a)(13) to children younger than 21 years of age ~~with specified disabilities who are eligible for both Medicaid and part B or part H of the Individuals with Disabilities Education Act (IDEA) or the exceptional student education program, or who have an individualized educational plan.~~

(2) Schools that wish to enroll as Medicaid providers and receive Medicaid reimbursement under this section must apply to the agency for a provider agreement and must agree to:

(b) Develop and maintain the financial and student ~~individual education plan~~ records needed to document the appropriate use of state and federal Medicaid funds.

Section 3. Subsection (21) of section 409.908, Florida Statutes, is amended to read:

409.908 Reimbursement of Medicaid providers.—Subject to specific appropriations, the agency shall reimburse Medicaid providers, in accordance with state and federal law, according to methodologies set forth in the rules of the agency and in policy manuals and handbooks incorporated by reference therein. These methodologies may include fee schedules, reimbursement methods based on cost reporting, negotiated fees, competitive bidding pursuant to s. 287.057, and other mechanisms the agency

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2020190\_\_

88 considers efficient and effective for purchasing services or  
89 goods on behalf of recipients. If a provider is reimbursed based  
90 on cost reporting and submits a cost report late and that cost  
91 report would have been used to set a lower reimbursement rate  
92 for a rate semester, then the provider's rate for that semester  
93 shall be retroactively calculated using the new cost report, and  
94 full payment at the recalculated rate shall be effected  
95 retroactively. Medicare-granted extensions for filing cost  
96 reports, if applicable, shall also apply to Medicaid cost  
97 reports. Payment for Medicaid compensable services made on  
98 behalf of Medicaid eligible persons is subject to the  
99 availability of moneys and any limitations or directions  
100 provided for in the General Appropriations Act or chapter 216.  
101 Further, nothing in this section shall be construed to prevent  
102 or limit the agency from adjusting fees, reimbursement rates,  
103 lengths of stay, number of visits, or number of services, or  
104 making any other adjustments necessary to comply with the  
105 availability of moneys and any limitations or directions  
106 provided for in the General Appropriations Act, provided the  
107 adjustment is consistent with legislative intent.

108 (21) The agency shall reimburse school districts that ~~which~~  
109 certify the state match pursuant to ss. 409.9071 and 1011.70 for  
110 the federal portion of the school district's allowable costs to  
111 deliver the services, based on the reimbursement schedule. The  
112 school district shall determine the costs for delivering  
113 services as authorized in ss. 409.9071 and 1011.70 for which the  
114 state match will be certified. Reimbursement of school-based  
115 providers is contingent on such providers being enrolled as  
116 Medicaid providers and meeting the qualifications contained in

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117 42 C.F.R. s. 440.110, unless otherwise waived by the United  
118 States Department of Health and Human Services ~~federal Health~~  
119 ~~Care Financing Administration~~. Speech therapy providers who are  
120 certified through the Department of Education pursuant to rule  
121 6A-4.0176, Florida Administrative Code, are eligible for  
122 reimbursement for services that are provided on school premises.  
123 Any employee of the school district who has been fingerprinted  
124 and has received a criminal background check in accordance with  
125 Department of Education rules and guidelines is ~~shall be~~ exempt  
126 from any agency requirements relating to criminal background  
127 checks.

128 Section 4. This act shall take effect July 1, 2020.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Environment and Natural Resources, *Chair*  
Education, *Vice Chair*  
Agriculture  
Appropriations  
Appropriations Subcommittee on Education  
Rules

### JOINT COMMITTEE:

Joint Legislative Auditing Committee

### SENATOR BILL MONTFORD

*Minority Leader Pro Tempore*  
3rd District

January 28, 2020

Senator Gayle Harrell, Chair  
Senate Committee on Health Policy  
530 Knott Building  
Tallahassee, Florida 32399-1100

Dear Senator Harrell:

I respectfully request that SB 190, a bill relating to School Based Medicaid Services be placed on the next agenda of the Senate Health Policy Committee.

Your consideration is greatly appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Bill Montford".

Senator William "Bill" Montford,  
Senate District 3

WBM/md

Cc: Allen Brown, Staff Director  
Celea Georgiades, Administrative Assistant

### REPLY TO:

- ☐ 410 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5003
- ☐ 20 East Washington Street, Suite D, Quincy, Florida 32351 (850) 627-9100
- ☐ 16794 SE River Street, Blountstown, Florida 32424 (850) 237-1218

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

**BILL GALVANO**  
President of the Senate

**DAVID SIMMONS**  
President Pro Tempore



# 2020 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Agency for Health Care Administration

## BILL INFORMATION

BILL NUMBER:	SB 190
BILL TITLE:	Medicaid School-based Services
BILL SPONSOR:	Senator Montford
EFFECTIVE DATE:	July 1, 2020

## COMMITTEES OF REFERENCE

1) Education
2) Health Policy
3) Appropriations
4)
5)

## CURRENT COMMITTEE

N/A

## SIMILAR BILLS

BILL NUMBER: N/A

SPONSOR:

## PREVIOUS LEGISLATION

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

## IDENTICAL BILLS

BILL NUMBER: HB 81

SPONSOR: Representative Andrade

Is this bill part of an agency package?

Y \_\_\_ N x

## BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	October 21, 2019
LEAD AGENCY ANALYST:	Matt Brackett
ADDITIONAL ANALYST(S):	
LEGAL ANALYST:	
FISCAL ANALYST:	



## **POLICY ANALYSIS**

### **1. EXECUTIVE SUMMARY**

Senate Bill (SB) 190 amends sections 409.9071, 409.9072, and 409.908, Florida Statutes (F.S.). The bill aligns Florida Statutes to federal law by removing outdated eligibility and documentation language for children who receive Medicaid reimbursable services through the Florida Medicaid Certified School Match Program or through Medicaid-enrolled private and charter schools. This could expand the number of children whose health care services are currently provided and paid for by school districts or private/charter schools, but could be reimbursed by Medicaid.

The changes in this bill will have a minor operational impact to the Agency. However, the Agency can complete these tasks within existing resources (e.g., finalizing changes to the rule). The proposed changes would require school districts to reallocate some of the current local/state funding used to provide health care services for this population if they wish to receive additional federal Medicaid matching funds. This would result in an increase in federal Medicaid expenditures, but should result in savings for school districts. Currently, the Legislature appropriates the state share needed to draw down federal Medicaid matching funds for health care services provided to Medicaid-eligible students in private/charter schools. As such, the proposed change would not only result in an increase in federal expenditures, but also an increase in state general revenue needed for services provided by private/charter schools. The level of general revenue and federal expenditure increases are indeterminate as it is unknown how many additional private or charter schools may enroll, or additional children will be served based on these changes.

SB 190 also makes technical changes to update terminology in the law.

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

### **2. SUBSTANTIVE BILL ANALYSIS**

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

The Agency for Health Care Administration (Agency) is the single state agency responsible for the administration of the Florida Medicaid program, authorized under Title XIX of the Social Security Act. This authority includes establishing and maintaining a Medicaid state plan, approved by the federal Centers for Medicare and Medicaid Services.

A Medicaid state plan is an agreement between a state and the federal government describing how that state administers its Medicaid programs; it establishes groups of individuals covered under the Medicaid program, services that are provided, payment methodologies, and other administrative and organizational requirements. In order to participate in Medicaid, federal law requires states to cover certain population groups (mandatory eligibility groups) and gives them the flexibility to cover other population groups (optional eligibility groups). States set individual eligibility criteria within federal minimum standards.

The Agency may seek an amendment to the state plan as necessary to comply with federal and/or state laws or to implement program changes.

#### **Florida Medicaid Certified School Match Program**

Florida has 67 school districts. Each district is tasked with providing health services for students with disabilities while the student is at school. Some of these students are enrolled in Medicaid.

The Florida Medicaid Certified School Match Program was established to provide school districts the opportunity to enroll in Medicaid to have Medicaid share in the cost of providing school health services to Medicaid recipients. Services included in this benefit are therapies (physical, occupational, and speech-language pathology), nursing, behavioral health, and transportation to Medicaid-covered health care services delivered off campus. School districts participating in the program can either employ or contract with Medicaid-enrolled health care providers.

The Certified School Match Program works by requiring participating school districts to use state and local funds to pay for health services included in the benefit. They then bill Medicaid, and Medicaid then reimburses them the federal Medicaid matching percentage (currently 61%). In addition to providing the federal match portion for health services, the Certified School Match Program also reimburses the federal share for administrative work associated with delivering care to recipients. Examples of this work includes making a referral to a medical service.

Medicaid recipients who receive services through the Certified School Match program must be under the age of 21. Health services provided must be both educationally relevant and medically necessary and tailored to meet the recipient's individual needs.

The Certified School Match Program is reimbursed through the fee-for-service delivery system. Statewide Medicaid Managed Care health plans do not administer this benefit, although students enrolled in Medicaid health plans can receive services from schools through the school match program. To prevent duplication of services and enhanced coordination of care, the Agency requires health plans to enter into memoranda of agreement with enrolled schools and school districts to coordinate care.

### **Private and Charter School Providers**

In 2016, the Florida Legislature created section 409.9072, F.S., directing the Agency to update its policies and systems to enroll private and charter schools as Medicaid providers. Unlike school districts, private and charter schools do not use certified public expenditures or other local funds as a match to draw down federal Medicaid funding. Instead, the Legislature appropriated state general revenue funding to serve as matching funds. In every other respect, the program is the same for enrolled private and charter schools. Currently, one charter school is enrolled and delivering services in the Florida Medicaid program.

### **The Centers for Medicare and Medicaid Services**

The Agency's federal partner, the Centers for Medicare and Medicaid Services (CMS), historically had a policy that precluded state Medicaid programs from reimbursing for services that are normally delivered free of charge, otherwise known as "free care." In other words, Medicaid payments were prohibited for school-based services delivered when the service was free to all students. This policy also precluded school districts from seeking payment for services not detailed on an individualized education plan (IEP)/individualized family support plan (IFSP). These plans are required for children who, because of their diagnoses or disabilities, require medical services or accommodations to attend school. The "free care" policies prevented Medicaid from reimbursing schools and school districts for services such as behavioral health and speech-language pathology available to students who are Medicaid recipients but do not have an IEP or IFSP.

In December 2014, CMS clarified its "free care" policy through a State Medicaid Director letter. The updated guidance clarified that school health services delivered to the general student population, not just those included in student IEPs, are reimbursable by Medicaid. Additionally, the updated guidance clarified that state Medicaid programs may reimburse school districts for health services that are included in the Medicaid program's state plan, regardless of whether the recipient has an IEP or IFSP. The requirement that the provider delivering the service must be enrolled in Medicaid still applies.

In response to this updated CMS guidance, the Agency received federal approval for a state plan amendment in October 2016 that allows Florida Medicaid to reimburse for "free care" services delivered in schools to all Medicaid recipients, regardless if a recipient has an IEP or IFSP. Based on this authority, the Agency can reimburse schools for these additional services.

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

Senate Bill 190 amends sections 409.9071, 409.9072, and 409.908, F.S. removing the language requiring Florida Medicaid recipients receiving school-based services to be eligible for Part B or H of IDEA, exceptional student services, or to have an IEP or IFSP. The changes in the bill align state law with the 2014 federal "free-care" policy guidance. In addition, SB 190 aligns the Florida Statutes with the Agency's existing federal authority that already allows schools to provide Medicaid services falling under the "free service" category to all Medicaid-eligible students, regardless of whether they have a diagnosis or condition that previously

qualified them. Because the State has the federal authority, the current statutory language does not preclude delivery of these services. However, its removal will reduce confusion regarding what Florida Medicaid covers in schools. As previously noted, school districts, through the Medicaid Certified School Match Program, will still have to use state or local funds to draw down federal funding for any additional services.

The bill's language poses a minor operational impact to the Florida Medicaid program. The Agency has already received federal approval, through a state plan amendment, to seek federal funds for school-based services without requiring an IEP, IFSP, or other statutorily required qualification. The accompanying administrative rule, the Medicaid Certified School Match Coverage Policy, is being revised to align with the state plan. The Agency can complete this task using current resources.

SB 190 poses an indeterminate fiscal impact to Florida Medicaid. The level of general revenue and federal expenditure increases are indeterminate as it is unknown how many additional private or charter schools may enroll, or additional children will be served based on these changes. The proposed changes would require school districts to reallocate some of the current local/state funding used to provide health care services for this population if they wish to receive additional federal Medicaid matching funds. This would result in an increase in federal Medicaid expenditures, but should result in savings for school districts. Additionally, the Agency may see an increase in fee-for-service reimbursements, using a combination of general revenue and federal match, to private and charter schools for additional services and children once the language is clarified for providers.

SB 190 also makes technical changes to update current terminology, which have no impact on the Agency or Florida Medicaid program.

The bill takes effect on July 1, 2020.

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

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

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

Proponents and summary of position:	We are aware of at least one advocacy group is in favor of this change.
Opponents and summary of position:	Unknown

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

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

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

Board:	N/A
Board Purpose:	N/A

Who Appointments:	N/A
Appointee Term:	N/A
Changes:	N/A
Bill Section Number(s):	N/A

## FISCAL ANALYSIS

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

Revenues:	The bill may increase the amount of federal funds and general revenue received for services being provided to students.
Expenditures:	The proposed changes would require school districts to reallocate some of the current local/state funding used to provide health care services for this population if they wish to receive additional federal Medicaid matching funds. This would result in an increase in federal Medicaid expenditures, but should result in savings for school districts. Additionally, the Agency may see an increase in fee-for-service reimbursements, using a combination of general revenue and federal match, to private and charter schools for additional services and children once the language is clarified for providers.
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 X

Revenues:	None
Expenditures:	N/A
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	N/A

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

Revenues:	Unknown
Expenditures:	Unknown
Other:	N/A

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

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

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## TECHNOLOGY IMPACT

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

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

N/A

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## FEDERAL IMPACT

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

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

This bill may have a federal fiscal impact. As school districts and private/charter schools use additional state and local funds to deliver health services to Medicaid-eligible students, the federal matching portion may increase alongside additional clarification of existing policy.

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## ADDITIONAL COMMENTS

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N/A

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## LEGAL – GENERAL COUNSEL'S OFFICE REVIEW

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Issues/concerns/comments:



# 2020 AGENCY SUMMARY BILL ANALYSIS & ECONOMIC IMPACT STATEMENT

**AGENCY:** Agency for Health Care Administration

<b>BILL#:</b>	SB 1650
<b>RELATING TO:</b>	Medicaid Provider Agreements for Charter and Private Schools
<b>SPONSOR(S):</b>	Sen. Simmons
<b>COMPANION BILLS:</b>	N/A

<b>ANALYST/REVIEWER NAME:</b>	Matt Brackett
<b>DIVISION/UNIT:</b>	Medicaid Policy
<b>CONTACT NUMBER:</b>	4-4151

<b>COORDINATED WITH:</b>	N/A
<b>DIVISION/UNIT:</b>	N/A
<b>CONTACT NUMBER:</b>	N/A

## I. SUMMARY:

Senate Bill (SB) 1650 (Medicaid Provider Agreements for Charter and Private Schools) amends section 409.9072 (5), Florida Statutes (F.S.), removing language requiring individual health care practitioners who are employed or contracted with a private or charter school to independently enroll in Florida Medicaid to deliver Medicaid-covered school-based services. Instead, individual practitioners must meet the requirements in federal law (42CFR 440.110) or the qualifications stated in the Florida Medicaid Certified School Match Program Coverage Policy.

SB 1650 aligns the Medicaid enrollment and approval process for private and charter schools with what is currently in place for public school districts. This bill is effective on July 1, 2020.

## II. Does this bill impact the Agency? If yes, please provide a brief explanation of the impact:

SB 1650 poses a minor operational impact on Florida Medicaid. The bill deletes language in s. 409.9072, F.S. mandating Medicaid enrollment of health care practitioners employed or contracted with private and charter schools. This will align the requirements for private/charter schools with those that are in place for public school districts. The current requirement for private/charter schools in statute is administratively burdensome and does not align with the requirements for public school districts. Public school districts must only attest that their health care practitioners meet the qualifications outlined in Medicaid policy; those providers do not have to individually enroll in Medicaid.

In order to implement the changes in the bill, the Agency will have to modify the Florida Medicaid Management Information System (MMIS) to undo programming that has been put in place to implement the current requirements in law. This change can be absorbed within existing Agency resources.

## III. FISCAL COMMENTS:

SB 1650 does not pose a fiscal impact.

## IV. SUGGESTED AMENDMENTS:

N.A.



THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/11/20

Meeting Date

190

Bill Number (if applicable)

Topic Medicaid School Services

Amendment Barcode (if applicable)

Name Doug Bell

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

Address 119 S. Monroe St

Street

Phone 850 205 9000

TLH

City

State

Zip

Email dougbell@unhdfirm.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Chapter of the 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.*

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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)

2/11/20  
Meeting Date

190  
Bill Number (if applicable)

Topic School Based Medicaid

Amendment Barcode (if applicable)

Name Amanda Fraser

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

Address 205 S. Adams  
Street

Phone \_\_\_\_\_

Tallahassee  
City State Zip

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Broward County

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**

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2/11/2020

Meeting Date

SB 0190

Bill Number (if applicable)

Topic MEDICAID SCHOOL-BASED SERVICES

Amendment Barcode (if applicable)

Name MELISSA RAFFENSPERGER

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Street

ORLANDO

City

FL

State

32809

Zip

Phone 800.373.5782

Email legislation@floridapta.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLORIDA PTA

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)

2-11-20

Meeting Date

190

Bill Number (if applicable)

Topic Medical Savings

Amendment Barcode (if applicable)

Name Albert Balido

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

Address 201 W Palmdale Ave

Street

Phone 800 257 3470

T.M.

City

FL

State

32301

Zip

Email \_\_\_\_\_

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Policy Institute

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)

2-11-2020

Meeting Date

190

Bill Number (if applicable)

Topic Medicaid School Based Services

Amendment Barcode (if applicable)

Name Natalie King

Job Title VP

Address 235 W Brandon Blvd 640

Street

Phone 813 924 8218

Brandon FL 33511

City

State

Zip

Email Natalie@saconsultingllc.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing United Way Suncoast

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)

2-11-2020

Meeting Date

190

Bill Number (if applicable)

Topic MEDICAID SCHOOL-BASED SERVICES

Amendment Barcode (if applicable)

Name JIM AKIN

Job Title EXECUTIVE DIRECTOR

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State

Zip

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Email JAKIN@NASWPFLG.ORG

Speaking: ☐ For ☐ Against ☐ Information

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

Representing NATIONAL ASSN. OF SOCIAL WORKERS - FLORIDA

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)

2-11-20

Meeting Date

190

Bill Number (if applicable)

Topic Medicaid School Base Services

Amendment Barcode (if applicable)

Name Scott Howatt (How-it)

Job Title Chief Comms Officer

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Street

Orlando FL 32801

City

State

Zip

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Speaking: ☒ For ☐ Against ☐ Information

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

Representing Orange Co Public Schools

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)

2-11-2020

*Meeting Date*

190

*Bill Number (if applicable)*Topic Medicaid School-Based Services*Amendment Barcode (if applicable)*Name Matt GuseJob Title CEOAddress 1126 Lee AvenuePhone 850-577-3199*Street*TallahasseeFL32303Email mguse@floridaCSC.org*City**State**Zip*Speaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)Representing Florida Children's CouncilAppearing at request of Chair: ☐ Yes ☐ NoLobbyist 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**

2/11/2020

Meeting Date

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

SB190

Bill Number (if applicable)

Topic Medicaid School Based Services

Amendment Barcode (if applicable)

Name Megan Turetsky

Job Title Government Affairs Manager

Address 6600 W Commercial Blvd  
Street

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Lauderhill FL 33301  
City State Zip

Email mturetsky@escbroward.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Children's Services Council of Broward County

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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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.)

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

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BILL: CS/CS/SB 772

INTRODUCER: Health Policy Committee; Community Affairs Committee; and Senators Hutson, Perry, and Flores

SUBJECT: The Department of Health's Regulation of Recreational Activities

DATE: February 11, 2020

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Paglialonga	Ryon	CA	<b>Fav/CS</b>
2.	Williams	Brown	HP	<b>Fav/CS</b>
3.			RC	

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 772 amends provisions of ch. 513, F.S., which governs mobile home parks, lodging parks, recreational vehicle parks, and recreational camps. The bill:

- Specifies that the Department of Health (DOH) is the exclusive regulatory and permitting authority for sanitary standards and operational matters in all mobile home parks, lodging parks, recreational vehicle (RV) parks, and recreational camps, and expands the scope of DOH's regulatory permitting and operational matters to specifically protect the health and well-being of Florida residents and visitors.
- Prohibits a local government from enacting a law or regulation that would restrict the density standards and setback distances in a recreational vehicle park beyond those initially authorized by the DOH and the local government.
- Reforms the procedures for removing or prohibiting a disorderly transient guest or visitor from park premises to mirror ejection provisions for public lodging establishments licensed under ch. 509, F.S.<sup>1</sup>
- Revises the method by which park operators obtain ownership of unclaimed guest property.

The bill provides an additional exemption under s. 514.0115(7), F.S., such that specified surf pools are exempted from supervision by the DOH if the surf pool is constructed and operated

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<sup>1</sup> See s. 509.141, F.S.

subject to a special use permit process whereby a local government asserts its regulatory authority in consultation with the DOH.

Specific to RV parks, park operators may see an indeterminate, positive fiscal impact from the bill, and local governments may see an indeterminate, negative fiscal impact from the bill. Specific to surf pools, any entity seeking to construct and operate a surf pool may have an alternative means for pursuing such a project under the bill, and the DOH has not yet analyzed the potential fiscal impact of the bill's surf pool provisions. See the **Fiscal Impact Statement** portion of this analysis for additional details.

The bill is effective July 1, 2020.

## II. Present Situation:

### Mobile Home and Recreational Vehicle Parks

Florida first began regulating recreational parks and camps in 1927 when the Legislature enacted statutes addressing the operation and maintenance of “tourist camps.” These establishments catered to transient guests by providing tent and cottage accommodations.<sup>2</sup> The substance of these original regulations is currently embodied in ch. 513, F.S. This chapter provides the regulatory requirements governing mobile home parks, lodging parks, recreational vehicle (RV) parks, and recreational camps in the state. Chapter 513, F.S., also contains standards and requirements for operators of these types of recreational facilities.

Chapter 513, F.S., has not undergone major changes since the 1993 Regular Session.<sup>3</sup> Applicable rules adopted by the DOH have not been modified since 1996.<sup>4</sup>

Mobile home parks, lodging parks, RV parks, and recreational camps are similar to hotels in many respects. Like hotels, these parks and camps offer lodging accommodations to the public. Recreational park operators own the accommodations or a portion thereof and allow transient guests to purchase a revocable license to enter and remain on the property. The real difference between hotels and recreational parks are the nature of the facilities provided.

As of July 19, 2019, there were 5,392 licensed mobile home parks, lodging parks, RV parks, and recreational camps in Florida.<sup>5</sup> In a June 2019 report, RVs Move America found that RV campgrounds and travel had a \$1.1 billion annual economic impact in Florida, which was the third-highest in the nation.<sup>6</sup>

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<sup>2</sup> Chapter 12419, Laws of Fla. (1927)

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

<sup>4</sup> Fla. Admin. Code R. 64E-15 (1996).

<sup>5</sup> Florida Department of Health, *Mobile Home Parks* (last modified September 13, 2019), available at <http://www.floridahealth.gov/environmental-health/mobile-home-parks/index.html> (last visited Jan. 22, 2020).

<sup>6</sup> RVs Move America, *Florida* (June 2019), available at <https://rvia.guerrillaeconomics.net/reports/e5b85c91-4f88-460c-9912-579c89f8d04e?> (last visited Jan. 22, 2020)

***Applicability of Recreational Vehicle Park Provisions to Mobile Home Parks***

Although mobile home parks are primarily regulated by ch. 723, F.S., a mobile home park that has five or more sites set aside for rent to transient RV guests must comply with the RV park requirements in ch. 513, F.S. Notwithstanding this requirement, mobile home parks licensed under ch. 723, F.S., are not required to obtain a second operational license under ch. 513, F.S.<sup>7</sup>

***Department of Health Oversight***

The DOH is the exclusive regulatory and permitting authority for sanitary standards in all mobile home parks, lodging parks, recreational vehicle parks, and recreational camps. The DOH also issues operational permits, provides and enforces administrative rules, performs routine premises inspections, prosecutes regulatory violations, and issues penalties for operator misconduct. Local governments are prohibited from enacting regulations for sanitary standards within a ch. 513, F.S., park or camp.<sup>8</sup>

***Permitting***

All parks and camps must apply for and receive an operating permit from the DOH to conduct business activities. Permits are not transferable from one place or person to another and must be renewed annually.<sup>9</sup> The DOH may revoke or suspend a permit if a park or camp is not constructed or maintained according to law and DOH rule. When the ownership of a park or camp is transferred, and the new owner plans to continue recreational operations, the new owner must apply to the DOH for a permit before the date of transfer.<sup>10</sup>

The DOH may charge park and camp operators reasonable permitting fees, and such fees must be based on the actual costs incurred by the DOH in carrying out oversight of the particular facility

***Placement of Recreational Vehicles on Lots in Permitted Parks***

Under s. 513.1115, F.S., the separation distances between RV sites within an RV park must remain unchanged from the time the DOH initially approves a park's operational permit. Likewise, setback distances from the exterior park property boundary must be the setback distances established at the time of the initial approval of the park by the DOH and the local government.<sup>11</sup>

***Guest Register***

Every park and camp operator that rents to transient guests<sup>12</sup> must maintain a current and signed registry of guests that occupy rental sites. The register must show the dates upon which the rental

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<sup>7</sup> Section 513.014, F.S.

<sup>8</sup> Section 513.051, F.S.

<sup>9</sup> Section 513.02, F.S.

<sup>10</sup> *Id.*

<sup>11</sup> Section 513.1115(2), F.S.

<sup>12</sup> "Transient guest means any guest registered as provided in s. 513.112, F.S., for 6 months or less. When a guest is permitted with the knowledge of the park operator to continuously occupy a recreational vehicle in a recreational vehicle park for more than 6 months, there is a rebuttable presumption that the occupancy is nontransient, and the eviction procedures of part II of chapter 83 apply." Section 513.01(12), F.S.

sites were occupied by such guests and the rates charged for the guests' occupancy. This register must be maintained in chronological order and be available for inspection by the DOH at any time. An operator is not required to retain a register that is more than two years old.<sup>13</sup>

### ***Unclaimed Guest Property***

If a guest leaves property in a park and the property has an identifiable owner, the park operator may obtain ownership of the property by providing the guest written notice of the property and holding the property for 90 days without it being reclaimed. Alternatively, if the property belongs to a guest who has vacated the premises without notice to the operator and has an outstanding account with the park, the operator may obtain ownership of the property through the court and a writ of distress.<sup>14</sup>

### ***Park Rules and Guest Conduct on Premises***

Park and camp operators may establish reasonable rules and regulations for the management of the park, its guests, and employees. Under s. 513.117, F.S., such park and camp rules are deemed a special contract between operators, guests, and employees. Park rules may control the liabilities, responsibilities, and obligations of all parties, and must be posted (along with the provisions of ch. 513, F.S.) in the registration area of the park or camp.<sup>15</sup> The operator of a park or camp may refuse accommodations or service to any person: whose conduct on the premises of the park displays intoxication, profanity, lewdness, or brawling; who indulges in such language or conduct as to disturb the peace or comfort of other guests; who engages in illegal or disorderly conduct; or whose conduct constitutes a nuisance.<sup>16</sup>

### ***Guest Eviction***

Park and camp operators may remove transient guests for certain violations of park rules and general law. A transient guest may be removed for illegal possession of a controlled substance, disturbing the peace and comfort of other persons, causing harm to the physical park, and failing to make payment of rent.<sup>17</sup>

To remove a guest, the operator of a park must notify the guest in writing that the park no longer desires to entertain the guest and request that such guest should immediately leave the park or camp. If the guest has paid in advance, the park must provide the guest with the unused portion of the payment with the written notification. If a guest remains in a park or camp after being requested to leave, the guest is considered guilty of a misdemeanor of the second degree, punishable as provided in ss. 775.082 or 775.083, F.S. (Conviction of a misdemeanor in the second degree results in a \$500 criminal fine.)<sup>18</sup>

In the event a guest owes a park operator an amount equivalent to three nights' rent, the operator may disconnect all utilities to the recreational vehicle or campsite and provide the guest written

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<sup>13</sup> Section 513.112, F.S.

<sup>14</sup> Section 513.115, F.S.; *see also* s. 513.151, F.S.

<sup>15</sup> Section 513.117, F.S.

<sup>16</sup> Section 513.118, F.S.

<sup>17</sup> Section 513.13, F.S.

<sup>18</sup> *Id.* at (2)

demand for the amount owed. The operator must reconnect the utilities of the recreational vehicle if the guest agrees to satisfy the debt.<sup>19</sup>

If any person is illegally on the premises of a park or camp, the operator may call a law enforcement officer for assistance. A law enforcement officer, upon the request of an operator, must arrest and take into custody any guest who violates park rules, conduct requirements, or general law in the presence of the officer. A law enforcement officer may also serve an arrest warrant on any guest or person and take the person into custody. Upon arrest, with or without a warrant, the guest is deemed to have given up any right to occupancy of the park or camp premises. However, the operator of the park must refund the guest any unused payments and use all reasonable and proper means to care for personal property left on the premises by the guest.<sup>20</sup>

In addition to the grounds for eviction established by law, the operator may establish grounds for eviction in any written lease agreement with a guest.<sup>21</sup>

### ***Other Rights, Requirements, and Remedies for Operators; Writ of Distress***

In addition to the rights and remedies described above, ch. 513, F.S., includes other procedures park and camp operators must follow when recovering a rental premise and removing or obtaining ownership of guest property to satisfy an outstanding debt. These procedures require park and camp operators to follow a civil procedure in court. Procedures include, but are not limited to:

- Sealing a recreational vehicle in the presence of at least one other person who is not an agent of the operator;
- Preparing an itemized inventory of any property belonging to the guest in the presence of a person who is not an agent;
- Petitioning a court for a writ of distress predicated on a lien created under s. 713.77, F.S., addressing property claims by third persons; and
- Storing property until a settlement or a final court judgment is obtained on the guest's outstanding account.<sup>22</sup>

### **Public Swimming and Bathing Facilities**

Chapter 514, F.S., governs public swimming and bathing facilities. The DOH and county health departments are jointly responsible for administering the permitting, safety, and sanitation regulations for public swimming pools set forth in this chapter.<sup>23</sup>

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<sup>19</sup> *Id.* at (3)

<sup>20</sup> *Id.* at (4)

<sup>21</sup> *Id.* at (5)

<sup>22</sup> Section 513.151, F.S.

<sup>23</sup> Section 514.011, F.S., defines “public swimming pool” or “pool” as a watertight structure of concrete, masonry, or other approved materials which is located either indoors or outdoors, used for bathing or swimming by humans, and filled with a filtered and disinfected water supply, together with buildings, appurtenances, and equipment used in connection therewith. A public swimming pool or public pool shall mean a conventional pool, spa-type pool, wading pool, special purpose pool, or water recreation attraction, to which admission may be gained with or without payment of a fee and includes, but is not limited to, pools operated by or serving camps, churches, cities, counties, day care centers, group home facilities for eight or more clients, health spas, institutions, parks, state agencies, schools, subdivisions, or the cooperative living-type projects of five or more living units, such as apartments, boardinghouses, hotels, mobile home parks, motels, recreational vehicle parks, and townhouses.

Anyone wishing to construct, develop, or modify a public swimming pool in Florida must submit an application for an operating permit before filing an application for a building permit under s. 553.79, F.S. Applications must include:<sup>24</sup>

- A description of the structure, its appurtenances, and its operation;
- A description of the source or sources of water supply, and the amount and quality of water available and intended to be used;
- The method and manner of water purification, treatment, disinfection, and heating;
- The safety equipment and standards to be used; and
- A copy of the final inspection from the local enforcement agency, as defined in s. 553.71, F.S.

The DOH is authorized to establish a schedule of fees for plan approval and permitting.<sup>25</sup> Operating permits must be renewed annually and may be transferred from one name or owner to another.<sup>26</sup>

Public swimming pools must be equipped with an anti-entrapment system or device pursuant to s. 514.0315, F.S.

The DOH is authorized to deny an application for a permit, suspend or revoke a permit, or impose an administrative fine upon the failure to comply with the provisions of ch. 514, F.S. The DOH may, at any reasonable time, enter any and all parts of a public swimming pool to examine and investigate the pool's sanitary and safety conditions.<sup>27</sup> Any public swimming pool that presents a significant risk to public health by failing to meet sanitation and safety standards is declared a public nuisance. Such nuisances may be abated in an action brought by the DOH or a county health department.<sup>28</sup>

If a county health department is staffed with qualified engineering personnel, the DOH is required to assign that county health department the functions of: (1) reviewing applications and plans for the construction, development, or modification of public swimming pools, (2) conducting inspections, and (3) issuing all permits. County health departments are also responsible for the routine surveillance of water quality in all public swimming pools.<sup>29</sup>

Exemptions that currently exist include those specific to: private pools and water therapy facilities connected with facilities such as hospitals, medical doctors' offices, and licensed physical therapy establishments; pools serving condominium or cooperative associations of more than 32 units and which are not rented for less than 60 days; a private pool used for private swimming lessons; any pool serving a residential child care agency registered and exempt under s. 409.176, F.S.; a portable pool used for swimming lessons; and a temporary pool. Further, the

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<sup>24</sup> Sections 514.03 and 514.031, F.S.

<sup>25</sup> Section 514.033, F.S.

<sup>26</sup> Section 514.031(2) and (3), F.S.

<sup>27</sup> Section 514.04, F.S.

<sup>28</sup> Section 514.06, F.S.

<sup>29</sup> Section 514.025, F.S.

DOH may grant variances from its own rules under certain circumstances and grant variance under the Florida Building Code under certain circumstances.<sup>30</sup>

As a supplement to the statutory provisions, the DOH has adopted rules specific to its public swimming and bathing places responsibilities. The rules address: general provisions; exemptions; operational requirements; supervision and safety; bathing places; fees; variances; enforcement; and technician certification.<sup>31</sup>

### III. Effect of Proposed Changes:

#### Recreational Vehicle Parks

**Sections 1 and 3** amend ss. 513.012 and 513.051, F.S., respectively, to clarify that the DOH is the exclusive regulatory and permitting authority for sanitary standards and operational matters in all mobile home parks, lodging parks, recreational vehicle parks, and recreational camps. Section 1 of the bill also expands the scope of the DOH's regulatory permitting and operational matters to specifically protect the health and well-being of Florida residents and visitors.

**Section 2** amends s. 513.02, F.S., to provide park and camp purchasers 60 days to apply for an operational permit from the DOH after the ownership interest in a park is transferred. (Under current law, a park operator must apply to the DOH *before* the date of transfer.)

**Section 4** amends s. 513.112, F.S., to provide a rebuttable presumption that a guest who occupies an RV in a park for less than six months, as evidenced by the length of stay shown in the guest registry, is a transient occupant. This change supports the right of operators to eject transient guests and helps avoid property interest considerations in landlord-tenant law.<sup>32</sup>

**Section 5** amends s. 513.1115, F.S., to allow RV parks to use the same density standards originally permitted by the DOH and local government when rebuilding a site after it was damaged or destroyed by wind, water, or natural disasters. The bill also states that the initial density standards and setback distances permitted by the DOH and local government will supersede any subsequent local government law or regulation on lot size, lot density, lot separation, or setback distance.

**Section 6** amends s. 513.115, F.S., to categorize property left by a guest with an outstanding account with the operator as abandoned property. The disposition of this abandoned property will be governed by the requirements specified in the Landlord and Tenant Act under s. 715.10, F.S.

**Section 7** amends s. 513.118, F.S., to broaden the ability of park and camp operators to deny transient guests and visitors access to the park premises. The bill allows operators to remove guests and visitors for conduct that disturbs the quiet enjoyment of other guests, or conduct that constitutes a safety hazard. Guests and visitors who do not leave park premises commit the

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<sup>30</sup> See s. 514.0115, F.S.

<sup>31</sup> See Fla. Admin. Code R. 64E-9

<sup>32</sup> Compare s. 509.141, F.S. (public lodging--refusal of admission and ejection of undesirable guests; notice; procedure; penalties for refusal to leave), with s. 83.20, F.S. (rental housing--causes for removal of tenants), and s. 513.13, F.S. (recreational vehicle parks--eviction; grounds; proceedings).



offense of trespass as provided in s. 810.08, F.S.<sup>33</sup> The bill authorizes operators to rely on a law enforcement officer to supervise guest removal. The bill provides that a removed guest, accompanied by a law enforcement officer, may return to park premises to reclaim left personal property within 48 hours of removal.

**Section 8** amends s. 513.13, F.S., to add disturbing quiet enjoyment and a violation of posted park rules as causes for removal of park guests. The bill provides standardized language, mirroring s. 509.141, F.S.,<sup>34</sup> that park operators may use to request a guest to leave park premises. If a guest committed a removable offense according to a park operator and remains on park premises after receiving the notice, the bill requires a law enforcement officer to remove the guest from the premises. The bill allows removed guests to recollect personal property from the park within 48 hours. The bill changes eviction<sup>35</sup> terminology to ejection,<sup>36</sup> clarifying that an operator may remove a transient guest without the process of law. This ejection process will be similar to guest removal in hotels, motels, and lodging establishments.<sup>37</sup>

### **Swimming and Bathing Facilities**

**Section 9** creates a provision in s. 514, 0115, F.S., regarding exemptions from supervision or regulation of public swimming and bathing facilities by the DOH, to authorize a supervisory exemption for surf pools. Under the bill, a surf pool that is larger than 4 acres would be exempt from supervision under ch. 514, F.S., provided that it is permitted by a local government pursuant to a special use permit process. Through the special use permitting process, the local government asserts regulatory authority over the construction of the surf pool, and in consultation with the DOH, establishes the conditions for the surf pool's operation, water quality, and necessary lifesaving equipment. These provisions do not affect the DOH's ability to enter any and all premises of public swimming pools to examine sanitary and safety conditions, or its authority to seek an injunction to restrain the operation of a surf pool if it presents significant public health risks.

The bill defines the term "surf pool" to mean a pool designed to generate waves dedicated to the activity of surfing on a surfboard or analogous surfing device commonly used in the ocean and intended for sport, as opposed to general play intent for wave pools, other large-scale public swimming pools, or other public bathing places.

**Section 10** amends s. 553.77(7), F.S., to incorporate a conforming cross-reference revision.

**Section 11** provides that the bill takes effect on July 1, 2020.

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<sup>33</sup> Criminal trespass in a structure or conveyance is a misdemeanor of the second degree. *See* s. 810.08(2)(a), F.S.

<sup>34</sup> *Relating to* refusal of admission and ejection of undesirable guests in public lodging establishments.

<sup>35</sup> Eviction is defined as dispossession by process of law; the act of depriving a person of the possession of land or rental property he has held or leased. *See* Black's Law Dictionary 555 (6th ed. 1991).

<sup>36</sup> Ejection is defined as a turning out of possession. Ejectment is an action to restore possession of property to the person entitled to it. *See* Black Law Dictionary 516 (6th ed. 1991).

<sup>37</sup> *Supra* note 34.

**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:**

CS/CS/SB 772 prevents a local government from utilizing land use regulations to restrict the occupancy of a park beyond the provisions of an initial permit issued by the DOH and a local government.

Any entity seeking to construct and operate a surf pool may have an alternative means under the bill for pursuing such a project.

**C. Government Sector Impact:**

The bill may cause an indeterminate, negative fiscal impact on the local governments. The bill requires state and local law enforcement officers to be more involved in the removal of guests. This involvement may cause state and local law enforcement offices to incur additional costs.

The Department of Health has not yet analyzed potential fiscal impact of the bill's surf pool provisions.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 513.012, 513.02, 513.051, 513.112, 513.1115, 513.115, 513.118, 513.13, 514.0115, and 553.77.

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

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

**CS/CS by Health Policy on February 11, 2020:**

The Committee Substitute:

- Provides an additional means by which an RV park owner may dispose of abandoned property under specified circumstances, under s. 705.185, F.S.; and
- Adds provisions specific to surf pools:
  - Provides that certain surf pools are exempt from supervision established in ch. 514, F.S., if a local government has permitted the construction and operation of such a surf pool through a special use permit processes in conjunction with the DOH;
  - Defines “surf pool”; and
  - Provides a conforming cross-reference revision.

**CS by Community Affairs on January 27, 2020:**

The committee substitute references the appropriate law, s. 768.28, F.S., to govern when a law enforcement officer would be liable for tortious acts committed while removing persons or property from a recreational vehicle park.

**B. Amendments:**

None.

By the Committee on Community Affairs; and Senators Hutson,  
Perry, and Flores

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A bill to be entitled

An act relating to recreational vehicle parks;  
amending s. 513.012, F.S.; revising legislative  
intent; amending s. 513.02, F.S.; providing a  
timeframe for certain owners or transferees to apply  
for a permit; amending s. 513.051, F.S.; preempting to  
the Department of Health the regulatory authority for  
permitting standards; amending s. 513.112, F.S.;  
providing that evidence of a certain length of stay in  
a guest register creates a rebuttable presumption that  
a guest is transient; amending s. 513.1115, F.S.;  
providing standards for a damaged or destroyed  
recreational vehicle park to be rebuilt under certain  
circumstances; superseding certain local government  
regulation; amending s. 513.115, F.S.; specifying when  
certain property becomes abandoned; providing for  
disposition of the abandoned property; amending s.  
513.118, F.S.; authorizing a park operator to refuse  
certain individuals access to the premises and to  
eject transient guests or visitors based on specified  
conduct; providing that a person who refuses to leave  
the park premises commits the offense of trespass;  
providing immunity from liability for certain law  
enforcement officers; providing an exception;  
providing for removal of a guest's property; amending  
s. 513.13, F.S.; providing for a guest's ejection from  
a park and specifying grounds and requirements for  
ejection; providing for removal of the guest's  
property; providing an effective date.

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

Section 1. Section 513.012, Florida Statutes, is amended to read:

513.012 Public health laws; enforcement.—It is the intent of the Legislature that mobile home parks, lodging parks, recreational vehicle parks, and recreational camps be exclusively regulated under this chapter. As such, the department shall administer and enforce, with respect to such parks and camps, laws and rules relating to sanitation, control of communicable diseases, illnesses and hazards to health among humans and from animals to humans, and permitting and operational matters in order to protect the general health and well-being of the residents ~~people~~ of and visitors to the state. However, nothing in this chapter qualifies a mobile home park, a lodging park, a recreational vehicle park, or a recreational camp for a liquor license issued under s. 561.20(2)(a)1. Mobile home parks, lodging parks, recreational vehicle parks, and recreational camps regulated under this chapter are exempt from regulation under the provisions of chapter 509.

Section 2. Subsection (5) of section 513.02, Florida Statutes, is amended to read:

513.02 Permit.—

(5) When a park or camp regulated under this chapter is sold or its ownership transferred, the transferee must apply for a permit to the department within 60 days after ~~before~~ the date of transfer. The applicant must provide the department with a copy of the recorded deed or lease agreement before the

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59 department may issue a permit to the applicant.

60 Section 3. Section 513.051, Florida Statutes, is amended to  
61 read:

62 513.051 Preemption.—The department is the exclusive  
63 regulatory and permitting authority for sanitary and permitting  
64 standards for all mobile home parks, lodging parks, recreational  
65 vehicle parks, and recreational camps in accordance with the  
66 provisions of this chapter.

67 Section 4. Subsection (3) is added to section 513.112,  
68 Florida Statutes, to read:

69 513.112 Maintenance of guest register and copy of laws.—

70 (3) When a guest occupies a recreational vehicle in a  
71 recreational vehicle park for less than 6 months, as evidenced  
72 by the length of stay shown in the guest register, there is a  
73 rebuttable presumption that the occupancy is transient.

74 Section 5. Present subsection (3) of section 513.1115,  
75 Florida Statutes, is redesignated as subsection (4) and amended,  
76 and a new subsection (3) is added to that section, to read:

77 513.1115 Placement of recreational vehicles on lots in  
78 permitted parks.—

79 (3) If a recreational vehicle park is damaged or destroyed  
80 as a result of wind, water, or other natural disaster, the park  
81 may be rebuilt on the same site using the same density standards  
82 that were approved or permitted before the park was damaged or  
83 destroyed.

84 (4)~~(3)~~ This section does not limit the regulation of the  
85 uniform firesafety standards established under s. 633.206.  
86 However, this section shall supersede any other local government  
87 law or regulation regarding the lot size, lot density, or

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88 separation or setback distance of a recreational vehicle park  
89 which goes into effect after the initial permitting and  
90 construction of the park.

91 Section 6. Section 513.115, Florida Statutes, is amended to  
92 read:

93 513.115 Unclaimed property.—Any property having an  
94 identifiable owner which ~~is left in a recreational vehicle park~~  
95 ~~by a guest, other than property belonging to a guest who has~~  
96 ~~vacated the premises without notice to the operator and with an~~  
97 ~~outstanding account, which property~~ remains unclaimed after  
98 having been held by a the park for 90 days after written notice  
99 was provided to the guest or the owner of the property, becomes  
100 the property of the park. Any property that is left by a guest  
101 who has vacated the premises without notice to the operator and  
102 who has an outstanding account is considered abandoned property,  
103 and disposition thereof shall be governed by the Disposition of  
104 Personal Property Landlord and Tenant Act under s. 715.10.

105 Section 7. Section 513.118, Florida Statutes, is amended to  
106 read:

107 513.118 Conduct on premises; refusal of service.—

108 (1) The operator of a recreational vehicle park may refuse  
109 to provide accommodations, or service, or access to the premises  
110 to any transient guest or visitor ~~person~~ whose conduct on the  
111 premises of the park displays intoxication, profanity, lewdness,  
112 or brawling; who indulges in such language or conduct as to  
113 disturb the peace, quiet enjoyment, or comfort of other guests;  
114 who engages in illegal or disorderly conduct; or whose conduct  
115 constitutes a nuisance or safety hazard.

116 (2) The operator of a recreational vehicle park may request

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117 that a transient guest or visitor who violates subsection (1)  
118 leave the premises immediately. A person who refuses to leave  
119 the premises commits the offense of trespass as provided in s.  
120 810.08, and the operator may call a law enforcement officer to  
121 have the person and his or her property removed under the  
122 supervision of the officer. A law enforcement officer is not  
123 liable for any claim involving the removal of the person or  
124 property from the recreational vehicle park under this section,  
125 except as provided under s. 768.28. If conditions do not allow  
126 for immediate removal of the person's property, he or she may  
127 arrange a reasonable time, not to exceed 48 hours, with the  
128 operator to come remove the property, accompanied by a law  
129 enforcement officer.

130 (3) Such refusal of accommodations, ~~or~~ service, or access  
131 to the premises may ~~shall~~ not be based upon race, color,  
132 national origin, sex, physical disability, or creed.

133 Section 8. Section 513.13, Florida Statutes, is amended to  
134 read:

135 513.13 Recreational vehicle parks; ejection ~~eviction~~;  
136 grounds; proceedings.—

137 (1) The operator of any recreational vehicle park may  
138 remove or cause to be removed from such park, in the manner  
139 provided in this section, any transient guest of the park who,  
140 while on the premises of the park, illegally possesses or deals  
141 in a controlled substance as defined in chapter 893; who ~~or~~  
142 disturbs the peace, quiet enjoyment, and comfort of other  
143 persons; who causes harm to the physical park; who violates the  
144 posted park rules and regulations; or who fails to make payment  
145 of rent at the rental rate agreed upon and by the time agreed



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146 upon. The admission of a person to, or the removal of a person  
147 from, any recreational vehicle park may ~~shall~~ not be based upon  
148 race, color, national origin, sex, physical disability, or  
149 creed.

150 (2) The operator of any recreational vehicle park shall  
151 notify such guest that the park no longer desires to entertain  
152 the guest and shall request that such guest immediately depart  
153 from the park. Such notice shall be given in writing, as  
154 follows: "You are hereby notified that this recreational vehicle  
155 park no longer desires to entertain you as its guest, and you  
156 are requested to leave at once. To remain after receipt of this  
157 notice is a misdemeanor under the laws of this state." If such  
158 guest has paid in advance, the park shall, at the time such  
159 notice is given, tender to the guest the unused portion of the  
160 advance payment. Any guest who remains or attempts to remain in  
161 such park after being requested to leave commits ~~is guilty of~~ a  
162 misdemeanor of the second degree, punishable as provided in s.  
163 775.082 or s. 775.083.

164 (3) If a guest has accumulated an outstanding account in  
165 excess of an amount equivalent to 3 ~~three~~ nights' rent at a  
166 recreational vehicle park, the operator may disconnect all  
167 utilities of the recreational vehicle and notify the guest that  
168 the action is for the purpose of requiring the guest to confront  
169 the operator or permittee and arrange for the payment of the  
170 guest's account. Such arrangement must be in writing, and a copy  
171 shall be furnished to the guest. Upon entering into such  
172 agreement, the operator shall reconnect the utilities of the  
173 recreational vehicle.

174 (4) If any person is illegally on the premises of any

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175 recreational vehicle park, the operator of such park may call  
176 upon any law enforcement officer of this state for assistance.  
177 It is the duty of such law enforcement officer, upon the request  
178 of such operator, to remove from the premises or place under  
179 arrest ~~and take into custody for violation of this section~~ any  
180 guest who, according to the park operator, violated ~~violates~~  
181 subsection (1) or subsection (2) ~~in the presence of the officer~~.  
182 If a warrant has been issued by the proper judicial officer for  
183 the arrest of any guest who violates ~~violation of~~ subsection (1)  
184 or subsection (2), the officer shall serve the warrant, arrest  
185 the guest ~~person~~, and take the guest ~~person~~ into custody. Upon  
186 removal or arrest, with or without warrant, the guest is deemed  
187 to have abandoned or given up any right to occupancy ~~or to have~~  
188 ~~abandoned the guest's right to occupancy~~ of the premises of the  
189 recreational vehicle park; and the operator of the park shall  
190 employ all reasonable and proper means to care for any personal  
191 property left on the premises by such guest and shall refund any  
192 unused portion of moneys paid by such guest for the occupancy of  
193 such premises. If conditions do not allow for immediate removal  
194 of the guest's property, he or she may arrange a reasonable  
195 time, not to exceed 48 hours, with the operator to come remove  
196 the property, accompanied by a law enforcement officer.

197 (5) In addition to the grounds for ejection ~~eviction~~  
198 established by law, grounds for ejection ~~eviction~~ may be  
199 established in a written lease agreement between a recreational  
200 vehicle park operator or permittee and a recreational vehicle  
201 park occupant.

202 Section 9. 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 29, 2020

---

I respectfully request that **Senate Bill #772**, relating to Recreational Vehicle Parks, be placed on the:

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

A handwritten signature in black ink, reading "Travis J. Hutson". The signature is written in a cursive style with a large, sweeping "T" and "H".

---

Senator Travis Hutson  
Florida Senate, District 7

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

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

2/11/20

Meeting Date

772

Bill Number (if applicable)

Topic RV Parks

Amendment Barcode (if applicable)

Name Marc Dunbar

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

Address 215 S Monroe St. Ste. 815

Phone 999-4100

Street

Tallahassee

FL

32301

City

State

Zip

Email mdunbar@deanmead.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL Association of RV Parks + Campgrounds

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: CS/CS/SB 1668

INTRODUCER: Health Policy Committee; Judiciary Committee; and Senator Simmons

SUBJECT: Damages

DATE: February 12, 2020

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Elsesser</u>	<u>Cibula</u>	<u>JU</u>	<b>Fav/CS</b>
2.	<u>Kibbey</u>	<u>Brown</u>	<u>HP</u>	<b>Fav/CS</b>
3.	_____	_____	<u>BI</u>	_____
4.	_____	_____	<u>RC</u>	_____

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 1668 requires evidence of medical expenses in personal injury claims to be based on the usual and customary charges in the community where the expenses are incurred. Under the bill, these usual and customary charges may not include increased or additional charges based on the outcome of litigation. The bill establishes that the charges from an independent, nonprofit, statistically reliable benchmarking database that has been in existence for the last 5 years and that qualifies for nonprofit status under s. 501(c)(3) of the U.S. Internal Revenue Code are admissible as evidence of the usual and customary medical charges in the consideration of past and present medical expenses.

Evidence of the reasonableness of future medical expenses may be considered along with other relevant evidence.

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

## II. Present Situation:

“Florida law permits the recovery of ‘the reasonable value or expense of hospitalization and medical and nursing care and treatment necessarily or reasonably obtained by [a] (claimant) in the past or to be so obtained in the future.’”<sup>1</sup>

“‘In proving special [past] medical damages for personal injuries, proof should be offered: (1) that the medical services were rendered, (2) what the reasonable charges are therefor, (3) that the services for which they were rendered were necessary, and (4) that they were related to the trauma suffered in the accident.’”<sup>2</sup>

“Awards [of medical expenses] exceeding ... a definite and ascertainable amount [in evidence] are readily vacated and remanded.”<sup>3</sup> Jury awards for medical expenses can be reversed if they are “excessive and not supported by the undisputed evidence,”<sup>4</sup> or “contrary to the manifest weight of the evidence.”<sup>5</sup>

“[T]he plaintiff has the burden at trial to prove the reasonableness and necessity of medical expenses and ... Florida requires more than just evidence of the amount of the bill to establish that reasonableness.”<sup>6</sup> “[E]xpert medical testimony is not required in order to admit medical bills into evidence.”<sup>7</sup> “When a plaintiff testifies as to the amount of his or her medical bills and introduces them into evidence, it becomes ‘a question for the jury to decide, under proper instructions, whether these bills represented reasonable and necessary medical expenses.’”<sup>8</sup>

Florida law restricts recovery of future medical expenses to those expenses “reasonably certain” to be incurred.<sup>9</sup> Therefore, “it follows that a recovery of future medical expenses cannot be grounded on the mere ‘possibility’ that certain treatment ‘might’ be obtained in the future.”<sup>10</sup> Further, there must also be an evidentiary basis upon which the jury can, with reasonable certainty, determine the amount of those expenses.<sup>11</sup> It is a plaintiff’s burden to establish, through competent, substantial evidence, that future medical expenses will more probably than not be incurred.<sup>12</sup>

<sup>1</sup> *Auto Club Ins. Co. of Florida v. Babin*, 204 So. 3d 561, 562 (Fla. 5th DCA 2016) (quoting *Volusia Cty. v. Joynt*, 179 So.3d 448, 452 (Fla. 5th DCA 2015) (internal alterations removed)).

<sup>2</sup> *Crowe v. Overland Hauling, Inc.*, 245 So. 2d 654, 656 (Fla. 4th DCA 1971) (quoting *Ratay v. Yu Chen Liu*, 260 A.2d 484, 486 (Pa. Superior 1969)).

<sup>3</sup> *Aircraft Service Intern., Inc. v. Jackson*, 768 So. 2d 1094, 1096 (Fla. 3d DCA 1995).

<sup>4</sup> *Burger King Corp. v. Lastre-Torres*, 202 So. 3d 872, 873 (Fla. 3d DCA 2016).

<sup>5</sup> *Ludwig v. Ladner*, 637 So. 2d 308, 310 (Fla. 2d DCA 1994).

<sup>6</sup> *East West Karate Ass’n, Inc. v. Riquelme*, 638 So. 2d 604, 605 (Fla. 4th DCA 1994).

<sup>7</sup> *Albertson’s, Inc. v. Brady*, 475 So. 2d 986, 988 (Fla. 2d DCA 1985) (citing *Garrett v. Morris Kirschman & Co.*, 336 So. 2d 566 (Fla.1976)).

<sup>8</sup> *Irwin v. Blake*, 589 So. 2d 973 (Fla. 4th DCA 1992) (quoting *Garrett v. Morris Kirschman & Co., Inc.*, 336 So. 2d 566 (Fla.1976)).

<sup>9</sup> *Loftin v. Wilson*, 67 So. 2d 185, 188 (Fla.1953).

<sup>10</sup> *White v. Westlund*, 624 So.2d 1148, 1150 (Fla. 4th DCA 1993) (citing 2 *Damages in Tort Actions* § 9.55(1), at 9–45 (1986)).

<sup>11</sup> *Joynt*, 179 So.3d at 452.

<sup>12</sup> See *Fasani v. Kowalski*, 43 So. 3d 805, 812 (Fla. 3d DCA 2010).

## The Collateral Source Rule

Trial courts must reduce jury awards for medical damages “by the total of all amounts which have been paid for the benefit of the claimant, or which are otherwise available to the claimant, from all collateral sources....”<sup>13</sup> That is, if a claimant’s medical expenses were covered by insurance, an award for medical damages must be reduced by the amount paid by the insurer. “This statutory modification was intended to reduce insurance costs and prevent plaintiffs from receiving windfalls.”<sup>14</sup> While awards must be set off by the amount the claimant received from insurance, “[a]s an evidentiary rule, payments from collateral source benefits are not admissible because such evidence may confuse the jury with respect to both liability and damages.”<sup>15</sup> Section 768.76, F.S., “does not allow reductions for *future* medical expenses.”<sup>16</sup> Benefits received under Medicare or other federal programs providing for a Federal Government lien on or right of reimbursement from a plaintiff’s recovery are not considered collateral sources.<sup>17</sup>

“[C]ontractual discounts fit within the statutory definition of collateral sources.”<sup>18</sup> Thus, in cases in which a medical provider bills for services at one amount but negotiates with an insurer for the payment of a decreased amount, the negotiated decreased amount is the amount used for setoff.<sup>19</sup> In *Goble*, the hospital billed the claimant \$574,554.31 for medical treatment, but due to preexisting fees schedules in contracts between the medical providers and Aetna U.S., the claimant’s insurer, Aetna paid and the medical providers accepted \$145,970.76 for the services rendered.<sup>20</sup> The differences in the amount billed and the amounts accepted in *Goble*, also demonstrate that medical bills are not always related to the amount a healthcare provider typically expects to receive in payment or accepts for payment in full for medical care.<sup>21</sup>

## Letters of Protection

A letter of protection is a document sent by an attorney on a client’s behalf to a health-care provider when the client needs medical treatment but does not have insurance. Generally, such a letter states that the client is involved in a court case and seeks an agreement from the medical provider to treat the client in exchange for deferred payment of the provider’s bill from the proceeds of a settlement or award. Typically if the client does not obtain a favorable recovery, the client is still liable to pay the providers’ bills.<sup>22</sup>

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<sup>13</sup> Section 768.76(1), F.S.

<sup>14</sup> *Joerg v. State Farm Mut. Auto Ins. Co.*, 176 So. 3d 1247, 1249 (Fla. 2015).

<sup>15</sup> *Id.* (citing *Sheffield v. Superior Ins. Co.*, 800 So.2d 197, 203 (Fla.2001)).

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

<sup>17</sup> Section 768.76(2)(b), F.S.

<sup>18</sup> *Goble v. Frohman*, 901 So. 2d 830, 833 (Fla. 2005).

<sup>19</sup> *Id.*

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

<sup>21</sup> For more discussion on how billing practices may differ significantly from the reasonable value of medical services, see George A. Nation III, *Determining the Fair and Reasonable Value of Medical Services: The Affordable Care Act, Government Insurers, Private Insurers and Uninsured Patients*, 65 BAYLOR L. REV. 425 (Spring 2013).

<sup>22</sup> Caroline C. Pace, *Tort Recovery for Medicare Beneficiaries: Procedures, Pitfalls and Potential Values*, 49 Hous. Law. 24, 27 (2012).

Section 768.76(2)(a), F.S., defines collateral sources as “payments made to the claimant,” and therefore under letters of protection, which defer payment until after a judgment, the amount negotiated in a letter of protection is not a “collateral source.”

“[T]he question of whether a plaintiff’s attorney referred him or her to a doctor for treatment is protected by the attorney-client privilege,” and thus evidence of letters of protection are inadmissible to prove bias.<sup>23</sup> “Even in cases where a plaintiff’s medical bills appear to be inflated for the purposes of litigation,” the Supreme Court stated that “we do not believe that engaging in costly and time-consuming discovery to uncover a ‘cozy agreement’ between the law firm and a treating physician is the appropriate response.”<sup>24</sup>

### **PIP and the Florida Motor Vehicle No-fault Law**

The Florida Statutes limit, in certain circumstances, what amounts may be considered “reasonable medical expenses.” Section 627.736(1)(a), F.S., “requires automobile insurers to provide PIP [“Personal-Injury Protection”] coverage for eighty percent of all ‘reasonable expenses’ for medically necessary services ....”<sup>25</sup> The Florida Motor Vehicle No-Fault Law provides two ways of determining whether expenses are “reasonable” for purposes of insurer reimbursements. The first is a fact-dependent methodology that takes into account the service provider’s usual and customary charges, community-specific reimbursement levels, and other relevant information.<sup>26</sup> This is the default methodology for calculating PIP reimbursements, which also apparently results in higher reimbursements than the second methodology.<sup>27</sup> The second methodology, introduced by the Legislature in 2008, allows reimbursements for medical services to be limited via the use of fee schedules identified in s. 627.736(5)(a)2., F.S.<sup>28</sup>

### **Health Maintenance Organizations**

“Usual and customary” charges also factor into reimbursements to hospitals by health maintenance organizations (HMOs).

Reimbursement to hospitals providing emergency medical services to patients who subscribe to an HMO that does not have a contract with the hospital is determined according to s. 641.513(5), F.S., which provides that reimbursement for emergency services and care provided by a provider that does not have a contract with the health maintenance organization must be the lesser of:

- The provider’s charges;
- The usual and customary provider charges for similar services in the community where the services were provided; or
- The charge mutually agreed to by the health maintenance organization and the provider within 60 days of the submittal of the claim.

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<sup>23</sup> *Worley v. Central Florida Young Men’s Christian Ass’n, Inc.*, 228 So. 3d 18, 25 (Fla. 2017).

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

<sup>25</sup> *Allstate Fire and Cas. Ins. v. Stand-Up MRI of Tallahassee, P.A.*, 188 So. 3d 1, 1 (Fla. 1st DCA 2015).

<sup>26</sup> See s. 627.736(5)(a)1., F.S.

<sup>27</sup> *Stand-UP MRI*, 188 So 3d at 2.

<sup>28</sup> See *Geico Gen Ins. Co. v. Virtual Imaging Servs. Inc.*, 141 So. 3d 147,156 (Fla. 2013).



In the context of this section of statute, it is clear that paragraph (b) refers to the fair market value of the services provided. Fair market value is the price that a willing buyer will pay and a willing seller will accept in an arm's-length transaction.<sup>29</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 768.042, F.S., to require in any claim for damages of personal injury to a claimant, that evidence of past, present, or future medical expenses be based on the usual and customary charges in the community where medical expenses are incurred or are reasonably probable to be incurred.

This alters the current methodology for proving damages, which involves presenting medical bills as evidence of past expenses and testimony of reasonably certain needed procedures as evidence of future expenses. Notably, under this bill, the amount of an award of past medical damages would be determined with no consideration of evidence of the billed costs of any medical services actually rendered for a claimant.

The methodology proposed in the bill is consistent with the current methodology for calculating PIP reimbursements. Section 627.736(5)(a)1, F.S., relating to PIP reimbursements, also requires a determination of costs based on usual and customary charges in a community. As the methodology in the bill is still a “fact-dependent methodology”<sup>30</sup> it requires evidence of a service provider’s typical charges and the amounts charged to others in the community. Moreover, because the bill contains similar language to the method described in s. 627.736(5)(a)1, F.S., courts will likely interpret the bill as requiring the same type of evidence. Similarly, courts would presumably also construe the “usual and customary” community standard to mean the fair market value that a willing buyer would likely pay in an arm’s-length transaction.<sup>31</sup>

The bill establishes that the charges from an independent, nonprofit, statistically reliable benchmarking database that has been in existence for the last 5 years and that qualifies for nonprofit status under s. 501(c)(3) of the U.S. Internal Revenue Code are admissible as evidence of the usual and customary medical charges in the consideration of past and present medical expenses.

The bill prohibits evidence of usual and customary charges from including evidence of increased or additional charges based on the outcome of litigation. This prevents the evidence of “inflated” costs from being used in hopes of securing a jury award that is larger than the amount insurers typically pay and larger than the amount healthcare providers typically accept. By requiring evidence of medical costs to be based on usual and customary charges in the community claimants should not be able to present evidence of “inflated” costs through the use of letters of protection.

The bill provides that evidence of the reasonableness of future medical expenses may be considered along with other relevant evidence.

---

<sup>29</sup> *Baker Cty. Med. Servs., Inc. v. Aetna Health Mgmt, LLC*, 31 So. 3d 842, 844 (Fla. 1st DCA 2010).

<sup>30</sup> *Stand-UP MRI*, 188 So. 3d at 2.

<sup>31</sup> *Baker*, 31 So. 3d at 844.

**Section 2** 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:

CS/CS/SB 1668 requires evidence of medical expenses in personal injury claims to be based on the usual and customary charges in the community. This requirement may make awards of damages for medical costs more predictable, resulting in an interminable effect on the private sector.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

Regarding the bill's provision relating to a statistically reliable benchmarking database, the bill does not specify that the charges are to be held, cataloged, or stored in a database that is maintained by a nonprofit organization. Rather the bill suggests that the database must be nonprofit and independent in nature and must qualify for nonprofit status under s. 501(c)(3) of the U.S. Internal Revenue Code. If the intent is for charges to be held, cataloged, or stored in a

database that is maintained by a nonprofit organization that meets the bill's criteria, the bill's language in this regard should be rewritten to provide clarity.

Further, under the bill, the database must have been in existence for "the last 5 years," but the bill does not specify if the database must have been in existence for the last five years from the time that evidence is introduced, from the time that damages are alleged to have occurred, or from the date that the bill takes effect as law. The bill's intent for this provision is unclear.

## **VII. Related Issues:**

None.

## **VIII. Statutes Affected:**

This bill substantially amends section 768.042 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/CS by Health Policy on February 11, 2020:**

The committee substitute:

- Establishes that the charges from an independent, nonprofit, statistically reliable benchmarking database that has been in existence for the last 5 years and that qualifies for nonprofit status under s. 501(c)(3) of the U.S. Internal Revenue Code are admissible as evidence of the usual and customary medical charges in the consideration of past and present medical expenses.
- Removes a provision from the underlying bill that allowed evidence of the availability of private or public health insurance to be used to prove damages for future medical expenses.
- Removes a provision from the underlying bill that established that amounts paid to or made payable to claimants under private or public health insurance coverage are presumed to be the usual and customary charges, unless a claimant shows that the amounts were inadequate.
- Provides that evidence of the reasonableness of future medical expenses may be considered along with other relevant evidence.

#### **CS by Judiciary on January 28, 2020:**

The committee substitute differs from the underlying bill by:

- Establishing that parties to a personal injury lawsuit may introduce evidence of the availability of public or private health insurance, with respect to damages for future medical expenses.
- Rebutting the presumption that the amounts paid or payable under the insurance or governmental health coverage are the usual and customary medical charges if the claimant shows that such amounts are inadequate under the circumstances.

B. Amendments:

None.

---

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

---

By the Committee on Judiciary; and Senator Simmons

590-02768-20

20201668c1

A bill to be entitled  
An act relating to damages; amending s. 768.042, F.S.;  
requiring that certain medical expenses in personal  
injury claims be based on certain usual and customary  
charges; specifying what constitutes a usual and  
customary charge; deleting an obsolete provision;  
providing an effective date.

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

Section 1. Section 768.042, Florida Statutes, is amended to  
read:

768.042 Damages.—

(1) In any action brought in the circuit court to recover  
damages for personal injury or wrongful death, the amount of  
general damages shall not be stated in the complaint, but the  
amount of special damages, if any, may be specifically pleaded  
and the requisite jurisdictional amount established for filing  
in any court of competent jurisdiction.

(2) In any claim for damages relating to personal injury to  
a claimant, evidence regarding the past, present, or future  
medical expenses must be based on the usual and customary  
charges in the community where the medical expenses are, or are  
reasonably probable to be, incurred. With respect to past and  
present medical expenses, if the claimant is entitled to be  
reimbursed through any public or private health insurance or  
governmental health coverage, the amounts paid or payable under  
the insurance or governmental health coverage shall be presumed  
to be the usual and customary medical charges, unless the

590-02768-20

20201668c1

30 claimant shows that such amounts are inadequate under the  
31 circumstances. With respect to damages for future medical  
32 expenses, evidence of the availability of private or public  
33 health insurance coverage may be considered along with other  
34 relevant evidence. Usual and customary charges may not include  
35 increased or additional charges based on the outcome of the  
36 litigation ~~The provisions of this section shall not apply to any~~  
37 ~~complaint filed prior to May 20, 1975.~~

38       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:** January 29, 2020

---

I respectfully request that **Senate Bill 1668**, relating to Damages, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Thank you for your consideration.

A handwritten signature in black ink, appearing to read "David Simmons", is written over a horizontal line.

Senator David Simmons  
Florida Senate, District 9

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

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

2/11/20

Meeting Date

SB 1668

Bill Number (if applicable)

601052

Amendment Barcode (if applicable)

Topic \_\_\_\_\_

Name Jeff Scott

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

Address 1430 Piedmont Dr. E.

Street

Tallahassee

City

FL

State

32308

Zip

Phone 850 224-6496

Email jscott@flmedical.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Medical Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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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)

2/11/20

*Meeting Date*

1668

*Bill Number (if applicable)*

Topic Damages

*Amendment Barcode (if applicable)*

Name Brewster Bevis

Job Title Senior Vice President

Address 516 N Adams St

*Street*

Tallahassee

*City*

FL

*State*

32301

*Zip*

Phone 224-7173

Email bbevis@aif.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Associated Industries of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/1)

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

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

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

CS/SB 1668

Bill Number (if applicable)

601052

Amendment Barcode (if applicable)

Topic Senate Amendment

Name Thomas Sweeney MD PhD

Job Title Orthopedic Spine Surgeon

Address 5522 Cattleman LAN

Street

Sarasota

City

FL

State

34232

Zip

Phone (941) 957-8180

Email \_\_\_\_\_

Speaking: ☐ For ☒ Against ☐ Information

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

Representing \_\_\_\_\_

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

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

2/11  
Meeting Date

1668  
Bill Number (if applicable)

Topic Damages

601052  
Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior Vice President

Address 516 W Adam  
Street

Phone 274-7177

TLH FL 32301  
City State Zip

Email bevis@tlh.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Associated Industries of Florida

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)

02.11.20

*Meeting Date*

1668

*Bill Number (if applicable)*

601052

*Amendment Barcode (if applicable)*

Topic Damages

Name William Large

Job Title President

Address 210 South Monroe Street

*Street*

Tallahassee

*City*

FL

*State*

32301

*Zip*

Phone 850.222.0170

Email William@fljustice.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Justice Reform Institute

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)

02.11.20

*Meeting Date*

1668

*Bill Number (if applicable)*

Topic Damages

*Amendment Barcode (if applicable)*

Name William Large

Job Title President

Address 210 South Monroe Street

Phone 850.222.0170

*Street*

Tallahassee

FL

32301

Email William@fljustice.org

*City*

*State*

*Zip*

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Justice Reform Institute

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)

2/1/20

Meeting Date

SB 1668

Bill Number (if applicable)

Topic

Damages

Amendment Barcode (if applicable)

Name

Beth Vecchioli

Job Title

Sr. Director Govt Consulting

Address

215 S. Monroe St Ste 500

Phone 850-425-3393

Street

Tallahassee, FL 32301

Email bvecchioli@carthagefields.com

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing

National Association of Mutual Insurance Companies

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)

2-11-20  
Meeting Date

1668  
Bill Number (if applicable)

Topic Accuracy in Damages

Amendment Barcode (if applicable)

Name Gary Guzzo

Job Title Lobbyist

Address 108 S. Monroe St

Phone 850-681-0024

Street

Tall  
City

Fla  
State

32301  
Zip

Email gguzzo@flapartus.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Institute for Legal Reform

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)

2/11/20

Meeting Date

14608

Bill Number (if applicable)

Topic Damages

Amendment Barcode (if applicable)

Name Carolyn Johnson

Job Title Policy Director

Address 130 S Bronough St

Street

Tallahassee

City

State

Zip

Phone 521-1200

Email cjohnson@flchamber.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FL Chamber of Commerce

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)



THE FLORIDA SENATE

APPEARANCE RECORD

2/11/2020  
Meeting Date

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

SB 1668  
Bill Number (if applicable)

Topic Damages

Amendment Barcode (if applicable)

Name ALIX MILLER

Job Title VICE PRESIDENT

Address 350 E College Ave  
Street  
Dallahassce FL 32301  
City State Zip

Phone 850-222-9900

Email alix@fldrucking.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLORIDA TRUCKING ASSOCIATION

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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2/11/20  
Meeting Date

1668  
Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Tim Nungesser

Job Title Legislative Director

Address 110 E. Jefferson St

Phone 445-5367

Street

Tallahassee

FL

32301

City

State

Zip

Email tim.nungesser@nfb.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing

NFIB

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

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2/11/20

Meeting Date

1668

Bill Number (if applicable)

Topic Senate bill 1668

Amendment Barcode (if applicable)

Name THOMAS Sweeney MD PhD

Job Title Orthopedic Spine Surgeon

Address 5922 Ca Hellen Lane

Street

Phone (941) 957-8186

Sarasota FL

City

State

34232

Zip

Email thomas.sweeney@hertmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing \_\_\_\_\_

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**

**2-11-2020**

Meeting Date

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

**1668**

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name

**Tiffany Faddis**

Job Title

**Attorney**

Address

**7335 W. Sandlake Road**

Street

**Orlando FL 32819**

City

State

Zip

Phone

**407-845-1756**

Email

Speaking:

☐

For

☒

Against

☐

Information

Waive Speaking:

☐

In Support

☐

Against

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

Representing

**Florida Justice Association**

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)

2/10/20

Meeting Date

1668

Bill Number (if applicable)

Topic DAMAGES

Amendment Barcode (if applicable)

Name Stephen Winn

Job Title Exec. Director

Address 2544 Blairside Pkwy DR.  
Street

Phone 850-251-0792

Tall Fla. 32301  
City State Zip

Email WINNSR@earthlink.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Fla. OSTEOPATHIC MEDICAL ASSOC.

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)

FEB 11, 2020

Meeting Date

SB 1668

Bill Number (if applicable)

Topic DAMAGES

Amendment Barcode (if applicable)

Name DR. SAMUEL D YOUNG

Job Title PHYSICIAN

Address 4235 SUNBELT RD

Phone 904-456-0017

Street

JACKSONVILLE

FL

32257

City

State

Zip

Email DRYOUNG@INTEGRITYSPINEORTHOD.COM

Speaking: ☐ For ☒ Against ☐ Information

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

Representing MYSELF

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**

2-11-20

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

1668

Meeting Date

Bill Number (if applicable)

Topic Damages

Amendment Barcode (if applicable)

Name Jack Farmer

Job Title Dir. Government Affairs

Address 227 S Adams  
Street

Phone 352 359 6835

Tallahassee FL 32301  
City State Zip

Email Jack@frf.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Retail Federation

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)

2-11-2020  
Meeting Date

CS/SB1568  
Bill Number (if applicable)

Topic Damages

Amendment Barcode (if applicable)

Name Joy Ryan

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

Address 3005. Duval St, Ste 410  
Street

Phone 425-4000

Tallahassee  
City State Zip

Email joy@meenalanlaw  
firm.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Insurance Council

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: CS/SB 46

INTRODUCER: Health Policy Committee; and Senators Farmer, Book, Berman, and others

SUBJECT: Eye Care for Newborns and Infants

DATE: February 11, 2020

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Brown	HP	Fav/CS
2.			BI	
3.			AP	

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

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 46 requires the Department of Health (DOH) to create an electronic pamphlet with information on the screening for, and treatment of, preventable infant and childhood eye and vision disorders. The pamphlet must be provided to new parents by hospitals providing birthing services, birth centers, and by the healthcare practitioner attending an out-of-hospital birth.

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

**II. Present Situation:**

**Infant and Childhood Eye Disorders and Screenings**

There are many eye conditions and diseases that can affect a child's vision. According to the American Academy of Ophthalmology (AAO), early diagnosis and treatment are critical to maintaining your child's eye health.<sup>1</sup> The AAO states that it is essential to check children's vision when they are first born and again during infancy, preschool and school years. Screening can be performed by a pediatrician, family physician or other properly trained health care provider. It is also often offered at schools, community health centers or community events.<sup>2</sup>

---

<sup>1</sup> See <https://www.aao.org/eye-health/tips-prevention/common-childhood-diseases-conditions> (last visited Feb. 7, 2020).

<sup>2</sup> See <https://www.aao.org/eye-health/tips-prevention/children-eye-screening> (last visited Feb. 7, 2020).

The AAO recommends that for each newborn an ophthalmologist, pediatrician, family doctor or other trained health professional should examine a newborn baby's eyes and perform a red reflex test (a basic indicator that the eyes are normal). An ophthalmologist should perform a comprehensive exam if the baby is premature or at high risk for medical problems for other reasons, has signs of abnormalities, or has a family history of serious vision disorders in childhood.<sup>3</sup>

### ***Amblyopia***

Amblyopia is when vision in one or both eyes does not develop properly during childhood. It is sometimes called lazy eye. Amblyopia is a common problem in babies and young children. A child's vision develops in the first few years of life. It is important to diagnose and treat amblyopia as early as possible. Otherwise, a child with amblyopia will not develop normal, healthy vision.<sup>4</sup>

### ***Retinoblastoma***

Retinoblastoma is a rare type of eye cancer that usually develops in early childhood, typically before the age of five. This form of cancer develops in the retina, which is the specialized light-sensitive tissue at the back of the eye that detects light and color.

In children with retinoblastoma, the disease often affects only one eye. However, one out of three children with retinoblastoma develops cancer in both eyes. The most common first sign of retinoblastoma is a visible whiteness in the pupil called "cat's eye reflex" or leukocoria. This unusual whiteness is particularly noticeable in dim light or in photographs taken with a flash or strobe. Other signs and symptoms of retinoblastoma include crossed eyes or eyes that do not point in the same direction (strabismus), which can cause squinting; a change in the color of the colored part of the eye (iris); redness, soreness, or swelling of the eyelids; and blindness or poor vision in the affected eye or eyes.

Retinoblastoma is often curable when it is diagnosed early. However, if it is not treated promptly, this cancer can spread beyond the eye to other parts of the body. This advanced form of retinoblastoma can be life-threatening.<sup>5</sup> The incidence of retinoblastoma in the United States in children ages 0-14 years is about one in every 250,000 nationwide,<sup>6</sup> or about 15 of the 3,791,712 births in the U.S. in 2018, as estimated by the National Center for Health Statistics.

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

CS/SB 46 amends s. 383.14, F.S., to require the DOH to create and make available electronically an informational pamphlet with information on the screening for, and treatment of, preventable infant and childhood eye and visions disorders including, but not limited to, retinoblastoma and amblyopia.

---

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

<sup>4</sup> See <https://www.aao.org/eye-health/diseases/amblyopia-lazy-eye> (last visited Feb. 7, 2020).

<sup>5</sup> See <https://ghr.nlm.nih.gov/condition/retinoblastoma> (last visited Feb. 7, 2020).

<sup>6</sup> See <https://cancerstatisticscenter.cancer.org/#!/data-analysis/module/t2sTupFC?type=barGraph> (last visited Feb. 7, 2020).

The bill amends ss. 383.318 and 395.1053, F.S., and creates s. 456.0496, F.S., to require that birth centers, hospitals providing birthing services, and health care practitioners attending out-of-hospital births, respectively, provide the informational pamphlet to each parent after a birth.

The bill 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:

None.

C. Government Sector Impact:

CS/SB 46 may have an indeterminate negative fiscal impact on the DOH to create the informational pamphlet required by the bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 383.14, 383.318, 395.1053.

This bill creates section 456.0496 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 February 11, 2020:**

The CS replaces the requirements in the underlying bill with the requirement that the DOH create an informational pamphlet with information on preventable infant and childhood eye and visions disorders. The bill requires the pamphlet to be provided to new parents by birth centers, hospitals providing birthing services, and by the healthcare practitioner attending an out-of-hospital birth.

- B. **Amendments:**

None.

By Senators Farmer, Book, and Berman

32-00052-20

202046\_\_

A bill to be entitled

An act relating to eye care for newborns and infants;  
amending s. 383.04, F.S.; requiring a certain eye  
examination for newborns; providing applicability;  
amending s. 383.07, F.S.; clarifying application of a  
criminal penalty; amending ss. 627.6416 and 641.31,  
F.S.; requiring that coverage for children under  
health insurance policies and health maintenance  
contracts include certain eye examinations for  
newborns and infants; providing an effective date.

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

Section 1. Section 383.04, Florida Statutes, is amended to  
read:

383.04 Prophylactic and eye examination required for eyes  
of newborns; exception ~~infants~~.—

(1) The ~~Every~~ physician, midwife, or other person in  
attendance at the birth of a child in this ~~the~~ state shall ~~is~~  
~~required to~~ instill or have instilled into the eyes of the  
newborn baby within 1 hour after birth an effective prophylactic  
recommended by the Committee on Infectious Diseases of the  
American Academy of Pediatrics for the prevention of neonatal  
ophthalmia.

(2) Before being discharged from the hospital, each child  
born in a hospital in this state must receive an eye  
examination, using a direct ophthalmoscope, in which the  
newborn's pupils are dilated to allow detection of pediatric  
congenital and ocular abnormalities and developmental

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202046\_\_

30 abnormalities.

31  
32 This section does not apply if a parent of the newborn files a  
33 written objection to the instillation of the prophylactic or a  
34 written objection to the eye examination with a signed informed  
35 consent explaining the risks associated with opting out of the  
36 eye examination ~~to cases where the parents file with the~~  
37 physician, midwife, or other person in attendance at the birth  
38 of a child ~~written objections on account of religious beliefs~~  
39 ~~contrary to the use of drugs.~~ If such an objection is filed, In  
40 ~~such case~~ the physician, midwife, or other person in attendance  
41 shall maintain a record that reflects that the instillation or  
42 eye examination was not performed ~~such measures were or were not~~  
43 ~~employed~~ and shall attach the ~~thereto any~~ written objection.

44 Section 2. Section 383.07, Florida Statutes, is amended to  
45 read:

46 383.07 Penalty for violation.—Any person who fails to  
47 comply with s. 383.04(1) or s. 383.06 commits ~~the provisions of~~  
48 ~~ss. 383.04-383.06 shall be guilty of~~ a misdemeanor of the second  
49 degree, punishable as provided in s. 775.083.

50 Section 3. Paragraph (a) of subsection (2) of section  
51 627.6416, Florida Statutes, is amended to read:

52 627.6416 Coverage for child health supervision services.—

53 (2) As used in this section, the term "child health  
54 supervision services" means physician-delivered or physician-  
55 supervised services that include, at a minimum, services  
56 delivered at the intervals and scope stated in this section.

57 (a) Child health supervision services must include:

58 1. Periodic visits ~~that which shall~~ include the taking of a

32-00052-20

202046\_\_

history, a physical examination, a developmental assessment and anticipatory guidance, and appropriate immunizations and laboratory tests; and

2. Eye examinations, using a direct ophthalmoscope, at birth or within 2 weeks, at 6 to 8 weeks of age, and at 6 to 9 months of age in which the child's pupils are dilated to allow for detection of pediatric congenital and ocular abnormalities and developmental abnormalities.

Such services must ~~and periodic visits shall~~ be provided in accordance with prevailing medical standards consistent with the Recommendations for Preventive Pediatric Health Care of the American Academy of Pediatrics.

Section 4. Paragraph (b) of subsection (30) of section 641.31, Florida Statutes, is amended to read:

641.31 Health maintenance contracts.—

(30)

(b) As used in this subsection, the term "child health supervision services" means physician-delivered or physician-supervised services that include, at a minimum, services delivered at the intervals and scope stated in this subsection.

1. Child health supervision services must include:

a. Periodic visits that ~~which shall~~ include the taking of a history, a physical examination, a developmental assessment and anticipatory guidance, and appropriate immunizations and laboratory tests; and

b. Eye examinations, using a direct ophthalmoscope, at birth or within 2 weeks, at 6 to 8 weeks of age, and at 6 to 9 months of age in which the child's pupils are dilated to allow

32-00052-20

202046\_\_

88 for detection of pediatric congenital and ocular abnormalities  
89 and developmental abnormalities.

90 2. Such services and periodic visits must ~~shall~~ be provided  
91 in accordance with prevailing medical standards consistent with  
92 the Recommendations for Preventive Pediatric Health Care of the  
93 American Academy of Pediatrics.

94 3.2. Minimum benefits may be limited to one visit payable  
95 to one provider for all of the services provided at each visit  
96 cited in this subsection.

97 Section 5. 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 15, 2020

---

I respectfully request that **Senate Bill # 46, relating to Eye Care for Newborns and Infants** be placed on the:

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

A handwritten signature in black ink, reading "Gary M. Farmer, Jr.", written over a horizontal line.

Senator Gary M. Farmer, Jr.  
Florida Senate, District 34

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

2/11/2020

Bill Number (if applicable)

SB 46

715644

Amendment Barcode (if applicable)

Topic NEONATAL DILATED EYE EXAMS

Name J.C. SINGH, M.D.

Job Title PEDIATRICIAN

Address 2623 CENTENNIAL BLVD, SUITE 103

Street

Phone 850-877-6119

THT

FL

32308

City

State

Zip

Email drsingh@tpcadocs.com

Speaking: ☒ For ☒ Against ☐ Information

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

Representing FLORIDA CHAPTER OF THE 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.

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)

46

Meeting Date

Bill Number (if applicable)

715644

Amendment Barcode (if applicable)

Topic Eye Care

Name Pam Bergsman

Job Title Joey's Groundman

Address 618 South K St  
Street

Phone

City

State

Zip

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing

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)

2/11/20

Meeting Date

SB46

Bill Number (if applicable)

Topic Joey's Bill

Amendment Barcode (if applicable)

Name Christine Hemphill

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

Address 720 Lucerne Ave #1396

Street

Lake Worth FL 33460

City

State

Zip

Phone 561-533-6814

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

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

Representing \_\_\_\_\_

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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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)

02-11-2020  
Meeting Date

SB 46  
Bill Number (if applicable)

Topic Joey's Bill

Amendment Barcode (if applicable)

Name Solome Hernandez

Job Title

Address 6070 Painted Leaf Lane  
Street  
Naples FL 34116  
City State Zip

Phone 239 821 0517

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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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)

2/11/20

Meeting Date

SB 46

Bill Number (if applicable)

Topic VOBY'S BILL

Amendment Barcode (if applicable)

Name DREW MARTIN

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

Address 720 LUCERNA AVE #1396  
Street

Phone 581-533-6814

LAKE WORTH FL. 33460  
City State Zip

Email DMandCH6@aol.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing \_\_\_\_\_

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**

Feb. 11, 2020

Meeting Date

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

46

Bill Number (if applicable)

Topic Newborn and Infant EYE Screening "Joey's Bill"

Amendment Barcode (if applicable)

Name Pam Bergsma

Job Title Joey's Grand ma

Address 619 South K St.

Street

Lake Worth Beach

City

FL

State

33460

Zip

Phone 561-586-2094

Email lovejoey@bellsouth.net

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against

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

Representing "Joey Bergsma Retinoblastoma Awareness Foundation"  
Joey and the children of the state of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

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

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

2/11/2020

Meeting Date

SB 0046

Bill Number (if applicable)

Topic EYE CARE FOR NEWBORNS

Amendment Barcode (if applicable)

Name MASSA RAFFENSPERGER

Job Title FL PTA LEGISLATION COM

Address 1747 ORLANDO CENTRAL PARKWAY

Street

ORLANDO

City

FL

State

32809

Zip

Phone 800.373.5782

Email legislation@floridapta.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLORIDA PTA

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)

2-11-2020

Meeting Date

46

Bill Number (if applicable)

Topic Newborn and Infant Eye Screening "Soegy's Bill"

Amendment Barcode (if applicable)

Name Kris Smithem

Job Title retired

Address 6398 Bombadil Drive

Street

Phone 850-408-7708

Tallahassee

City

Fl.

State

32303

Zip

Email nksmithem@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Soegy's message for the children of Florida

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)

2.11.20

Meeting Date

SB 46

Bill Number (if applicable)

Topic Eye Care Bill

Amendment Barcode (if applicable)

Name KEVA AmbRE

Job Title MOM

Address 3662 Biltmore Ave

Phone 407-739-0085

Street

Tallahassee

FL

32311

City

State

Zip

Email KEVAAMBREA@gmail.com

Speaking: ☐ For ☐ Against ☒ Information

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

Representing \_\_\_\_\_

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)

2/11/20  
Meeting Date

SB 46  
Bill Number (if applicable)

Topic Eye Care for Newborns

Amendment Barcode (if applicable)

Name Mary-Lynn Cullen

Job Title Legislative Liaison

Address 1674 University Pkwy

Phone 941-928-0278

Street

Sarasota

City

Fl.

State

34243

Zip

Email aichildren@aol.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Advocacy Institute for Children

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)

2-11-2020

Meeting Date

SB46

Bill Number (if applicable)

Topic SB46 Eyecare for Newborns + Infants

Amendment Barcode (if applicable)

Name Eliza Kolak

Job Title billing analyst

Address 8491 Nittany Dr. W  
Street

Phone 352-727-9119

Gainesville  
City

FL.  
State

32606  
Zip

Email \_\_\_\_\_

Speaking: ☐ For ☒ Against ☐ Information

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

Representing \_\_\_\_\_

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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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)

2-11-20

Meeting Date

SB46

Bill Number (if applicable)

Topic Eye care Bill

Amendment Barcode (if applicable)

Name Clayton Brooks

Job Title Carpenter + Business Owner

Address 3610 NW 29th Terr.

Street

Phone 3 407-432-6272

Gainesville

City

FL

State

32605

Zip

Email clayton.b.atkins@gmail

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Sut

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)

2-11-2020

Meeting Date

SB46

Bill Number (if applicable)

Topic Newborn's Infant EyeCare Opposition

Amendment Barcode (if applicable)

Name Kori Brooks

Job Title Independent Business Owner

Address 3610 NW 29th Terr.  
Street

Phone 605-415-1212

Gainesville, FL  
City State

32605  
Zip

Email Koribbrooks@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

*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**

2-11-20

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

SB46

*Meeting Date*

*Bill Number (if applicable)*

Topic SB46 Infant Eye Care Bill

*Amendment Barcode (if applicable)*

Name Sarah Jelgerhuis

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

Address 10905 NW 38th Avenue

Phone 8502947547

*Street*

Gainesville

FL

32606

Email sarah.jelgerhuis@gmail.com

*City*

*State*

*Zip*

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Myself

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/CS/SB 736

INTRODUCER: Health Policy Committee; Banking and Insurance Committee; and Senator Diaz

SUBJECT: Coverage for Air Ambulance Services

DATE: February 12, 2020

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Kibbey</u>	<u>Brown</u>	<u>HP</u>	<u>Fav/CS</u>
3.	<u>                    </u>	<u>                    </u>	<u>RC</u>	<u>                    </u>

---

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

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/CS/SB 736 requires health insurers and health maintenance organizations (HMOs) to provide reasonable reimbursement to air ambulances for covered services. The bill defines the term, “reasonable reimbursement” to mean reimbursement that considers the direct cost to provide air ambulance transportation service to an insured, the operation of an air ambulance service by a county that operates entirely within a designated area of critical state concern, and in-network reimbursement established by the insurer for the specific policy. Under the bill, reasonable reimbursement may be reduced only by applicable copayments, coinsurance, and deductibles.

The bill establishes that payment in full by the insured or subscriber of his or her applicable copayment, coinsurance, or deductible constitutes an accord and satisfaction of and a release of any claim for monies owed by the insured or subscriber in connection with the air ambulance service.

Air ambulances provide emergency services for critically ill patients, primarily in life-threatening situations, regardless of their insurance status or ability to pay. Privately-insured patients who are transported by air ambulance providers that are outside of provider networks of their respective insurer or HMO are at financial risk for balance billing, which is the difference between prices charged by providers and the payment rates established by insurers or HMOs. Any balance billing incurred by a patient is in addition to copayments or other types of cost-sharing typically paid under the insurance policy or HMO contract.



While states can regulate the medical aspects of air ambulances, the federal Airline Deregulation Act of 1979 (ADA)<sup>1</sup> preempts states from economic regulation, i.e., regulating rates, routes, and services of air ambulances.

## II. Present Situation:

Emergency medical transportation is a life-saving service that may affect any Floridian, including the uninsured, privately insured, and those covered by federal health care programs. According to the National Association of Insurance Commissioners, more than 550,000 patients in the U.S. use air ambulances each year.<sup>2</sup> The average air ambulance trip is 52 miles and costs \$12,000 to \$25,000 per flight. The significant price accounts for the initial aircraft cost which can reach \$6 million as well as medical equipment and maintenance.<sup>3</sup> Also factoring into the price is the cost of round-the-clock availability for medical personnel and pilots. Contingent on the severity of the medical condition, the number and type of medical staff on board can vary, further influencing the flight price.

### Florida Insurance Consumer Advocate's Working Group

The Insurance Consumer Advocate of the Department of Financial Services<sup>4</sup> created the Emergency Medical Transportation (EMT) Working Group in 2016 to assess the impact of EMT costs to Florida's privately-insured consumers, and to make recommendations to address concerns faced by ground and air ambulance services, the insurance industry, state and local governments, and consumers. In 2018, the Insurance Consumer Advocate released a report that provided extensive background information about the EMT industry, ambulance costs, insurance coverage, and the impact on insureds.<sup>5</sup>

Regarding licensed air emergency medical services providers, the report noted that there are 37 companies. Typically, three types of business models exist for air ambulances providers, namely hospital-based, independent, and government operator. The air ambulances provide services using a fixed-wing airplane or a rotary-wing helicopter.

### Average Bill for Air Emergency Transportation in Florida

FAIR Health<sup>6</sup> provided extensive data to the Insurance Consumer Advocate's report regarding the average bills in Florida. FAIR Health data indicates that the average bill for a fixed-wing airplane transport in Florida was \$15,828, while the U.S. 80th percentile was at \$22,500. When comparing Florida to other states, Georgia's average charge was \$11,661, New York's was

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<sup>1</sup> Federal Airline Deregulation Act of 1978. Pub. L. No. 95-504, 92 STAT. 1705.

<sup>2</sup> National Association of Insurance Commissioners, *Understanding Air Ambulance Insurance Coverage* (May 2018) [https://www.naic.org/documents/consumer\\_alert\\_understanding\\_air\\_ambulance\\_insurance.htm](https://www.naic.org/documents/consumer_alert_understanding_air_ambulance_insurance.htm) (last visited Feb. 7, 2020).

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

<sup>4</sup> The Florida Insurance Commissioner created the Office of the Insurance Consumer Advocate in 1990. In 1992, the Legislature codified the office under s. 627.0613, F.S.

<sup>5</sup> Insurance Consumer Advocate, *Emergency Medical Transportation Costs in Florida* (May 2018) at <https://www.myfloridacfo.com/Division/ICA/EMTWhitePaper.pdf> (last visited Feb. 7, 2020). The data is indicative of information for the period of October 1, 2015 through September 30, 2016.

<sup>6</sup> FAIR Health is an independent nonprofit that collects data for and manages the nation's largest database of privately billed health insurance claims, including Medicare Parts A, B and D claims data for 2013 to the present. *See* <https://www.fairhealth.org/about-us> (last visited Feb. 7, 2020).

\$17,226, and Texas' was \$18,238. Comparatively speaking, Florida has a lower average charge than New York and Texas, but Florida's average charge was more than \$4,000 higher than Georgia's average charge for a fixed-wing transport.

In the report, FAIR Health noted that the average bill for a rotary-wing helicopter transport in Florida was \$21,221. As with fixed-wing, this is also below the U.S. 80th percentile of \$29,036. While Georgia had the lowest average charge for fixed-wing transport of the states analyzed, Florida holds the lowest average charge for rotary-wing transport. Georgia's average charge for rotary-wing transport was \$24,660, New York's was \$25,857, and Texas was \$22,652.

### ***Recommendations of the Insurance Consumer Advocate***

The report included the following recommendations:

1. Steps must be taken to deregulate the aeromedical industry from federal regulation so that states may regulate the market to address consumer concerns.
2. Consumers should have increased access to in-network EMT providers in order to decrease the likelihood of surprise medical bills.
3. The current billing model used for ground EMT should be revised to allow ambulance companies to charge for medical services and treatments without the requirement of transporting the patient to a medical facility.
4. Stakeholders should commit to improving transparency and consumer education.

### **Federal Laws Relating to Air Ambulance Billing**

The authority of states to address issues related to air ambulance balance billing is affected by the following federal laws:

- **Airline Deregulation Act of 1978 (ADA).** A provision in this law preempts state-level economic regulation, i.e., regulating rates, routes, and services, of air carriers authorized by U.S. Department of Transportation (DOT) to provide air transportation.<sup>7</sup> In general, courts have held that air ambulances are considered air carriers under the ADA's preemption provision. The courts, the DOT, and state attorneys general have determined specific issues related to the air ambulance industry that cannot be regulated at the state level having a connection with or reference to a carrier's rates, routes, or services.<sup>8</sup>
- **McCarran-Ferguson Act of 1945.** This act affirms that states have the authority to regulate the business of insurance.<sup>9</sup> For example, states may review insurers' health insurance plans and premium rates. In instances of balance billing, states can determine whether the insurer paid a provider in accordance with its policy for paying for out-of-network services.
- **Employee Retirement Income Security Act of 1974 (ERISA).** The ERISA provides a federal framework for regulating employer-based pension and welfare benefit plans, including health plans.<sup>10</sup> Although states may regulate health insurers, the ERISA

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<sup>7</sup> Pub. L. No. 95-504, s. 4, 92 Stat. 1705, 1707 (codified as revised and amended at 49 U.S.C. s. 41713(b)).

<sup>8</sup> General Accounting Office, *Air Ambulances: Available Data Show Privately-Insured Patients Are at Financial Risk* (March 20, 2019) available at <https://www.gao.gov/products/GAO-19-292> (last visited Feb. 7, 2020).

<sup>9</sup> Act of Mar. 9, 1945, Ch. 20, s. 2, 59 Stat. 33, 34 (codified as amended at 15 U.S.C. s. 1012).

<sup>10</sup> See, Pub. L. No. 93-406, 88 Stat. 646 (codified as amended at 29 U.S.C. ss. 1001 et seq.).

preemption generally prevents states from directly regulating self-insured employer-based health plans.

- **The Patient Protection and Affordable Care Act** provides limited balance billing protections<sup>11</sup> for insureds or subscribers who receive ambulance services from an out-of-network provider.<sup>12</sup> In the case of air ambulances, these protections are applied only when the service is affiliated with a hospital and thus considered an extension of the emergency department service.<sup>13</sup>

## State Laws Relating to Emergency Services and Insurance Coverage

### *Access to Emergency Services and Care*

In 1986, Congress enacted the Emergency Medical Treatment and Active Labor Act (EMTALA) to ensure public access to emergency services regardless of ability to pay. The EMTALA imposes specific obligations on hospitals participating in the Medicare program, which offer emergency services. Any patient who comes to the emergency department must be provided with a medical screening examination to determine if the patient has an emergency medical condition. If an emergency medical condition exists, the hospital must provide treatment within its service capability to stabilize the patient. If a hospital is unable to stabilize a patient or, if the patient requests, the hospital must transfer the patient to another appropriate facility.<sup>14</sup> A hospital that violates EMTALA is subject to civil monetary penalty<sup>15</sup> or civil suit by a patient who suffers personal harm.<sup>16</sup>

Florida law imposes a similar duty.<sup>17</sup> The law requires the Agency for Health Care Administration to maintain an inventory of the service capability of all licensed hospitals that provide emergency care in order to assist emergency medical services (EMS or ambulance) providers and the public in locating appropriate medical care. Hospitals must provide all listed services when requested, whether by a patient, an emergency medical services provider, or another hospital, regardless of the patient's ability to pay. If the hospital is at capacity or does not provide the requested emergency service, the hospital may transfer the patient to the nearest facility with appropriate available services. Each hospital must ensure the services listed can be provided at all times either directly or through another hospital. A hospital is prohibited from basing emergency treatment and care on a patient's insurance status, economic status, or ability to pay. A hospital that violates Florida's access to care statute is subject to administrative penalties; denial, revocation, or suspension of its license; or civil action by another hospital or

<sup>11</sup> The regulations establish minimum payment standards for insurers and HMOs. However, insurers or HMOs are not required to cover amounts that out-of-network providers may "balance bill." See 80 FR 72192.

<sup>12</sup> The Patient Protection and Affordable Care Act (Pub. L. 111–148), was enacted on March 23, 2010; the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152) was enacted on March 30, 2010. These statutes are collectively referred to as "PPACA."

<sup>13</sup> National Association of Insurance Commissioners, *Air Ambulance Regulation*, (Jan. 2019) at [https://www.naic.org/documents/government\\_relations\\_air\\_ambulance\\_regulation\\_issue\\_brief.pdf](https://www.naic.org/documents/government_relations_air_ambulance_regulation_issue_brief.pdf) (last visited Feb 7, 2020).

<sup>14</sup> Emergency Medical Treatment and Active Labor Act (EMTALA), 42 U.S.C. §1395dd; see also CENTERS FOR MEDICARE & MEDICAID SERVICES, *Emergency Medical Treatment & Labor Act (EMTALA)*, <http://www.cms.gov/Regulations-and-Guidance/Legislation/EMTALA/index.html?redirect=/emtala/> (last visited Feb. 7, 2020).

<sup>15</sup> 42 U.S.C. s. 1395dd(d)(1).

<sup>16</sup> 42 U.S.C. s. 1395dd(d)(2).

<sup>17</sup> See s. 395.1041, F.S.

physician suffering financial loss. In addition, hospital administrative or medical staff are subject to civil suit by a patient who suffers personal harm and may be found guilty of a second-degree misdemeanor for a knowing or intentional violation. Physicians who violate the statute are also subject to disciplinary action against their license or civil action by another hospital or physician suffering financial loss.

### ***Regulation of Emergency Medical Transportation***

Part III of ch. 401, F.S., governs the provision of emergency medical transportation services in Florida and establishes the licensure and operational requirements for emergency medical services, including air ambulances.<sup>18</sup> Air ambulance service refers to a licensed publicly or privately owned service that operates air ambulances to transport persons requiring or likely to require medical attention during transport.<sup>19</sup> An air ambulance is a fixed-wing or rotary-wing aircraft used for, or intended to be used for, the air transportation of sick or injured persons that require or are likely to require medical attention during transport.<sup>20</sup>

### ***Regulation of Insurance***

The Office of Insurance Regulation (OIR) licenses and regulates insurers, HMOs, and other risk-bearing entities.<sup>21</sup> To operate in Florida, an insurer or HMO must obtain a certificate of authority from the OIR.<sup>22</sup> The Agency for Health Care Administration (AHCA) regulates the quality of care provided by HMOs under part III of ch. 641, F.S. Prior to receiving a certificate of authority from the OIR, an HMO must receive a Health Care Provider Certificate from the AHCA.<sup>23</sup> As part of the certification process used by the AHCA, an HMO must provide information to demonstrate that the HMO has the ability to provide quality of care consistent with the prevailing standards of care.<sup>24</sup>

### **Federal Reports Relating to Air Ambulance Costs**

A 2017 U.S. Government Accountability Office (GAO) report noted that, between 2010 and 2014, the national median prices providers charged for helicopter-air ambulance service approximately doubled, from around \$15,000 to about \$30,000 per transport.<sup>25</sup> In 2017, the median price charged nationally by air ambulance providers was about \$36,400 for helicopter transportation and \$40,600 for a fixed wing transport.<sup>26</sup> The total generally includes the costs for both the transportation and the medical care aboard the aircraft. Air ambulance providers may not turn away patients based on their ability to pay. The providers receive payments from many sources depending on the patient's coverage, often at rates lower than the price charged.

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<sup>18</sup> Section 401.251, F.S.

<sup>19</sup> Section 401.23, F.S.

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

<sup>21</sup> Section 20.121(3)(a)1., F.S.

<sup>22</sup> Section 641.21(1), F.S.

<sup>23</sup> Sections 624.401 and 641.49, F.S.

<sup>24</sup> Section 641.495, F.S.

<sup>25</sup> Government Accountability Office, *Data Collection and Transparency Needed to Enhance DOT Oversight* (GAO-17-637) (July 2017) available at <https://www.gao.gov/assets/690/686167.pdf> (last visited Feb. 7, 2020).

<sup>26</sup> Government Accountability Office, *Air Ambulances: Available Data Show Privately-Insured Patients Are at Financial Risk* (Mar. 20, 2019) available at <https://www.gao.gov/products/GAO-19-292> (last visited Feb. 7, 2020).

Selected providers reported that factors such as transport costs and volume, payer mix, and competition play a role in prices charged. Air ambulance providers' costs for air ambulance service are relatively fixed, meaning they do not increase significantly when they complete more transports. For example, personnel and the costs of helicopter ownership are the same regardless of how often the helicopter is used. Providers contacted by GAO noted that a small portion of their costs, such as fuel, are variable, meaning they increase with the number of transports completed.

To be profitable, and thus be in business and provide service, providers must earn sufficient revenues to cover their costs, including their fixed costs. To increase revenue, a provider must increase its number of transports or its prices charged. When a provider has a lower transport volume, then that provider must earn higher prices on average across transports in order to be profitable. Representatives from the eight selected providers GAO contacted reported average costs per transport, given current transport volumes, of \$6,000 to \$13,000 in 2016.<sup>27</sup> Factors such as a provider's proportion of transports provided by payer and competition may play a role in air ambulance prices charged, but data to assess these factors are not available.

Selected stakeholders the GAO contacted proposed actions to address air ambulance pricing issues, including: (1) raising Medicare rates; (2) allowing state-level regulation of air ambulance prices; and (3) improving data collection for the purposes of investigations and transparency regarding prices.

### **Federal Air Ambulance and Patient Billing Advisory Committee**

On October 5, 2018, President Donald Trump signed the FAA Reauthorization Act of 2018 (FAA Act).<sup>28</sup> The FAA Act requires the Secretary of Transportation, in consultation with the Secretary of Health and Human Services, to establish an advisory committee<sup>29</sup> to review options to improve the disclosure of charges and fees for air medical services, inform consumers of insurance options for such services, and protect consumers from balance billing. The committee held its first meeting on January 15, 2020. The committee must submit a report containing recommendations to the Secretary of Transportation and others no later than 120 days after the first committee meeting.

### **Legislation and Litigation Relating to State Regulation of Air Ambulance Rates**

A number of states have attempted to enact laws to protect consumers from balance billings by out-of-network air ambulances through the enactment of laws addressing reimbursement of air ambulance providers, but the Airline Deregulation Act of 1978 has preempted the laws.

#### ***Florida***

*Bailey v. Rocky Mountain Holdings, LLC*<sup>30</sup>, concerns whether the ADA preempts a cause of action against an air ambulance provider based on a statutory medical fee schedule for personal

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<sup>27</sup> *Id.*

<sup>28</sup> See Pub. L. No. 115-254, 132 Stat. 3186 (2018).

<sup>29</sup> U.S. Department of Transportation, *Air Ambulance and Patient Billing Advisory Committee (AAPB Advisory Committee)* (updated February 7, 2020) available at <https://www.transportation.gov/airconsumer/AAPB> (last visited Feb. 7, 2020).

<sup>30</sup> *Bailey v. Rocky Mountain Holdings, LLC*, 889 Fed 1259 (11<sup>th</sup> Cir. 2018).

injury protection (PIP)<sup>31</sup> reimbursement under the Florida Motor Vehicle No-Fault Law.<sup>32</sup> Under PIP, a medical provider may not bill the insured for any amount in excess of such limits, except for amounts that are not covered by the insured's PIP coverage due to the coinsurance amount or maximum policy limits.<sup>33</sup>

In this case, an air ambulance provider submitted a bill for covered emergency transportation to the insurer; however, the policy limited reimbursement of the services under the fee schedule to less than the invoiced amount. The provider sought payment from the insured for the unpaid portion of its bill. The insured brought a class action suit against the provider seeking a declaration that the balance billing provision limited its reimbursement to the amount fixed in the fee schedule. In response, the provider moved to dismiss the action on grounds that the ADA preempted the enforcement of the balance billing provision. The insured contended that the McCarron-Ferguson Act, which provides that federal laws cannot preempt "any law enacted by any state for the purpose of regulating the business of insurance," precluded the ADA's preemption of the insured's action. The U.S. District Court concurred with the provider and held that the ADA preempted the insured's action because it related to the prices of the air carrier.<sup>34</sup> The McCarron-Ferguson Act, the Court determined, prevents only inadvertent intrusion from federal legislation, not express preemption such as that of the ADA.

The insured appealed the decision to the U.S. Eleventh Circuit Court of Appeals. The panel concurred with the District Court that the (PIP) statute improperly restricted an air ambulance operator's rates by first limiting the reimbursement for such services to a schedule of charges based on Medicare rates, and then prohibiting the operator from billing the insured for the balance of the unpaid invoices.<sup>35</sup>

### ***Montana***

In 2017, Montana enacted a state law that imposes a hold-harmless requirement on insurers or HMOs for charges pertaining to out-of-network air ambulance transports. Insurers or HMOs assume responsibility for amounts charged to a covered person in excess of both allowed amounts and applicable cost-sharing amounts. It also requires the use of a nonbinding dispute resolution process, including a determination of the fair market price of the services provided, before an aggrieved party may pursue any remedy in court.<sup>36</sup>

### ***North Dakota***

In 2017, legislation was enacted that provides, effective January 1, 2018, insurers are required to pay for out-of-network air ambulance transports at the average of the insurer's in-network rates for air ambulance providers in the state. The law also provides that this payment is deemed full and final payment by the covered person for the transport.<sup>37</sup> The air ambulances subsequently

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<sup>31</sup> Florida drivers are required to purchase both PIP insurance. The personal injury protection must provide a minimum benefit of \$10,000 for bodily injury to any one person who sustains an emergency medical condition and includes emergency transport. *See* ss. 324.022, and 627.736, F.S.

<sup>32</sup> Florida's Motor Vehicle No-Fault Law, ss. 627.730-627.7405, F.S.

<sup>33</sup> Section 627.736(5), F.S.

<sup>34</sup> *Bailey v. Rocky Mountain Holdings, LLC*, 136F.Supp.3d 1376.

<sup>35</sup> *Bailey v. Rocky Mountain Holdings*, 889 F. 3d 1259 (11<sup>th</sup> Cir. 2018).

<sup>36</sup> Mont. Code Ann. ss. 33-2-2302 and 33-2-2305 (as added by S.B. 44 (2017)).

<sup>37</sup> N.D. Cent. Code s. 26.1-47-09 (as added by S.B. 2231 (2017)).

challenged the law in January 2018. In January 2019, the federal court concluded that this payment provision is preempted by the ADA.<sup>38</sup> In February 2019, the state Insurance Commissioner announced plans for North Dakota to appeal this ruling to the U.S. Circuit Court of Appeals.

### ***Texas***

Legislation was enacted, relating to the Texas workers' compensation program, which provided if payments for patients were made pursuant to applicable rate guidelines, the payment must be accepted as payment in full.<sup>39</sup> The Division of Workers' Compensation of the Texas Department of Insurance began applying this requirement to air ambulance services in 2016. The air ambulances challenged the law in federal district court, and the court recently decided that the ADA preempts enforcement of workers' compensation rate restrictions on air ambulance services.<sup>40</sup>

### **Areas of Critical State Concern**

Florida's Administration Commission, which is composed of the Governor and Cabinet, designates areas of critical state concern.<sup>41</sup> Areas that qualify for designation include only:

An area containing, or having a significant impact upon, environmental or natural resources of regional or statewide importance, including, but not limited to, state or federal parks, forests, wildlife refuges, wilderness areas, aquatic preserves, major rivers and estuaries, state environmentally endangered lands, Outstanding Florida Waters, and aquifer recharge areas, the uncontrolled private or public development of which would cause substantial deterioration of such resources.<sup>42</sup>

Once designated, the area's land planning regulations must comply with the principles guiding development specified by the Administration Commission, which must be approved by the Department of Economic Development.<sup>43</sup> Several areas have been designated as an area of critical state concern or have had their designations ratified by statute, and include the Big Cypress Area,<sup>44</sup> the Green Swamp Area,<sup>45</sup> the Apalachicola Bay Area,<sup>46</sup> and the Florida Keys Area.<sup>47</sup>

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

**Section 1** creates s. 627.42397, F.S., to require each health insurer to provide reasonable reimbursement to air ambulance services for covered nonemergency and emergency services

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<sup>38</sup> See *Guardian Flight LLC v. Godfread*, No. 1:18-cv-007 (D.N.D. order filed Jan. 14, 2019).

<sup>39</sup> Tex. Lab. Code s. 413.011 (2017); 28 Tex. Admin. Code ss. 134.1(a), 134.203(d) (2017).

<sup>40</sup> *Air Evac EMS, Inc. v. Sullivan*, 331 F. Supp. 3d 650 (W.D. Tex., 2018) (U.S. District Ct. granted injunctive relief, prohibiting state from enforcing rate restrictions).

<sup>41</sup> Section 380.05, F.S.

<sup>42</sup> Section 380.05(2), F.S.

<sup>43</sup> Section 380.05(6), F.S.

<sup>44</sup> Section 380.055, F.S.

<sup>45</sup> Section 380.0551, F.S.

<sup>46</sup> Section 380.0555, F.S.

<sup>47</sup> Section 380.0552, F.S.



provided to an insured or subscriber in accordance with the coverage terms of the policy or contract. Such reimbursement may be reduced only by copayments, coinsurance, and deductibles. Payment in full by the insured or subscriber of his or her applicable copayment, coinsurance, or deductible constitutes an accord and satisfaction of and a release of any claim for monies owed by the insured or subscriber in connection with the air ambulance service.

The bill defines the following terms: “air ambulance service,” “health insurer,” “health maintenance organization,” and “reasonable reimbursement.” The term, “reasonable reimbursement,” means reimbursement that considers the direct cost to provide air ambulance transportation service to an insured; the operation of air ambulance service by a county, which operates entirely within a designated area of critical state concern as determined by the Department of Economic Opportunity; and usual and customary reimbursement.

**Section 2** creates s. 641.514, F.S., to apply the provisions of Section 1 to HMOs.

**Section 3** provides that if any provision of s. 627.42397, F.S., (Section 1 of the bill) or s. 641.514, F.S., (Section 2 of the bill) is determined to be invalid or inoperative, the remaining provisions are deemed void and of no effect. Under the bill, the Legislature finds that the two provisions are not severable.

**Section 4** provides the bill takes effect upon becoming a law.

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

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

Article VII, s. 18 of the Florida Constitution governs laws that require counties and municipalities to spend funds or that limit their ability to raise revenue or receive state tax revenues. Except upon approval of each house of the Legislature by two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandates requirements do not apply to laws having an insignificant impact, which for Fiscal Year 2019-2020 is approximately \$2.1 million or less.

Cities or counties that provide such services directly or indirectly may incur an indeterminate fiscal impact due to the implementation of the reasonable reimbursement prescribed in the bill. If the reimbursement by an insurer or health maintenance organization to a county or city providing air ambulance services is decreased as a result, an indeterminate amount of additional funding sources may be necessary to fund these local services.

##### **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:

Since the bill effectively prohibits balance billing by air ambulance providers, the bill will hold privately-insured patients harmless in the event they incur medical bills from an out-of-network provider.

The provisions of the bill would not apply to coverage offered by self-insured plans<sup>48</sup> via employers, which are governed by federal law, or federal programs such as Medicare, Medicaid, or State Children's Health Insurance Program.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

Sections 1 and 2 of the bill define "reasonable reimbursement" to require that the amount "considers" the operation of air ambulances service by a county which operates entirely within a designated area of critical state concern and in-network reimbursement by the insurer or HMO, respectively. It is unclear how an insurer or HMO would demonstrate that consideration when making a rate filing with the Office of Insurance Regulation and whether that consideration should be reflected as an upward or downward deviation in reimbursement.

Lines 39-46 and 68-75 provide that payment in full by the insured or subscriber of their applicable copayment, coinsurance, or deductible constitutes an accord and satisfaction of and a release of any claim for monies owed by the insured or subscriber in connection with the air ambulance service. The grammar of both sentences should be improved to clarify the intent. Given the generally broad interpretation given to the Airline Deregulation Act of 1978's prohibition on state regulation of airline rates (including air ambulance services), it is unclear

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<sup>48</sup> The Employee Retirement Income Security Act of 1974 (ERISA).

whether this would serve as a prohibition on balance billing or would be struck down upon challenge.<sup>49</sup>

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates sections 627.42397 and 641.514 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/CS by Health Policy on February 11, 2020:**

The CS/CS:

- Defines “reasonable reimbursement” to require that the amount considers the “direct cost to provide air ambulance transportation service to an insured,” rather than the “actual cost of services rendered,” as in the underlying bill. This excludes consideration of all indirect costs, which may include, but are not limited, to costs accrued from: overhead, staffing, accounting and billing, pilot training, health care practitioner training, operations command centers, aviation maintenance, and helipad maintenance.
- Establishes that payment in full by the insured or subscriber of his or her applicable copayment, coinsurance, or deductible constitutes an accord and satisfaction of and a release of any claim for monies owed by the insured or subscriber in connection with the air ambulance service.
- Removes a provision from the underlying bill that established that the reasonable reimbursement paid by the health insurer or health maintenance organization to the air ambulance service constitutes full and final payment to the air ambulance service.

**CS by Banking and Insurance on January 21, 2020:**

The CS clarifies the application of the bills’ provisions to health maintenance organizations and provides other technical changes.

**B. Amendments:**

None.

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

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<sup>49</sup> The Florida Office of Insurance Regulation, *Agency Legislative Analysis of SB 736* (Nov. 19, 2019).

By the Committee on Banking and Insurance; and Senator Diaz

597-02423-20

2020736c1

A bill to be entitled  
An act relating to coverage for air ambulance services; creating ss. 627.42397 and 641.514, F.S.; defining terms; requiring health insurers and health maintenance organizations, respectively, to provide reasonable reimbursement to air ambulance services for certain covered services; providing that such reimbursement may be reduced only by certain amounts; providing that reasonable reimbursement must serve as full and final payment to the air ambulance service; providing that provisions of this act are not severable; providing an effective date.

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

Section 1. Section 627.42397, Florida Statutes, is created to read:

627.42397 Coverage for air ambulance services.—

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

(a) "Air ambulance service" has the same meaning as provided in s. 401.23.

(b) "Health insurer" means an authorized insurer offering health insurance as defined in s. 624.603.

(c) "Reasonable reimbursement" means reimbursement that considers the actual cost of services rendered, the operation of an air ambulance service by a county which operates entirely within a designated area of critical state concern as determined by the Department of Economic Opportunity, and in-network reimbursement established by the insurer for the specific

597-02423-20

2020736c1

30 policy. The term does not include billed charges for the cost of  
31 services rendered.

32 (2) A health insurance policy must require a health insurer  
33 to provide reasonable reimbursement to an air ambulance service  
34 for covered nonemergency and emergency services provided to an  
35 insured in accordance with the coverage terms of the policy.  
36 Such reasonable reimbursement may be reduced only by applicable  
37 copayments, coinsurance, and deductibles. The reasonable  
38 reimbursement must serve as full and final payment to the air  
39 ambulance service.

40 Section 2. Section 641.514, Florida Statutes, is created to  
41 read:

42 641.514 Coverage for air ambulance services.—

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

44 (a) "Air ambulance service" has the same meaning as  
45 provided in s. 401.23.

46 (b) "Reasonable reimbursement" means reimbursement that  
47 considers the actual cost of services rendered, the operation of  
48 an air ambulance service by a county which operates entirely  
49 within a designated area of critical state concern as determined  
50 by the Department of Economic Opportunity, and in-network  
51 reimbursement established by the health maintenance organization  
52 for the specific health maintenance contract. The term does not  
53 include billed charges for the cost of services rendered.

54 (2) A health maintenance contract must require a health  
55 maintenance organization to provide reasonable reimbursement to  
56 an air ambulance service for covered nonemergency and emergency  
57 services provided to a subscriber in accordance with the  
58 coverage terms of the contract. Such reasonable reimbursement

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59 may be reduced only by applicable copayments, coinsurance, and  
60 deductibles. The reasonable reimbursement must serve as full and  
61 final payment to the air ambulance service.

62 Section 3. If any provision of s. 627.42397 or s. 641.514,  
63 Florida Statutes, as created by this act is determined to be  
64 invalid or inoperative for any reason, the remaining provisions  
65 thereof shall be deemed to be void and of no effect. To this  
66 end, the Legislature declares that it would not have enacted any  
67 of the provisions of s. 627.42397 or s. 641.514, Florida  
68 Statutes, individually, and expressly finds them not to be  
69 severable.

70 Section 4. This act shall take effect upon becoming a law.



The Florida Senate

## Committee Agenda Request

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

**Subject:** Committee Agenda Request

**Date:** January 27, 2020

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I respectfully request that **Senate Bill # 736**, relating to Coverage for Air Ambulance Services, be placed on the:

- ☐ Committee agenda at your earliest possible convenience.
- ☒ Next committee agenda.

A handwritten signature in cursive script, appearing to read "M. Diaz", is written over a horizontal line.

Senator Manny Diaz, Jr.  
Florida Senate, District 36

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/11/20  
Meeting Date

736  
Bill Number (if applicable)

Topic Air Ambulance

Amendment Barcode (if applicable)

Name Jim Millican

Job Title Chief

Address 4360 - 55th Ave N  
Street

Phone 727-526-5650

St. Pete FL 33714  
City State Zip

Email jmillican@ec/manfire.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Fire Chiefs Assoc.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

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

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

2/11/20

Meeting Date

SB 736

Bill Number (if applicable)

Topic Air Ambulance Reimb.

Amendment Barcode (if applicable)

Name Ruthie Barko

Job Title Dir. of Gov. Affairs

Address 6581 S. Cedar Street

Phone 720-308-0842

Street

Littleton

City

CO

State

80120

Zip

Email ruthie.barko@airmethods.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Air Methods

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)

2/11/20

Meeting Date

736

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Robert Reyes

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

Address 817 Ingleside Ave

Street

Phone 850 509 1802

TAH FL 32303

City

State

Zip

Email reyes@capitolgrp.com

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Monroe County

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

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

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

02/11/2020

*Meeting Date*

736

*Bill Number (if applicable)*

Topic Coverage for Air Ambulance Services

*Amendment Barcode (if applicable)*

Name Wences Troncoso

Job Title Vice President and General Counsel

Address 200 W. College Ave.

Phone 8503862904

*Street*

Tallahassee

FL

32301

Email wences@fahp.net

*City*

*State*

*Zip*

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Association of Health Plans

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)

2/11/20  
Meeting Date

736  
Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Tim Nungesser

Job Title Legislative Director

Address 110 E. Jefferson St.  
Street

Phone 850-445-5367

Tallahassee FL 32301  
City State Zip

Email tim.nungesser@nfib.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing NFIB

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: CS/SB 1094

INTRODUCER: Health Policy Committee and Senator Diaz

SUBJECT: Consultant Pharmacists

DATE: February 12, 2020

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

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

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1094 expands the scope of practice of professional pharmacists to include:

- Ordering and evaluating of any laboratory testing;
- Ordering and evaluating any clinical testing;
- Conducting patient assessments;
- Modifying, discontinuing, or administering medicinal drugs pursuant to s. 465.0125, F.S.; and
- Conducting “other pharmaceutical services,” which includes, among other things, reviewing and making recommendations regarding the patient’s drug therapy and health care status to a patient’s prescribing physician, podiatrist, or dentist regarding the patient’s drug therapy and health care status.

The bill authorizes a consultant pharmacist to enter into a written collaborative practice agreement (CPA) with a health care facility, medical director, or Florida-licensed physician, podiatrist, or dentist, who is authorized to prescribe medication. The bill also expands the locations where, under a CPA, a consultant pharmacist may offer his or her services, to include:

- Ambulatory surgery center;
- Inpatient hospice;
- Hospital;
- Alcohol or chemical dependency center;

- Ambulatory care center; or
- Nursing home component of a continuing care facility.

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

## **II. Present Situation:**

### **Pharmacist Licensure**

Pharmacy is the third largest health profession behind nursing and medicine.<sup>1</sup> The Board of Pharmacy (Board), in conjunction with the Department of Health (DOH), regulates the practice of pharmacists pursuant to ch. 465, F.S.<sup>2</sup> To be licensed as a pharmacist, a person must:<sup>3</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>4</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>5</sup> Pharmacists who are certified to administer vaccines or epinephrine auto-injections 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>6</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>7</sup>

### ***Pharmacist Scope of Practice***

In Florida, the practice of the profession of pharmacy includes:<sup>8</sup>

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

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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 Feb. 6, 2020).

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

<sup>3</sup> Section 465.007, F.S. 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>4</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.

<sup>5</sup> Section 465.009, F.S.

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

<sup>7</sup> Section 465.1893, F.S.

<sup>8</sup> Section 465.003(13), F.S.

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>9</sup>
- Administering epinephrine injections;<sup>10</sup> and
- Administering antipsychotic medications by injection.<sup>11</sup>

A pharmacist may not alter a prescriber's directions, diagnose or treat any disease, initiate any drug therapy, or practice medicine or osteopathic medicine, unless permitted by law.<sup>12</sup>

Pharmacists may order and dispense drugs that are included in a formulary developed by a committee composed of members of the Board of Medicine, the Board of Osteopathic Medicine, and the Board of Pharmacy.<sup>13</sup> The formulary may only include:<sup>14</sup>

- Any medicinal drug of single or multiple active ingredients in any strengths when such active ingredients have been approved individually or in combination for over-the-counter sale by the U.S. Food and Drug Administration (FDA);
- Any medicinal drug recommended by the FDA Advisory Panel for transfer to over-the-counter status pending approval by the FDA;
- Any medicinal drug containing any antihistamine or decongestant as a single active ingredient or in combination;
- Any medicinal drug containing fluoride in any strength;
- Any medicinal drug containing lindane in any strength;
- Any over-the-counter proprietary drug under federal law that has been approved for reimbursement by the Florida Medicaid Program; and
- Any topical anti-infectives excluding eye and ear topical anti-infectives.

A pharmacist may order, within his or her professional judgment, and subject to the stated following stated conditions:

- Certain oral analgesics for mild to moderate pain. The pharmacist may order these drugs for minor pain and menstrual cramps for patients with no history of peptic ulcer disease. The prescription is limited to a six day supply for one treatment of:
  - Magnesium salicylate/phenyltoloxamine citrate;
  - Acetylsalicylic acid (Zero order release, long acting tablets);
  - Choline salicylate and magnesium salicylate;
  - Naproxen sodium;
  - Naproxen;
  - Ibuprofen;
  - Phenazopyridine, for urinary pain; and
  - Antipyrine 5.4%, benzocaine 1.4%, glycerin, for ear pain if clinical signs or symptoms of tympanic membrane perforation are not present;

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<sup>9</sup> See s. 465.189, F.S.

<sup>10</sup> *Id.*

<sup>11</sup> Section 465.1893, F.S.

<sup>12</sup> Section 465.003(13), F.S.

<sup>13</sup> Section 465.186, F.S.

<sup>14</sup> *Id.*

- Anti-nausea preparations;
- Certain antihistamines and decongestants;
- Certain topical antifungal/antibacterial;
- Topical anti-inflammatory preparations containing hydrocortisone not exceeding 2.5%;
- Otic antifungal/antibacterial;
- Salicylic acid 16.7% and lactic acid 16.7% in flexible collodion, to be applied to warts, except for patients under 2 years of age, and those with diabetes or impaired circulation;
- Vitamins with fluoride, excluding vitamins with folic acid in excess of 0.9 mg.;
- Medicinal drug shampoos containing Lindane for the treatment of head lice;
- Ophthalmics. Naphazoline 0.1% ophthalmic solution;
- Certain histamine H2 antagonists;
- Acne products; and
- Topical Antiviral for herpes simplex infections of the lips.<sup>15</sup>

### ***Consultant Pharmacists***

A consultant pharmacist is a pharmacist who provides expert advice on the use of medications to individuals or older adults.<sup>16</sup> To be licensed as a consultant pharmacist, an applicant must:<sup>17</sup>

- Hold a license as a pharmacist that is active and in good standing;
- Successfully complete an approved consultant pharmacist course of at least 12 hours;<sup>18</sup> and
- Successfully complete a 40-hour period of assessment and evaluation under the supervision of a preceptor within one year of completion of an approved consultant pharmacist course.

### ***Education and Training Requirements for Consultant Pharmacists***

In addition to the training and education received as a part of a degree program in pharmacy, a consultant pharmacist is required to complete a consultant pharmacy course and a period of assessment and evaluation under the supervision of a preceptor. The Board has general rulemaking authority to adopt rules to implement the pharmacy practice act and specific authority to adopt rules related to the licensure of consultant pharmacists.<sup>19</sup> The Board does not have specific authority to adopt rules related to the educational requirements for consultant pharmacists. Regardless, the Board has, by rule, established the minimum educational and training requirements for licensure as a consultant.<sup>20</sup>

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<sup>15</sup> Fla. Admin. Code R. 64B16-27.220 (2019).

<sup>16</sup> American Society of Consultant Pharmacists, *What is a Senior Care Pharmacist*, available at <http://www.ascp.com/page/whatisacp> (last visited Feb. 6, 2020). Consultant pharmacists are often referred to as “senior care pharmacist.”

<sup>17</sup> Fla. Admin. Code R. 64B16-26.300, (2019).

<sup>18</sup> Fla. Admin. Code R. 64B16-26.300, (2019) requires the course to be sponsored by an accredited college of pharmacy and approved by the Florida Board of Pharmacy Tripartite Continuing Education Committee which is based on the Statement of the Competencies Required in Institutional Pharmacy Practice and subject matter set forth in Fla. Adm. Code R. 64B16-26.301(2019).

<sup>19</sup> Section 465.005, F.S.

<sup>20</sup> Fla. Admin. Code R. 64B16-26.300,(2019).

The Board has specified the topics on which a consultant pharmacist may be trained in order to qualify for the designation. The consultant pharmacy course must provide at least 12 hours of education in the following areas:<sup>21</sup>

- Laws and Rules including state and federal laws and regulations pertaining to health care facilities, institutional pharmacy, safe and controlled storage of alcohol and other related substances, and fire and health-hazard control;
- Policies and procedures outlining the medication system in effect and record-keeping for controlled substances control and record of usage, medication use evaluation, medication errors, statistical reports, etc.;
- Fiscal controls;
- Personnel management, including intra-professional relations pertaining to medication use and intra-professional relations with other members of the institutional health care team to develop formularies, review medication use and prescribing, and the provision of in-service training of other members of the institutional health care team;
- Professional responsibilities, including:
  - Drug information retrieval and methods of dispersal;
  - Development of pharmacy practice;
  - Development of an IV Admixture service;
  - Procedures to enhance medication safety, including availability of equipment and techniques to prepare special dosage forms for pediatric and geriatric patients, safety of patient self-medication and control of drugs at bedside, reporting and trending adverse drug reactions, screening for potential drug interactions, and proper writing, initiating, transcribing and/or transferring patient medication orders;
  - Maintenance of drug quality and safe storage;
  - Maintenance of drug identity.
- The institutional environment, including the institution's pharmacy function and purpose, understanding the scope of service and in-patient care mission of the institution, and interpersonal relationships important to the institutional pharmacy; and
- Nuclear pharmacy, including procurement, compounding, quality control procedures, dispensing, distribution, basic radiation protection and practices, consultation and education to the nuclear medical community, record-keeping, reporting adverse reactions and medical errors, and screening for potential drug interactions.

The applicant must score a passing grade on the course examination for certification of successful completion.<sup>22</sup>

A consultant pharmacist must successfully complete a period of assessment and evaluation, under the supervision of a qualified preceptor, within one year of completing the consultant pharmacy educational course.<sup>23</sup> The period of assessment and evaluation must be completed

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<sup>21</sup> Fla. Admin. Code R. 64B16-26.300 and 64B16-26.301(2019).

<sup>22</sup> *Id.*

<sup>23</sup> Fla. Admin. Code R. 64B16-26.300(3)(c)(2019).



within three consecutive months and include at least 40 hours of training in the following practice areas:<sup>24</sup>

- Twenty-four hours on regimen review, documentation, and communication;
- Eight hours on facility review, including the ability to demonstrate areas that should be evaluated, documentation, and reporting procedures;
- Two hours on committee and reports, including the review of quarterly Quality of Care committee minutes and preparation and delivery of the pharmacist quarterly report;
- Two hours on policy and procedures, including preparation, review, and updating Policy and Methods;
- Two hours on principles of formulary management; and
- Two hours on professional relationships, including knowledge and interaction of facility administration and professional staff.

At least 60 percent of this training must occur on-site at an institution that holds a pharmacy license.<sup>25</sup>

### ***Scope of Practice***

The scope of practice for a consultant pharmacist is broader than that of a pharmacist. A consultant pharmacist may order and evaluate laboratory testing in addition to the services provided by a pharmacist. For example, a consultant pharmacist can order and evaluate clinical and laboratory testing for a patient residing in a nursing home upon authorization by the medical director of the nursing home.<sup>26</sup> Additionally, a consultant pharmacist may order and evaluate clinical and laboratory testing for individuals under the care of a licensed home health agency, if authorized by a licensed physician, podiatrist, or dentist.<sup>27</sup>

### ***Pharmacist Collaborative Practice Agreements***

A collaborative practice agreement (CPA) is a formal agreement in which a licensed practitioner makes a diagnosis, supervises patient care, and refers patients to a pharmacist under a protocol that allows the pharmacist to perform specific patient care functions.<sup>28</sup> A CPA specifies what functions beyond the pharmacist's typical scope of practice can be delegated to the pharmacist by the collaborating health care practitioner.<sup>29</sup> Common tasks include initiating, modifying, or discontinuing medication therapy and ordering and evaluating tests.<sup>30</sup>

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<sup>24</sup> *Id.* To act as a preceptor, a person must be a consultant of record at an institutional pharmacy, have a minimum of one year experience as a consultant pharmacist of record, and be licensed, in good standing, with the board. A preceptor may not supervise more than two applicants at the same time.

<sup>25</sup> *Id.*

<sup>26</sup> Section 465.0125(1), F.S.

<sup>27</sup> Section 465.0125(2), F.S. To qualify to order and evaluate such testing, the consultant pharmacist or doctor of pharmacy must complete 3 hours of board-approved training, related to laboratory and clinical testing.

<sup>28</sup> U.S. Center for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Division for Heart Disease and Stroke Prevention, *Collaborative Practice Agreements and Pharmacists' Patient Care Services: A Resource for Pharmacists*, (2013), available at [https://www.cdc.gov/dhdsdp/pubs/docs/translational\\_tools\\_pharmacists.pdf](https://www.cdc.gov/dhdsdp/pubs/docs/translational_tools_pharmacists.pdf) (last visited Feb. 7, 2020).

<sup>29</sup> U.S. Center for Disease Control and Prevention, *Advancing Team-Based Care Through Collaborative Practice Agreements: A Resource and Implementation Guide for Adding Pharmacists to the Care Team*, (2017) available at <https://www.cdc.gov/dhdsdp/pubs/docs/CPA-Team-Based-Care.pdf> (last visited Feb. 7, 2020).

<sup>30</sup> *Supra* note 28.

As of May 2016, 48 states, including Florida, permit some type of collaborative practice between a pharmacist and a prescriber.<sup>31</sup> However, the laws and regulations of these states vary in areas such as the functions that may be authorized, the requirements for collaborative agreements, and the qualifications for participants.<sup>32</sup>

### III. Effect of Proposed Changes:

SB 1094 amends s. 465.003, F.S., to expand the scope of the, “practice of professional pharmacy,” to include:

- Ordering and evaluating of any laboratory testing;
- Ordering and evaluating any clinical testing;
- Conducting patient assessments;
- Modifying, discontinuing, or administering medicinal drugs pursuant to s. 465.0125, F.S.; and
- Conducting “other pharmaceutical services,” which includes, among other things, reviewing and making recommendations regarding the patient’s drug therapy and health care status to a patient’s prescribing physician, podiatrist, or dentist regarding the patient’s drug therapy and health care status.

The bill authorizes a consultant pharmacist to enter into a written CPA with a health care facility, medical director, or a Florida-licensed allopathic physician, osteopathic physician, podiatric physician, or dentist, who is authorized to prescribe medication, to provide medication management services, which may include:

- Order and evaluate any laboratory or clinical tests to promote and evaluate patient health and wellness, and monitor drug therapy and treatment outcomes;
- Conduct patient assessments as appropriate to evaluate and monitor drug therapy;
- Initiate, modify, or discontinue medicinal drugs as outlined in the agreed upon patient-specific order or preapproved treatment protocol under the direction of a physician; and
- Administer medicinal drugs.

The bill defines a health care facility to expand the locations in which a consultant pharmacist services may be offered, to include:

- Ambulatory surgery center;
- Inpatient hospice;
- Hospital;  
Alcohol or chemical dependency center;
- Ambulatory care center; or
- Nursing home component of a continuing care facility.

The bill prohibits a consultant pharmacist from modifying or discontinuing a medication if the consultant pharmacist does not have a collaborative practice agreement with the prescribing practitioner; and clarifies that a consultant pharmacist is not authorized to diagnose any disease or condition.

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<sup>31</sup> *Supra* note 29.

<sup>32</sup> *Id.*

The consultant pharmacist must maintain all drug, patient care and quality assurance records required by current law; and, with the collaborating practitioner, must maintain the collaborative practice agreements that must be available upon request or during any DOH inspection.

The Board previously established, by rule, the additional training required for licensure as a consultant pharmacist under its general rulemaking authority.<sup>33</sup> The bill gives the Board express authority to establish additional education requirements for licensure as a consultant pharmacist.

The bill 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:

None.

C. Government Sector Impact:

None.

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<sup>33</sup> *Supra* note 21.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The bill is unclear as to where the written CPAs will be kept, and who, the consultant pharmacist or the collaborating practitioner, will be responsible for making them “available upon request from the DOH or upon inspection.”

The bill expands the locations where a consultant pharmacist may practice, some of which are not inspected by the DOH, but by the Agency for Health Care Administration (AHCA). The bill does not require the consultant pharmacist or the collaborating practitioner to make the CPA available to the AHCA upon request or inspection.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 465.003 and 465.0125.

**IX. Additional Information:**

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

**CS by Health Policy on February 11, 2020:**

The CS:

- Removes from the underlying bill’s definition of the “practice of professional pharmacy” the ability to “initiate” medicinal drugs;
- Removes the ability of consultant pharmacists in the underlying bill to “initiate” medicinal drugs pursuant to a CPA with a physician, podiatrist, or dentist; and
- Requires the CPA be in writing.

- B. **Amendments:**

None.

By Senator Diaz

36-00598A-20

20201094\_\_

A bill to be entitled

An act relating to consultant pharmacists; amending s. 465.003, F.S.; revising the definition of the term "practice of the profession of pharmacy"; amending s. 465.0125, F.S.; authorizing a consultant pharmacist to perform specified services under certain conditions; prohibiting a consultant pharmacist from modifying or discontinuing medicinal drugs prescribed by a health care practitioner under certain conditions; revising the responsibilities of a consultant pharmacist; requiring a consultant pharmacist and a collaborating practitioner to maintain collaborative practice agreements; requiring collaborative practice agreements to be made available upon request from or upon inspection by the Department of Health; prohibiting a consultant pharmacist from diagnosing any disease or condition; defining the term "health care facility"; providing an effective date.

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

Section 1. Subsection (13) of section 465.003, Florida Statutes, is amended to read:

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

(13) "Practice of the profession of pharmacy" includes compounding, dispensing, and consulting concerning contents, therapeutic values, and uses of any medicinal drug; consulting concerning therapeutic values and interactions of patent or proprietary preparations, whether pursuant to prescriptions or

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in the absence and entirely independent of such prescriptions or orders; and conducting other pharmaceutical services. For purposes of this subsection, "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 and recommendations made in ~~of the patient's drug therapy and~~ communication with the patient's prescribing health care provider as licensed under chapter 458, chapter 459, chapter 461, or chapter 466, or a similar statutory provision in another jurisdiction, or such provider's agent or such other persons as specifically authorized by the patient, regarding the patient's drug therapy and health care status. However, ~~nothing~~ in this subsection may not be interpreted to permit an alteration of a prescriber's directions, the diagnosis or treatment of any disease, the initiation of any drug therapy, the practice of medicine, or the practice of osteopathic medicine, unless otherwise permitted by law. "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 pursuant to s. 465.189 and the preparation of prepackaged drug products in facilities holding Class III institutional pharmacy permits. The term also includes the ordering and evaluating of any laboratory or clinical testing;

36-00598A-20

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conducting patient assessments; and initiating, modifying,  
discontinuing, or administering medicinal drugs pursuant to s.  
465.0125.

Section 2. Section 465.0125, Florida Statutes, is amended  
to read:

465.0125 Consultant pharmacist license; application,  
renewal, fees; responsibilities; rules.—

(1) The department shall issue or renew a consultant  
pharmacist license upon receipt of an initial or renewal  
application that ~~which~~ conforms to the requirements for  
consultant pharmacist initial licensure or renewal as adopted  
~~promulgated~~ by the board by rule and a fee set by the board not  
to exceed \$250. To be licensed as a consultant pharmacist, a  
pharmacist must complete additional training as required by the  
board.

(a) A consultant pharmacist may provide medication  
management services within the framework of a collaborative  
practice agreement between the pharmacist and a health care  
facility medical director or a physician licensed under chapter  
458 or chapter 459, a podiatric physician licensed under chapter  
461, or a dentist licensed under chapter 466, who is authorized  
to prescribe medicinal drugs.

(b) A collaborative practice agreement must outline the  
circumstances under which the consultant pharmacist may:

1. Order and evaluate any laboratory or clinical tests to  
promote and evaluate patient health and wellness, and monitor  
drug therapy and treatment outcomes.

2. Conduct patient assessments as appropriate to evaluate  
and monitor drug therapy.

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88       3. Initiate, modify, or discontinue medicinal drugs as  
89 outlined in the agreed upon patient-specific order or  
90 preapproved treatment protocol under the direction of a  
91 physician. A consultant pharmacist may not modify or discontinue  
92 medicinal drugs prescribed by a health care practitioner who  
93 does not have a collaborative practice agreement with the  
94 consultant pharmacist.

95       4. Administer medicinal drugs.

96       (c) ~~A The~~ consultant pharmacist shall maintain ~~be~~  
97 ~~responsible for maintaining~~ all drug, patient care, and quality  
98 assurance records as required by law and, with the collaborating  
99 practitioner, shall maintain collaborative practice agreements  
100 that must be available upon request from or upon inspection by  
101 the department.

102       (d) This subsection may not be construed to authorize a  
103 consultant pharmacist to diagnose any disease or condition.

104       (e) For purposes of this subsection, the term "health care  
105 facility" means an ambulatory surgical center or hospital  
106 licensed under chapter 395, an alcohol or chemical dependency  
107 treatment center licensed under chapter 397, an inpatient  
108 hospice licensed under part IV of chapter 400, a nursing home  
109 licensed under part II of chapter 400, an ambulatory care center  
110 as defined in s. 408.07, or a nursing home component under  
111 chapter 400 within a continuing care facility licensed under  
112 chapter 651 ~~for establishing drug handling procedures for the~~  
113 ~~safe handling and storage of drugs. The consultant pharmacist~~  
114 ~~may also be responsible for ordering and evaluating any~~  
115 ~~laboratory or clinical testing when, in the judgment of the~~  
116 ~~consultant pharmacist, such activity is necessary for the proper~~



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~~performance of the consultant pharmacist's responsibilities.  
Such laboratory or clinical testing may be ordered only with  
regard to patients residing in a nursing home facility, and then  
only when authorized by the medical director of the nursing home  
facility. The consultant pharmacist must have completed such  
additional training and demonstrate such additional  
qualifications in the practice of institutional pharmacy as  
shall be required by the board in addition to licensure as a  
registered pharmacist.~~

(2) Notwithstanding the provisions of subsection (1), a consultant pharmacist or a doctor of pharmacy licensed in this state may also be responsible for ordering and evaluating any laboratory or clinical testing for persons under the care of a licensed home health agency when, in the judgment of the consultant pharmacist or doctor of pharmacy, such activity is necessary for the proper performance of his or her responsibilities and only when authorized by a practitioner licensed under chapter 458, chapter 459, chapter 461, or chapter 466. In order for the consultant pharmacist or doctor of pharmacy to qualify and accept this authority, he or she must receive 3 hours of continuing education relating to laboratory and clinical testing as established by the board.

(3) The board shall adopt ~~promulgate~~ rules necessary to implement and administer this section.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/11/2020

Meeting Date

SB1094

Bill Number (if applicable)

Topic CONSULTANT PHARMACEUTICALS

Amendment Barcode (if applicable)

Name MICHAEL JACKSON

Job Title EVP & CEO

Address 610 N. ADAMS ST

Phone 850 222-2400

Street

TALLAHASSEE

FL

32301

City

State

Zip

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

2/11/2020

Meeting Date

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

SB 1094

Bill Number (if applicable)

Topic Consultant Pharmacists

Amendment Barcode (if applicable)

Name Joseph Salzberg ('SaulPs-verg')

Job Title Attorney/Lobbyist

Address 301 S. Bronough St., #600

Phone (850) 577-9090

Street

TCH

City

FL

State

32301

Zip

Email

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Society of Health System Pharmacists

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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: CS/SB 1006

INTRODUCER: Health Policy Committee; Senators Baxley, Perry, Rouson, and others

SUBJECT: Coverage for Hearing Aids for Children

DATE: February 12, 2020

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Palecki</u>	<u>Knudson</u>	<u>BI</u>	<b>Favorable</b>
2.	<u>Kibbey</u>	<u>Brown</u>	<u>HP</u>	<b>Fav/CS</b>
3.	<u>                    </u>	<u>                    </u>	<u>AP</u>	<u>                    </u>

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1006 requires an individual market health insurance policy that provides coverage on an expense-incurred basis for a family member of the insured to provide coverage for hearing aids, as defined in the bill, for children from birth through 21 years of age who have been diagnosed with hearing loss by a licensed physician or a licensed audiologist. The bill requires such policies to provide a minimum coverage limit of \$3,500 per ear within a 24-month period.

The insured remains responsible for the cost of hearing aids and related services which exceed the coverage limit provided for in their policy. If, however, a child experiences a significant and unexpected change in his or her hearing or experiences a medical condition requiring an unexpected change in the hearing aid before the existing 24-month period expires, and alterations to the existing hearing aid do not, or cannot, meet the needs of the child, the bill requires that a new 24-month period must begin with full benefits and coverage.

If the child diagnosed with hearing loss is under 18 years of age, then the covered hearing aids must be prescribed, fitted, and dispensed by a licensed physician or a licensed audiologist. For children ages 18 through 21, covered hearing aids must be fitted and dispensed by a licensed physician, a licensed audiologist, or a licensed hearing aid specialist.

The bill requires that its provisions apply to a health insurance policy that is issued or renewed on or after January 1, 2021, and the bill provides an effective date of that same date.

## **II. Present Situation:**

### **Hearing Loss in Children**

One in eight people in the United States (13 percent, or 30 million) aged 12 years or older has hearing loss in both ears, based on standard hearing examinations.<sup>1</sup> About two or three out of every 1,000 children in the United States are born with a detectable level of hearing loss in one or both ears.<sup>2</sup>

#### ***Florida Newborn Hearing Screening Program***

Since October 1, 2000, Florida has had a universal newborn hearing screening program.<sup>3</sup> Unless a parent objects to the screening, all Florida-licensed facilities that provide maternity and newborn care are required to screen all newborns prior to discharge for the detection of hearing loss. All test results, including recommendations for any referrals or follow-up evaluations by a licensed audiologist, a physician licensed under chs. 458 or 459, F.S., or other newborn hearing screening providers in the hospital facility, must be placed in the newborn's medical records within 24 hours after the completion of the screening procedure.<sup>4</sup> For babies born in a facility other than a hospital, the parents are to be instructed on the importance of having a screening conducted, information must be provided, and assistance given to make an appointment within three months.<sup>5</sup>

The initial newborn screening and any necessary follow-up and evaluation are covered insurance benefits reimbursable by Medicaid, health insurers, and health maintenance organizations, with some limited exceptions.<sup>6</sup> Newborns and children found to have a permanent hearing loss may take advantage of the state's Part C program of the Individuals with Disabilities Education Act<sup>7</sup> and Children's Medical Services' Early Intervention Program, Early Steps.<sup>8</sup>

### **Insurance Coverage for Hearing Aids**

#### ***Private Health Insurance***

According to the Office of Insurance Regulation, two carriers in the individual market and four carriers in the small group market covered hearing aids during 2019.<sup>9</sup>

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<sup>1</sup> See National Institutes for Health, National Institute on Deafness and Other Communication Disorders at <https://www.nidcd.nih.gov/health/statistics/quick-statistics-hearing> (last visited Feb. 6, 2020).

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

<sup>3</sup> See s. 383.145, F.S.

<sup>4</sup> Section 383.145(3)(e), F.S.

<sup>5</sup> Section 383.145(3)(i), F.S.

<sup>6</sup> Section 383.145(3)(j), F.S.

<sup>7</sup> See Pub. Law No. 108-446. The federal Part C program provides benefits and services for infants and toddlers from birth to age 36 months. Florida's Part C program is known as Early Steps and is administered by the Department of Health's Children's Medical Services.

<sup>8</sup> The Early Steps program services infants and children from age birth to age 36 months with disabilities, developmental delays, or children with a physical or mental condition known to create a risk of a developmental delay. See [http://www.cms-kids.com/families/early\\_steps/early\\_steps.html](http://www.cms-kids.com/families/early_steps/early_steps.html) (last visited Feb. 6, 2020).

<sup>9</sup> Email from Office of Insurance Regulation staff to Committee staff dated March 18, 2019 (on file with the Senate Committee on Banking and Insurance).

Twenty-four states appear to mandate health benefit plans to provide coverage for hearing aids for children.<sup>10</sup> Coverage requirements range from requiring a hearing aid every 24 months to every five years. Many states include caps on the amount the insurer must pay. These caps range from \$1,000 to \$4,000.<sup>11</sup>

### ***Hearing Aid Coverage in Public Insurance Programs***

Medicare does not cover hearing aids or hearing exams. Some Medicare Advantage Plans offer hearing coverage.<sup>12</sup> The Veterans Administration provides hearing aids for veterans in some circumstances.<sup>13</sup>

For adults, Florida's Medicaid program covers hearing aids.<sup>14</sup> For recipients who have moderate hearing loss or greater, the program includes the following services:

- One new, complete, (not refurbished) hearing aid device per ear, every three years, per recipient;
- Up to three pairs of ear molds per year, per recipient; and
- One fitting and dispensing service per ear, every three years, per recipient.

Medicaid also covers repairs and replacement of both Medicaid and non-Medicaid provided hearing aids, up to two hearing aid repairs every 366 days, after the one-year warranty period has expired.<sup>15</sup>

For children, Florida Medicaid covers services that are medically necessary to any eligible recipient under the age of 21 to correct or ameliorate a defect, condition, or a physical, or mental illness under the Early Periodic Screening and Diagnostic Testing (EPSDT) standard. Within this coverage standard, Medicaid recipients under the age of 21 receive all diagnostic services, treatment, equipment, supplies, and other measures that are described under 42 U.S.C. 1396d(a).<sup>16</sup> In addition to the coverage described above, Medicaid recipients under age 21 have coverage for the following relating to hearing services:

- For recipients who have documented, profound, severe hearing loss in one or both ears as follows:
  - Implanted device for recipients age five years and older;
  - Non-implanted soft band device for recipients under age five.
- Cochlear implants for recipient age 12 months and older who have documented, profound to severe, bilateral sensorineural hearing loss.
- One hearing assessment every three years for the purposes of determining hearing aid candidacy and the most appropriate hearing aid.

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<sup>10</sup> See information gathered by the American Speech-Language-Hearing Association at [https://www.asha.org/advocacy/state/issues/ha\\_reimbursement.htm](https://www.asha.org/advocacy/state/issues/ha_reimbursement.htm) (last visited Feb. 6, 2020).

<sup>11</sup> *Id.*

<sup>12</sup> See <https://www.medicare.gov/coverage/hearing-aids> (last visited Feb. 6, 2020).

<sup>13</sup> See <https://www.military.com/benefits/veterans-health-care/va-health-care-hearing-aids.html> (last visited Feb. 6, 2020).

<sup>14</sup> See Rule 59G-4.110, F.A.C. The hearing services coverage policy from the Agency for Health Care Administration is available at [http://ahca.myflorida.com/medicaid/review/specific\\_policy.shtml](http://ahca.myflorida.com/medicaid/review/specific_policy.shtml) (last visited Feb. 6, 2020).

<sup>15</sup> *Id.*

<sup>16</sup> Agency for Health Care Administration, *Hearing Services Coverage Policy* (June 2016), available at [http://ahca.myflorida.com/medicaid/review/specific\\_policy.shtml](http://ahca.myflorida.com/medicaid/review/specific_policy.shtml) (last visited Feb. 6, 2020).

- Up to two newborn screenings for recipients under the age of 12 months. A second screening may be conducted only if the recipient did not pass the test in one or both ears.
- Hearing screenings on the same date as a child health check-up.<sup>17</sup>

### ***Title XXI – State Children’s Health Insurance Program***<sup>18</sup>

The Children’s Health Insurance Program (CHIP) was created in 1997 through the 1997 Federal Balanced Budget Act legislation, and it enacted Title XXI of the Social Security Act as a joint state-federal funding partnership to provide health insurance to children in low to moderate income households.<sup>19</sup> The Florida Healthy Kids Corporation<sup>20</sup> is one component of Florida’s Title XXI program, known as Florida KidCare, which was enacted by the Florida Legislature in 1998<sup>21</sup> and is the only program component utilizing a non-Medicaid benefit package. The other program components, Medicaid for children, Medikids, and Children’s Medical Services Network, follow the Medicaid benefit package.<sup>22</sup>

Under s. 409.815(2)(a), F.S., in order for health benefits coverage to qualify for premium assistance payments, KidCare enrollees must receive hearing screenings as a covered, preventative health service. Additionally, under s. 409.815(2)(h), F.S., describing the benefits for durable medical equipment, covered services include:

*...equipment and devices that are medically indicated to assist in the treatment of a medical condition and specifically prescribed as medically necessary, with the following limitations:*

...

*3. Hearing aids shall be covered only when medically indicated to assist in the treatment of a medical condition.*

There are no out of pocket costs for the well-child hearing screening and the provision of hearing aids for subsidized Title XXI eligible children.<sup>23</sup>

### **Mandated Health Insurance Coverages**

Florida law does not require that health insurance policies cover hearing aids for adults or children.

Section 624.215, F.S., requires every person or organization seeking consideration of a legislative proposal which would mandate a health coverage or the offering of a health coverage by an insurance carrier, to submit to the Agency for Health Care Administration and the legislative committees having jurisdiction, a report that assesses the social and financial impacts

<sup>17</sup> 42 U.S.C. ss. 1397aa-1397mm.

<sup>18</sup> *Id.*

<sup>19</sup> The Balanced Budget Act of 1997, Pub. Law 105-33. 111 Stat. 251, enacted August 5, 1997.

<sup>20</sup> See s. 624.91-624.915, F.S.

<sup>21</sup> See ss. 409.810-409.821, F.S.

<sup>22</sup> See s. 409.815(2)(a), F.S., and s. 391.0315, F.S.

<sup>23</sup> Florida Healthy Kids Corporation, *Medical Benefits* <https://www.healthykids.org/benefits/medical/> (last visited Feb. 6, 2020).

of the proposed coverage.<sup>24</sup> Proponents have provided information to staff which indicates that less than 4,371 children under the age of 21 in Florida are deaf.<sup>25</sup> Hearing aids and the services to properly prescribe, evaluate, fit, and manage children with hearing loss generally cost an average of \$3,500 per ear depending on the technology and enhancements selected by the audiologist based on the individual needs of the child.<sup>26</sup>

The Patient Protection and Affordable Care Act (PPACA)<sup>27</sup> does not require that health insurance policies cover hearing aids for adults or for children. Under PPACA, individuals and small businesses can shop for health insurance coverage on the federal marketplace. All non-grandfathered plans<sup>28</sup> must include minimum essential coverage (MEC),<sup>29</sup> including an array of services that includes the 10 essential health benefits (EHBs). These 10 EHBs are further clarified or modified each year through the federal rulemaking process and are open for public comment before taking effect. The 10 general categories for the EHBs are:

- Ambulatory services (outpatient care);
- Emergency services;
- Hospitalization (inpatient care);
- Maternity and newborn care.
- Mental health and substance abuse disorder services;
- Prescription drugs.
- Rehabilitative services and rehabilitative services and devices;
- Laboratory services;
- Preventive care and chronic disease management; and
- Pediatric services, including oral and vision care.<sup>30</sup>

States are free to modify the EHBs offered in their states by adding coverage; however, because of concerns that federal funds would be used on costly mandated coverages that were not part of the required EHBs, PPACA contains a provision requiring that, starting in 2016, the states would have to pay for the cost of the coverage. As a result, the State of Florida may be required to

<sup>24</sup> AHCA has not yet received such a report. See E-mail from Deputy Director of Legislative Affairs to Senate Staff dated January 17, 2020 (on file with the Senate Committee on Banking and Insurance).

<sup>25</sup> Florida Coalition for Spoken Language Options, *Impact of Senate Bill 1006: Insurance Coverage for Hearing Aids for Children*. (on file with the Senate Committee on Banking and Insurance).

<sup>26</sup> *Id.*

<sup>27</sup> H.R. 3590 – 111<sup>th</sup> Congress: Patient Protection and Affordable Care Act (March 27, 2009).

<sup>28</sup> <https://www.govtrack.us/congress/bills/111/hr3590> (last visited Feb. 6, 2020).

<sup>29</sup> A “grandfathered health plan” are those health plans, both individual and employer plans, that maintain coverage that were in place prior to the passage of the PPACA or in which the enrollee was enrolled on March 23, 2010 while complying with the consumer protection components of the PPACA. If a group health plan enters a new policy, certificate, or contract of insurance, the group must provide the new issuer the documentation from the prior plan so it can be determined whether there has been a change sufficient to lose grandfather status. See 26 U.S.C. 7805 and 26 C.F.R. s. 2590.715-1251(a).

<sup>30</sup> To meet the individual responsibility provision of the PPACA statute, a benefit plan or coverage plan must be recognized as providing minimum essential coverage (MEC). Employer based coverage, Medicaid, Medicare, CHIP (i.e.: Florida KidCare), and TriCare would meet this requirement.

<sup>30</sup> 42 U.S.C. s. 18022(b)(1)(A)-(J).



defray the costs of any additional benefits beyond the required EHBs put in place after 2011.<sup>31</sup> Florida has not enacted any mandated benefits since 2011.<sup>32</sup>

Examples of health insurance benefits mandated under Florida law include:

- Coverage for certain diagnostic and surgical procedures involving bones or joints of the jaw and facial region (s. 627.419(7), F.S.);
- Coverage for bone marrow transplants (s. 627.4236, F.S.);
- Coverage for certain cancer drugs (s. 627.4239, F.S.);
- Coverage for any service performed in an ambulatory surgical center (s. 627.6616, F.S.);
- Diabetes treatment services (s. 627.6408, F.S.);
- Osteoporosis (s. 627.6409, F.S.);
- Certain coverage for newborn children (s. 627.641, F.S.);
- Child health supervision services (s. 627.6416, F.S.);
- Certain coverages related to mastectomies (s. 627.6417, F.S.);
- Mammograms (s. 627.6418, F.S.); and
- Treatment of cleft lip and cleft palate in children (s. 627.64193, F.S.).

### III. Effect of Proposed Changes:

**Section 1** of the bill creates s. 627.6413, F.S., to require an individual market health insurance policy that provides coverage on an expense-incurred basis for a family member of the insured to provide coverage for hearing aids, as that term is defined in 21 C.F.R. s. 801.420(a)(1), for children from birth through 21 years of age who have been diagnosed with hearing loss by a licensed physician or a licensed audiologist. Such policies are required to provide a minimum coverage limit of \$3,500 per ear within a 24-month period. 21 C.F.R. s. 801.420(a)(1) defines the term hearing aid as “any wearable instrument or device designed for, offered for the purpose of, or represented as aiding persons with or compensating for, impaired hearing.”

The bill indicates that the insured remains responsible for the cost of hearing aids and related services which exceed the coverage limit provided for in their policy. However, if a child experiences a significant and unexpected change in his or her hearing or experiences a medical condition requiring an unexpected change in the hearing aid before the existing 24-month period expires, and alterations to the existing hearing aid do not or cannot meet the needs of the child, the bill requires that a new 24-month period must begin with full benefits and coverage.

If the child diagnosed with hearing loss is under 18 years of age, then the covered hearing aids must be prescribed, fitted, and dispensed by a licensed physician or a licensed audiologist. For children ages 18 through 21, covered hearing aids must be fitted and dispensed by a licensed physician, a licensed audiologist, or a licensed hearing aid specialist.

The bill applies to an applicable policy that is issued or renewed on or after January 1, 2021.

**Section 2** provides an effective date of January 1, 2021.

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<sup>31</sup> See 42 U.S.C. s. 18031(d)(3)(B)(ii).

<sup>32</sup> Centers for Medicare and Medicaid Services, *Florida – State Required Benefits*, [https://downloads.cms.gov/ccio/State%20Required%20Benefits\\_FL.pdf](https://downloads.cms.gov/ccio/State%20Required%20Benefits_FL.pdf) (last visited Feb. 6, 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:**

According to proponents of CS/SB 1006 (the Florida Coalition for Spoken Language Options), approximately 1,709 children will benefit from the mandated coverage, and the resulting increases in insurance premiums are estimated to be between \$0.056 and \$0.68 per member, per month.<sup>33</sup>

**C. Government Sector Impact:**

Federal law may require the State of Florida to assume the cost of additional benefits that it requires of insurance companies.<sup>34</sup>

According to proponents of the bill, the proposed mandate is not expected to have a significant impact on the total cost of healthcare in the state of Florida.

- Total estimated number hearing aids:
  - Binaural (2) hearing aids: 1,623
  - Monaural (unilateral hearing loss) hearing aids: 85

<sup>33</sup> Florida Coalition for Spoken Language Options, Impact of Senate Bill 1006: *Insurance Coverage for Hearing Aids for Children* (on file with the Senate Committee on Banking and Insurance).

<sup>34</sup> See 42 U.S.C. s. 18031(3)(B)(ii).

• Costs at \$3500 per ear	
○ Binaural	\$11,363,173
○ Monaural	\$ 299,031
○ Total costs	\$11,662,204
○ 2-year benefit	\$ 5,831,102 <sup>35</sup>

This bill does not directly impact the Florida Department of Management Services.<sup>36</sup>

## VI. Technical Deficiencies:

The bill provides that if the child is under 18 years of age, the hearing aids must be prescribed, fitted, and dispensed by a licensed physician or a licensed audiologist. However, if the child is 18 to 21 years of age, the bill only requires that the hearing aids be fitted or dispensed by a licensed physician, a licensed audiologist, or a licensed hearing aid specialist. The bill does not specify who may or must prescribe hearing aids for a child aged 18-21 years. If the intent is to require a prescription for hearing aids from a licensed physician or a licensed audiologist for all children, it may be necessary to amend the bill to clarify this point.

The bill does not provide a definition for “significant and unexpected change” in hearing, nor does it specify who may determine whether an existing hearing aid meets the child’s needs, what criteria will be used to make that determination, and whether the determination is subject to appeal. It may be necessary to provide clarification in the bill or to provide the Office of Insurance Regulation with rulemaking authority.

## VII. Related Issues:

Generally, insurance policies are issued with a one-year duration. It may be difficult to implement a coverage requirement that lasts for two years, as proposed in the bill.

## VIII. Statutes Affected:

This bill creates section 627.6413 of the Florida Statutes.

## IX. Additional Information:

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

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

#### CS by Health Policy on February 11, 2020:

The CS:

- Defines the term “hearing aids” as that term is defined in 21 C.F.R. s. 801.420(a)(1).
- Specifies that coverage must be provided to children who are diagnosed with hearing loss by a licensed physician or a licensed audiologist

<sup>35</sup> Florida Coalition for Spoken Language Options, *Impact of Senate Bill 1006: Insurance Coverage for Hearing Aids for Children*. (on file with Senate Banking and Insurance Committee).

<sup>36</sup> Letter from Department of Management Services dated January 8, 2020, (on file with the Senate Committee on Banking and Insurance).

- Specifies that the coverage of hearing aids for children younger than 18 years of age must require the hearing aid to be prescribed, fitted, and dispensed by a licensed physician or a licensed audiologist.
- Specifies that the coverage of hearing aids for children between 18 and 21 years of age must require the hearing aid to be fitted and dispensed by a licensed physician, a licensed audiologist, or a licensed hearing aid specialist.

**B. Amendments:**

None.

By Senator Baxley

12-00626B-20

20201006\_\_

A bill to be entitled

An act relating to coverage for hearing aids for children; creating s. 627.6413, F.S.; requiring certain individual health insurance policies to provide coverage for hearing aids for children 21 years of age or younger; specifying health care providers who may prescribe, fit, and dispense the hearing aids; specifying a minimum coverage limit within a certain timeframe; providing an exception; providing that an insured is responsible for certain costs that exceed the policy limit; providing applicability; providing an effective date.

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

Section 1. Section 627.6413, Florida Statutes, is created to read:

627.6413 Coverage for hearing aids for children.—

(1) A health insurance policy that provides coverage on an expense-incurred basis for a family member of the insured must provide coverage for hearing aids for children diagnosed with hearing loss from birth through 21 years of age. If the child is under 18 years of age, a hearing aid must be prescribed, fitted, and dispensed by a licensed audiologist. For a child who is 18 to 21 years of age, a hearing aid may be fitted and dispensed by a licensed audiologist or licensed hearing aid specialist.

(2) The policy must provide a minimum coverage limit of \$3,500 per ear within a 24-month period. However, if a child experiences a significant and unexpected change in his or her

12-00626B-20

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30 hearing or a medical condition requiring an unexpected change in  
31 the hearing aid before the existing 24-month period expires, and  
32 alterations to the existing hearing aid do not or cannot meet  
33 the needs of the child, a new 24-month period must begin with  
34 full benefits and coverage.

35 (3) An insured is responsible for the cost of hearing aids  
36 and related services that exceed the coverage limit provided by  
37 his or her policy.

38 (4) This section applies to a policy that is issued or  
39 renewed on or after January 1, 2021.

40 Section 2. This act shall take effect January 1, 2021.

# THE FLORIDA SENATE

**COMMITTEES:**  
Ethics and Elections, *Chair*  
Appropriations Subcommittee on Education  
Education  
Finance and Tax  
Health Policy  
Judiciary

**JOINT COMMITTEE:**  
Joint Legislative Auditing Committee

## SENATOR DENNIS BAXLEY

12th District

January 21, 2020

The Honorable Chair Gayle Harrell  
310 Senate Office Building  
Tallahassee, Florida 32399

Dear Chair Harrell,

I would like to request that SB 1006 Insurance Coverage for Children with Hearing Aids be heard in the next Health Policy Committee meeting.

This would require a health insurance policy that provides coverage on an expense-incurred basis for a member of the family of the insured must provide health insurance benefits that include coverage for children diagnosed with hearing loss from birth through 21 years of age for hearing aids prescribed, fitted, and dispensed by a licensed audiologist if the family member is a child between the ages of 0-21 years old or by a licensed hearing instrument specialist if the family member is age 18 years old or older.

An insurer must provide a minimum coverage amount of \$3,500 per ear within a 24-month period. However, if a child experiences a significant and unexpected change in his or her hearing or a medical condition requiring an unexpected change in the hearing aid before the existing 24-month period has expired, and alterations to the existing hearing aid do not or cannot meet the needs of the child, a new 24-month period shall begin with full benefits and coverage. Also, the insured is responsible for the cost of hearing aids and related services that exceed the coverage provided by his or her policy.

Thank you for your favorable consideration.

Onward & Upward,



Senator Dennis K. Baxley  
Senate District 12

DKB/dd

cc: Allen Brown, Staff Director

320 Senate Office Building, 404 South Monroe St, Tallahassee, Florida 32399-1100 • (850) 487-5012  
Email: [baxley.dennis@flsenate.gov](mailto:baxley.dennis@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)

2/11/20

Meeting Date

1006

Bill Number (if applicable)

504 702

Amendment Barcode (if applicable)

Topic Amendment

Name Debra Galski

Job Title President / CEO

Address 6728 Driftwood Dr.

Street

Marsen

City

FL

State

34667

Zip

Phone 727 808-2612

Email debra @ familyhearinghelp.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Sertoma Speech & Hearing Foundation of FL Inc

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

2/11/20  
Meeting/Date

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

1006  
Bill Number (if applicable)  
504702  
Amendment Barcode (if applicable)

Topic \_\_\_\_\_

Name Theresa Bulger (BOL-DER)

Job Title Lobbyist

Address Manroe St  
Street

Phone 904 880 9063

Tallahassee  
City State Zip

Email tb@deafkids.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Audiologists

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**

2-11-20

Meeting Date

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

1006

Bill Number (if applicable)

504702

Amendment Barcode (if applicable)

Topic Hearing Aids

Name Steve Winn

Job Title Lobbyist

Address 2544 Blairstone

Street

Tallahassee

City

FL

State

32301

Zip

Phone 850-251-0792

Email winn@deanthink.net

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Society Hearing Health Care Specialists

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)

2/11/2020  
Meeting Date

SB1006  
Bill Number (if applicable)

Topic COVERAGE FOR HEARING AIDS FOR CHILDREN

Amendment Barcode (if applicable)

Name MEISSA RAFFENSPERGER

Job Title FL PTA LEGISLATIVE COM

Address 1747 ORLANDO CENTRAL PARKWAY  
Street  
ORLANDO FL 32809  
City State Zip

Phone 800.373.5782

Email legislation@flpta.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLORIDA PTA

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)

2-11-20

Meeting Date

1006

Bill Number (if applicable)

Topic Hearing Aids

Amendment Barcode (if applicable)

Name Steve Winn

Job Title lobbyist

Address 2544 Blackstone

Phone 850-251-0742

Tallahassee FL 32301

City State Zip

Email winnsh@earthlink.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Society Hearing Health care Specialists

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

2/11/2020

Meeting Date

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

10060

Bill Number (if applicable)

Topic Hearing Aid Bill 10060

Amendment Barcode (if applicable)

Name Lauren Gage

Job Title RN

Address 7499 Ashcroft Dr

Street

Phone 618-978-8879

Wesley Chapel

City

FL

State

33545

Zip

Email Lauren42883@yahoo.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Families of Deaf Children

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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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)

2/11/20

Meeting Date

1006

Bill Number (if applicable)

Topic HEARING Aid Bill

Amendment Barcode (if applicable)

Name Garrett Campbell

Job Title Student

Address 120 Ivy Lakes Dr.

Street

St. Johns

City

FLA

State

32259

Zip

Phone (904) 293-6890

Email mmcampbell0511@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)

2/11/20  
Meeting Date

1006  
Bill Number (if applicable)

Topic Hearing And Bill

Amendment Barcode (if applicable)

Name Debra Glinster

Job Title President CEO

Address 6728 Driftwood Dr.  
Street  
Hudson FL 34667  
City State Zip

Phone 727-808-2612

Email debra@family  
hearing, help 1011

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Sentance Speech & Hearing Foundation of FL Inc

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)

## APPEARANCE RECORD

2/11/20

Meeting Date

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

1006

Bill Number (if applicable)

Topic

HEARING A.D. Bill

Amendment Barcode (if applicable)

Name

Thomas Gage

Job Title

Dispatcher

Address

7499 Ashcroft Dr.

Phone

618 978-0532

Street

Wesley Chapel

City

FL

State

33545

Zip

Email

BMXERFORGET@stcglobal.net

Speaking:



For



Against



Information

Waive Speaking:



In Support



Against

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

Representing

Families of DEAF Children

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)

2/11/20  
Meeting Date

1006  
Bill Number (if applicable)

Topic HEARING AID BILLS

Amendment Barcode (if applicable)

Name ARCHIE CAMPBELL

Job Title PROJECT MANAGER

Address 120 IVY LAKES DR  
Street

Phone 9 (904) 703-1512

SAINT JOHNS FL 32259  
City State Zip

Email archiecampbelljr@gmail.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Parents of Deaf Children

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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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)

2/11/20

Meeting Date

1006

Bill Number (if applicable)

Topic HEARING AIDS 1006

Amendment Barcode (if applicable)

Name THOMAS A BULGER (pronounced BOL-DER)

Job Title Lobbyist

Address 1380 Monroe St

Phone 904 880 9063

Tallahassee State Zip

Email tb@deafkidscah

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FLAA, Florida Coalition for Spoken Language Options

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)

2/11/20  
Meeting Date

SB 1006  
Bill Number (if applicable)

Topic Coverage for Hearing Aids for Children

Amendment Barcode (if applicable)

Name Mary-Lynn Cullen

Job Title Legislative Liaison

Address 1674 University Pkwy  
Street

Phone 941-928-0278

Sarasota Fl. 34243  
City State Zip

Email aichildren@aol.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Advocacy Institute for Children

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/11/20  
Meeting Date

1006  
Bill Number (if applicable)

Topic Hearing A. 2 Bill 1006

Amendment Barcode (if applicable)

Name Harper Gage

Job Title Student

Address 7499 Ashcroft Dr.  
Street

Phone 618-978-8879

Wesley Chapel FL 33545  
City State Zip

Email Lauren42883@yahoo.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Families of Deaf Children

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

**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

---

BILL: CS/SB 880

INTRODUCER: Banking and Insurance Committee and Senator Baxley

SUBJECT: Nurse Registry

DATE: February 10, 2020

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Arnold	Knudson	BI	<b>Fav/CS</b>
2.	Rossitto-Van Winkle	Brown	HP	<b>Favorable</b>
3.			RC	

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

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 880 authorizes an employer or workers' compensation insurer to use a licensed nurse registry to place authorized compensable attendant care services for the benefit of an injured worker under the Workers' Compensation Law.

The bill takes effect July 1, 2020.

**II. Present Situation:**

**Workers' Compensation and Attendant Care Benefits**

Workers' compensation provides medical benefits and, in cases where the injured worker is unable to work or earn as much as he or she did before the injury, compensation for lost income (also referred to as "wage replacement" or "indemnity" benefits) for compensable workplace injuries arising out of work performed by an employee in the course and scope of employment.<sup>1</sup> Injured workers are entitled to receive all medically necessary remedial treatment, care, and attendance, including medications, medical supplies, durable medical equipment, and prosthetics, for as long as the nature of the injury and process of recovery requires.<sup>2</sup> Medical services must be

---

<sup>1</sup> Section 440.09(1), F.S.

<sup>2</sup> Section 440.13(2)(a), F.S.

provided by a health care provider authorized by the workers' compensation insurance company prior to being provided (except for emergency care).<sup>3</sup>

There are several types of medical care provided to injured workers both inside and outside of medical facilities, including emergency, interventional, palliative, rehabilitative, and attendant. "Attendant care" means care rendered by trained professional attendants that is beyond the scope of household duties.<sup>4</sup> Attendant care includes a wide variety of services from skilled nursing care to unskilled tasks, such as bathing, dressing, personal hygiene, and administration of medications. Most attendant care is provided by licensed medical providers; however, family members may provide and receive carrier payment for non-professional attendant care services, excluding normal household duties.<sup>5</sup>

According to a home health care study performed by the Cleveland Clinic, providing in-home attendant care has significant advantages for both the injured worker and the carrier. The injured worker can be more comfortable than in an institution and realize better outcomes, both physically and mentally, concurrent with the carrier achieving significant cost savings.<sup>6</sup> Under current law, carriers are not specifically prohibited from using a nurse registry or a home health agency to obtain professional and non-professional attendant care for the injured worker.

### **Placement of Attendant Care Services Through Nurse Registries and Home Health Agencies**

A nurse registry is a business that procures, offers, promises, or attempts to procure health care related contracts for registered nurses, licensed practical nurses, certified nursing assistants, home health aides, homemakers, and companions to provide services to patients in their homes and temporary staff to health care facilities or other business entities.<sup>7</sup> Nurse registries are governed by part II of ch. 408, F.S.,<sup>8</sup> and associated rules in Florida Administrative Code Rule 59A-35; and the nurse registry rules in Florida Administrative Code Rule 59A-19. A nurse registry must be licensed by the Agency for Health Care Administration (AHCA), pursuant to part III of ch. 400, F.S., to lawfully offer contracts in Florida.<sup>9</sup>

The providers referred by the nurse registry are hired as independent contractors by the patient, health care facility, or another business entity (e.g., a workers' compensation carrier).<sup>10</sup> This is a key defining feature of a nurse registry: It cannot have any employees except for the administrator, alternate administrator, and office staff. All individuals referred by a nurse registry who enter the home of patients to provide direct care must be independent contractors.

---

<sup>3</sup> Section 440.13(3)(a), F.S.

<sup>4</sup> Section 440.13(1)(b), F.S. Attendant care must be medically necessary and performed at the direction and control of an authorized treating physician pursuant to a written prescription. Section 440.13(2)(b), F.S.

<sup>5</sup> The valuation of family-member provided attendant care is limited in both duration and cost. Section 440.13(2)(b), F.S.

<sup>6</sup> A home health care study performed by the Cleveland Clinic found average per patient savings of \$6,433 in the first year after discharge, decrease in readmissions by 18 percent, and decrease in deaths by 20 percent. Roy Xiao et al., *Impact of Home Health Care on Health Care Resource Utilization Following Hospital Discharge: A Cohort Study*, The American Journal of Medicine, April 2018, Volume 131, Issue 4, pp. 395-407, e35.

<sup>7</sup> Section 400.462(21), F.S.

<sup>8</sup> Section 400.506(2), F.S. A nurse registry is also governed by the provisions in s. 400.506, F.S.

<sup>9</sup> Section 400.506(1), F.S.

<sup>10</sup> *Supra* note 7.

Home health agencies (HHAs) are organizations that provide health and medical services and medical supplies to an individual in the individual's home or place of residence.<sup>11</sup> HHAs are governed by part II of ch. 408, F.S.,<sup>12</sup> associated rules in Florida Administrative Code Rules 59A-35, and 59A-8. Like a nurse registry, an HHA must be licensed by AHCA, pursuant to part III of ch. 400, F.S., to lawfully offer contracts in Florida.<sup>13</sup>

The key difference between HHAs and nurse registries is the nature of the employment relationship with the health care professionals with whom they contract. Health care providers who contract with an HHA are employees of that agency. In contrast, health care providers who contract with nurse registries are independent contractors. Additionally, while a nurse registry and an HHA may provide services that are privately paid for by insurance or other means to patients in their home or place of residence and provide staff to health care facilities, schools, or other business entities, a nurse registry does not qualify for Medicare reimbursements; an HHA qualifies for such reimbursement.<sup>14</sup>

Florida's Workers' Compensation Law is silent regarding how attendant care providers are selected to provide authorized compensable care for injured workers. A workers' compensation carrier is neither prohibited nor specifically authorized to use a nurse registry to place attendant care providers for the benefit of an injured worker.

### III. Effect of Proposed Changes:

**Section 1** amends s. 440.13, F.S., to specifically authorize an employer or workers' compensation insurer to use a licensed nurse registry to place authorized, compensable attendant care services for the benefit of an injured worker under the Workers' Compensation Law.

**Section 2** 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.

---

<sup>11</sup> Section 400.462(12), (14), F.S.

<sup>12</sup> Section 400.464(1), F.S. An HHA is also governed by the provisions in s. 400.464, F.S.

<sup>13</sup> *Id.*

<sup>14</sup> Centers for Medicare & Medicaid Services, *Medicare & Home Health Care*, <https://www.medicare.gov/sites/default/files/2018-07/10969-medicare-and-home-health-care.pdf> (last visited Feb. 6, 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 section 440.13 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 Banking and Insurance on January 15, 2020:**

Authorizes an employer or workers' compensation insurer to use a licensed nurse registry to place authorized compensable attendant care services for the benefit of an injured worker under the Workers' Compensation Law. The underlying bill referred to the nurse registry providing attendant care services.

B. Amendments:

None.



By the Committee on Banking and Insurance; and Senator Baxley

597-02276-20

2020880c1

A bill to be entitled  
An act relating to the nurse registry; amending s.  
440.13, F.S.; authorizing the use of licensed nurse  
registries for the placement of attendant care  
provided for workers' compensation purposes;  
reenacting s. 440.134(16), F.S., relating to workers'  
compensation managed care arrangements, to incorporate  
the amendment made to s. 440.13, F.S., in a reference  
thereto; providing an effective date.

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

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

440.13 Medical services and supplies; penalty for  
violations; limitations.—

(2) MEDICAL TREATMENT; DUTY OF EMPLOYER TO FURNISH.—

(b)1. The employer shall provide appropriate professional  
or nonprofessional attendant care performed only at the  
direction and control of a physician when such care is medically  
necessary. The physician shall prescribe such care in writing.  
The employer or carrier shall not be responsible for such care  
until the prescription for attendant care is received by the  
employer and carrier, which shall specify the time periods for  
such care, the level of care required, and the type of  
assistance required. A prescription for attendant care shall not  
prescribe such care retroactively. The value of nonprofessional  
attendant care provided by a family member must be determined as  
follows:

597-02276-20

2020880c1

30       ~~a.1.~~ If the family member is not employed or if the family  
31 member is employed and is providing attendant care services  
32 during hours that he or she is not engaged in employment, the  
33 per-hour value equals the federal minimum hourly wage.

34       ~~b.2.~~ If the family member is employed and elects to leave  
35 that employment to provide attendant or custodial care, the per-  
36 hour value of that care equals the per-hour value of the family  
37 member's former employment, not to exceed the per-hour value of  
38 such care available in the community at large. A family member  
39 or a combination of family members providing nonprofessional  
40 attendant care under this paragraph may not be compensated for  
41 more than a total of 12 hours per day.

42       ~~c.3.~~ If the family member remains employed while providing  
43 attendant or custodial care, the per-hour value of that care  
44 equals the per-hour value of the family member's employment, not  
45 to exceed the per-hour value of such care available in the  
46 community at large.

47       2. The employer or carrier may use a nurse registry  
48 pursuant to s. 400.506 for the placement of authorized  
49 compensable attendant care services.

50  
51 Failure of the carrier to timely comply with this subsection  
52 shall be a violation of this chapter and the carrier shall be  
53 subject to penalties as provided for in s. 440.525.

54       Section 2. For the purpose of incorporating the amendment  
55 made by this act to section 440.13(2)(b), Florida Statutes, in a  
56 reference thereto, subsection (16) of section 440.134, Florida  
57 Statutes, is reenacted to read:

58       440.134 Workers' compensation managed care arrangement.—

597-02276-20

2020880c1

(16) When a carrier enters into a managed care arrangement pursuant to this section the employees who are covered by the provisions of such arrangement shall be deemed to have received all the benefits to which they are entitled pursuant to s. 440.13(2)(a) and (b). In addition, the employer shall be deemed to have complied completely with the requirements of such provisions. The provisions governing managed care arrangements shall govern exclusively unless specifically stated otherwise in this section.

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

# THE FLORIDA SENATE

**COMMITTEES:**  
Ethics and Elections, *Chair*  
Appropriations Subcommittee on Education  
Education  
Finance and Tax  
Health Policy  
Judiciary

**JOINT COMMITTEE:**  
Joint Legislative Auditing Committee

## SENATOR DENNIS BAXLEY

12th District

January 16, 2020

The Honorable Chair Gayle Harrell  
310 Senate Office Building  
Tallahassee, Florida 32399

Dear Chair Harrell,

I would like to request that SB 880 Nurse Registry be heard in the next Health Policy Committee meeting.

This bill authorizes an employer or worker's compensation insurer to use a licensed nurse registry to place authorized compensable attendant care services for the benefit of an injured worker under the Worker's Compensation Law.

Thank you for your favorable consideration.

Onward & Upward,



Senator Dennis K. Baxley  
Senate District 12

DKB/dd

cc: Allen Brown, Staff Director

320 Senate Office Building, 404 South Monroe St, Tallahassee, Florida 32399-1100 • (850) 487-5012  
Email: [baxley.dennis@flsenate.gov](mailto:baxley.dennis@flsenate.gov)

Bill Galvano  
President of the Senate

David Simmons  
President Pro Tempore

**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

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BILL: CS/SB 1370

INTRODUCER: Health Policy Committee and Senator Harrell

SUBJECT: Patient Safety Culture Surveys

DATE: February 12, 2020

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

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

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1370 amends several sections of law to require each hospital and ambulatory surgical center (ASC), including facilities operating exclusively as state facilities, to conduct a patient safety culture survey at least biennially. The bill specifies that facilities must use the Hospital Survey on Patient Safety Culture developed by the federal Agency for Healthcare Research and Quality, requires the survey to be anonymous, allows facilities to contract for the administration of the survey, and requires each facility to submit survey data to the Agency for Health Care Administration (AHCA).

The bill requires the Florida Center for Health Information and Transparency (Florida Center) to customize the survey with additional questions and to collect, compile, and publish aggregated survey data.

For similar legislation, the AHCA estimated the need for one full-time equivalent position (FTE) and \$162,477 in State Fiscal Year 2020-2021 in order to implement the bill's requirements, \$75,306 of which would be recurring.<sup>1</sup>

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

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<sup>1</sup> Agency for Health Care Administration, *House Bill 763 Analysis* (December 4, 2019) (on file with the Senate Committee on Health Policy).

## **II. Present Situation:**

### **Health Care Facility Regulation**

#### ***Hospitals***

Hospitals are regulated by the AHCA under ch. 395, F.S., and the general licensure provisions of part II, of ch. 408, F.S. Hospitals offer a range of health care services with beds for use beyond 24 hours by individuals requiring diagnosis, treatment, or care.<sup>2</sup> Hospitals must make regularly available, at a minimum, clinical laboratory services, diagnostic X-ray services, and treatment facilities for surgery or obstetrical care, or other definitive medical treatment.<sup>3</sup>

#### ***Ambulatory Surgical Centers***

An ASC is a facility, which is not a part of a hospital, the primary purpose of which is to provide elective surgical care, in which the patient is admitted and discharged within 24 hours.<sup>4</sup> ASCs are licensed and regulated by the AHCA under the same regulatory framework as hospitals.<sup>5</sup>

#### ***AHCA Regulation of Hospitals and ASCs***

There are 306 licensed hospitals and 479 licensed ASCs in the state of Florida. As part of state and federal regulatory oversight, the AHCA conducts onsite inspections of hospitals and ASCs to evaluate factors such as:

- Management and administration;
- Nursing services;
- Social services;
- Dietary services;
- Laboratory services; and
- Compliance with state and federal fire safety codes.

The AHCA's regulatory inspections occur periodically, according to specific guidelines for each facility type, and to investigate complaints and serious incidents. The AHCA also conducts annual risk management inspections in each licensed hospital. When deficiencies are found, a report is generated to the facility for corrective action. When necessary, AHCA staff conducts follow-up surveys or recommend sanctions, fines, and de-certifications when appropriate.

Section 1865(a)(1) of the Social Security Act permits providers and suppliers "accredited" by an approved national accreditation organization (AO) to be exempt from routine surveys by state survey agencies to determine compliance with Medicare conditions. Accreditation by an AO is voluntary and is not required for Medicare certification or participation in the Medicare program. Hospitals and ASCs, when accredited, are deemed exempt from AHCA routine inspections. Currently, 285 hospitals and 404 ASCs are accredited.

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<sup>2</sup> Section 395.002(12), F.S.

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

<sup>4</sup> Section 395.002(3), F.S.

<sup>5</sup> Sections 395.001-1065, F.S., and Part II, Chapter 408, F.S.

### ***Adverse Incidents***

The AHCA manages serious patient injury reporting, tracking, trending, and problem resolution programs in hospitals, ASCs, assisted living facilities, nursing homes, and certain health maintenance organizations, as directed by the Florida Statutes. The term “adverse incident” is defined in s. 395.0197(5), F.S., for purposes of reporting to the AHCA from hospitals and ASCs. Section 395.0197(5), F.S., provides a list of adverse incidents, whether occurring in the licensed facility or arising from health care prior to admission in the licensed facility, that must be reported by the facility to the AHCA within 15 calendar days after its occurrence.

The definition and the list are not identical. Due to this inconsistency, some facilities have communicated uncertainty to the AHCA about whether or not to report certain incidents. This feedback indicates that some hospitals may be under-reporting some incidents while others may be over-reporting.<sup>6</sup> During calendar year 2018, 15 hospitals were cited by the AHCA for failure to submit adverse incident reports while no ASCs were cited.

Adverse incidents are self-reported by the facilities once they determine that an incident meets the statutory definition. The AHCA receives and reviews more than 5,000 adverse incident reports annually. The most frequently reported outcomes from hospitals and ASCs are patient death, a patient requiring surgery that is unrelated to their admitting diagnosis, and surgery to remove a foreign object from a previous surgery. The AHCA publishes quarterly and annual statistics for adverse incidents as required by law. The number of adverse incidents reported from hospitals and ASCs over the previous five calendar years are shown in the following table:<sup>7</sup>

<b>Adverse Incidents Reported to the AHCA</b>		
<b>Calendar Year</b>	<b>Hospitals</b>	<b>ASCs</b>
2019*	673	76
2018	636	77
2017	520	62
2016	470	58
2015	483	69
2014	427	80

*\*12-month estimate based on 11 months of data*

### ***Patient Safety Culture Surveys***

Organizational culture refers to the beliefs, values, and norms shared by staff throughout the organization that influence their actions and behaviors. Patient safety culture is the extent to which these beliefs, values, and norms support and promote patient safety.<sup>8</sup> Patient safety culture can be measured by determining what is rewarded, supported, expected, and accepted in an organization as it relates to patient safety.<sup>9</sup> In a safe culture, employees are guided by an

<sup>6</sup> *Supra* note 1.

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

<sup>8</sup> U.S. Department of Health and Human Services, Agency for Healthcare Research and Quality, *2018 User Database Report-Hospital Survey on Patient Safety Culture*, p. 3, (March 2018) available at <https://www.ahrq.gov/sites/default/files/wysiwyg/sops/quality-patient-safety/patientsafetyculture/2018hospitalsopsreport.pdf> (last viewed Feb. 6, 2020).

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

organization-wide commitment to safety in which each member upholds his or her own safety norms and those of co-workers.

***Agency for Healthcare Research and Quality Hospital and ASC Patient Safety Culture Survey***

In 2004, the federal Agency for Healthcare Research and Quality (AHRQ) released the Hospital Survey on Patient Safety Culture (SOPS 1.0), a staff survey designed to help hospitals assess the culture of safety in their institutions by measuring how their staff perceive various aspects of patient safety culture.<sup>10</sup> The survey occurs once every two years and has since been implemented in hundreds of hospitals across the United States and in other countries.

In 2018, AHRQ began developing a new version of the survey, with the goal of shortening the survey.<sup>11</sup> A pilot test was conducted with 25 hospitals, the data from which were used to examine the survey's reliability. In 2019, AHRQ released a new version of the survey, the SOPS 2.0.<sup>12</sup>

The survey asks respondents to indicate to what degree they agree or disagree with a statement, how often something occurs, or provide a specific number or grade. Excerpts of the survey follow.

- Teamwork
  - In this unit, we work together as an effective team.
  - During busy times, staff in this unit help each other.
  - There is a problem with disrespectful behavior by those working in this unit.
  - When one area in this unit gets really busy, others help out.
- Supervisor/Manager, or Clinical Leader Support for Patient Safety
  - My supervisor/manager, or clinical leader seriously considers staff suggestions for improving patient safety.
  - My supervisor/manager, or clinical leader wants us to work faster during busy times, even if it means taking shortcuts.
  - My supervisor/manager, or clinical leader takes action to address patient safety concerns that are brought to their attention.
- Hospital Management Support for Patient Safety
  - Hospital management provides adequate resources to improve patient safety.
  - The actions of hospital management show that patient safety is a top priority.
  - Hospital management seems interested in patient safety only after an adverse event happens.
- Communication Openness
  - In this unit, staff speak up if they see something that may negatively affect patient care.
  - When staff in this unit see someone with more authority doing something unsafe for patients, they speak up.
  - In this unit, staff are afraid to ask questions when something does not seem right.

<sup>10</sup> U.S. Department of Health and Human Services, Agency for Healthcare Research and Quality, *Hospital Survey on Patient Safety Culture*, (March 2018) available at <http://www.ahrq.gov/professionals/quality-patient-safety/patientsafetyculture/hospital/index.html> (last viewed Feb. 6, 2020).

<sup>11</sup> U.S. Department of Health and Human Services, Agency for Healthcare Research and Quality, *Pilot Test Results from the 2019 AHRQ Surveys on Patient Safety Culture (SOPS) Hospital Survey Version 2.0*, p. 2, (September 2019) available at <http://www.ahrq.gov/sites/default/files/wysiwyg/sops/surveys/hospital/hsops2-pilot-results-parti.pdf> (last viewed Feb. 6, 2020).

<sup>12</sup> The survey is available at <http://www.ahrq.gov/sops/surveys/hospital/index.html> (last viewed Feb. 6, 2020).



- Handoffs and Information Exchange
  - When transferring patients from one unit to another, important information is often left out.
  - During shift changes, important patient care information is often left out.
  - During shift changes, there is adequate time to exchange all key patient care information.
- Patient Safety Grade- Poor, Fair, Good, Very Good, Excellent
  - How would you rate your unit/work area on patient safety?<sup>13</sup>

AHRQ developed a comparative database on the survey, composed of data from U.S. hospitals that administered the survey and voluntarily submitted the data.<sup>14</sup> The database allows hospitals to compare their patient safety culture survey results to those of other hospitals in support of patient safety culture improvement.<sup>15</sup> AHRQ utilizes the database to publish a biennial report presenting non-identifiable statistics on the patient safety culture of all participating hospitals. In 2018, 630 hospitals submitted survey results to the database. However, only 306 of those hospitals submitted surveys in 2016. As a result, to identify trends, comparisons can only be drawn from the data submitted by those 306 hospitals.<sup>16</sup>

AHRQ also developed the Ambulatory Surgery Center Survey on Patient Safety Culture in response to interest from ASCs in assessing patient safety culture in their facilities. This survey is designed specifically for ASC staff and asks for their opinions about the culture of patient safety in their facility.<sup>17</sup> In 2014, AHRQ conducted a pilot study on the use of the Patient Safety Culture survey in 59 ASCs.<sup>18</sup> The pilot study was intended to help ASCs assess the extent to which their culture emphasizes the importance of patient safety by viewing the patient safety culture survey results of the ASCs participating in the study.<sup>19</sup> The study was also used to prove the reliability and structure of the questions and items contained in the survey. Based on the testing and input from AHRQ and a technical expert panel, the survey was determined to be reliable and it was made available for industry use.

### ***Florida Center for Health Information and Transparency***

The Florida Center for Health Information and Transparency (Florida Center) provides a comprehensive health information system (information system) that includes the collection, compilation, coordination, analysis, indexing, dissemination, and utilization of health-related data. The Florida Center is housed within the AHCA.<sup>20</sup>

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<sup>13</sup> *Id.*

<sup>14</sup> The database is available at <http://www.ahrq.gov/sops/databases/hospital/index.html> (last viewed Feb. 6, 2020).

<sup>15</sup> U.S. Department of Health and Human Services, Agency for Healthcare Research and Quality, *2018 User Database Report-Hospital Survey on Patient Safety Culture*, at p. 1, available at <https://www.ahrq.gov/sites/default/files/wysiwyg/sops/quality-patient-safety/patientsafetyculture/2018hospitalsopsreport.pdf> (last viewed Feb. 6, 2020).

<sup>16</sup> *Id.* at p. 29.

<sup>17</sup> The survey is available at <https://www.ahrq.gov/sops/surveys/asc/index.html>. (last viewed Feb. 6, 2020).

<sup>18</sup> U.S. Department of Health and Human Services, Agency for Healthcare Research and Quality, *Results From the 2014 AHRQ Ambulatory Surgery Center Survey on Patient Safety Culture Pilot Study*, (April 2015) available at [https://www.ahrq.gov/sites/default/files/wysiwyg/professionals/quality-patient-safety/patientsafetyculture/asc/resources/asc\\_pilotstudy.pdf](https://www.ahrq.gov/sites/default/files/wysiwyg/professionals/quality-patient-safety/patientsafetyculture/asc/resources/asc_pilotstudy.pdf) (last viewed Feb. 6, 2020).

<sup>19</sup> *Id.* at p. 1.

<sup>20</sup> Section 408.05, F.S.

Offices within the Florida Center, which serve different functions, are:

- Data Collection and Quality Assurance, which collects patient discharge data from all licensed acute care hospitals (including psychiatric and comprehensive rehabilitation units), comprehensive rehabilitation hospitals, ambulatory surgical centers and emergency departments.
- Risk Management and Patient Safety, which conducts in-depth analyses of reported incidents to determine what happened and how the facility responded to the incident.
- Data Dissemination and Communication, which maintains AHCA's health information website, provides technical assistance to data users, and creates consumer brochures and other publications.
- Health Information Exchange and Policy Analysis, which monitors innovations in health information technology, informatics, and the exchange of health information and provides a clearinghouse of technical resources on health information exchange, electronic prescribing, privacy and security, and other relevant issues.<sup>21</sup>

The Florida Center electronically collects patient data from every Florida licensed inpatient hospital, ASC, emergency department, and comprehensive rehabilitation hospital on a quarterly basis. The data is validated for accuracy and maintained in three major databases: the hospital inpatient database, the ambulatory surgery database, and the emergency department database.

- The hospital inpatient database contains records for each patient stay at Florida acute care facilities, including long-term care hospitals and psychiatric hospitals. These records contain extensive patient information including discharge records, patient demographics, admission information, medical information, and charge data. This database also includes comprehensive inpatient rehabilitation data on patient-level discharge information from Florida's licensed freestanding comprehensive inpatient rehabilitation hospitals and acute care hospital distinct part rehabilitation units.<sup>22</sup>
- The ambulatory surgery database contains "same-day surgery" data on reportable patient visits to Florida health care facilities, including freestanding ambulatory surgery centers, short-term acute care hospitals, lithotripsy centers, and cardiac catheterization laboratories. Ambulatory surgery data records include, but are not limited to, patient demographics, medical information, and charge data.<sup>23</sup>
- The emergency department database collects reports of all patients who visited an emergency department, but were not admitted for inpatient care. Reports are electronically submitted to the AHCA and include the hour of arrival, the patient's chief complaint, principal diagnosis, race, ethnicity, and external causes of injury.<sup>24</sup>

The Florida Center maintains [www.FloridaHealthFinder.gov](http://www.FloridaHealthFinder.gov), which was established to assist consumers in making informed health care decisions and lead to improvements in quality of care in Florida. The website provides a wide array of search and comparative tools to the public that allows easy access to information on hospitals, ambulatory surgery centers, emergency

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<sup>21</sup> See *Florida Center for Health Information and Transparency*, available at <http://ahca.myflorida.com/SCHS/> (last visited on Feb. 11, 2020).

<sup>22</sup> See s. 408.061, F.S., and ch. 59E-7, F.A.C.

<sup>23</sup> See s. 408.061, F.S., and ch. 59B-9, F.A.C.

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

departments, hospice providers, physician volume, health plans, nursing homes, and prices for prescription drugs in Florida.

The website also provides tools to researchers and professionals to allow specialized data queries, but requires users to have some knowledge of medical coding and terminology. Some of the features and data available on the website include a multimedia encyclopedia and symptoms navigator, hospital and ambulatory surgery centers performance data, data on mortality, complication, and infection rates for hospitals, and a facility/provider locator.

The Florida Center also runs Florida Health Price Finder<sup>25</sup> which provides consumers with the ability to research and compare health care costs in Florida at the national, state and local levels. Supported by a database of more than 15 million lines of insurance claim data sourced directly from Florida insurers, the website displays costs as Care Bundles representing the typical set of services a patient receives as part of treatment for a specific medical conditions. Care Bundles are broken down into logical steps, which may include one or more procedures and tests and the 295 care bundles currently available on Florida Health Price Finder account for 90 percent of consumer searches on national pricing websites.

### III. Effect of Proposed Changes:

**Section 1** amends s. 395.1012, F.S., to require that each hospital and ASC<sup>26</sup> must, at least biennially, conduct a patient safety culture survey using the Hospital Survey on Patient Safety Culture developed by the federal AHRQ. The facility:

- Must conduct the survey anonymously to encourage completion of the survey by staff working at the facility;
- May contract for administration of the survey;
- Must submit the survey data to the AHCA in a format specified in rule and including the survey participation rate;
- May develop an internal action plan between surveys to identify measures to improve the survey and submit the plan to the AHCA

**Section 3** amends s. 408.05, F.S., to require the Florida Center to collect, compile, and publish patient safety culture survey data and designate the use of updated versions of the survey as the occur. The Florida Center is also required to:

- Customize the survey to:
  - Generate data regarding the likelihood of a respondent to seek care for the respondent and the respondent's family at the surveying facility, both in general and within the respondent's specific unit or work area; and
  - Revise the units or work areas identified in the survey to include a pediatric cardiology patient care unit and a pediatric cardiology surgical services unit.
- Publish the survey results for each facility, in the aggregate, by composite measure as defined in the survey and the units or work areas within the facility.

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<sup>25</sup> see <https://pricing.floridahealthfinder.gov/#>! (last visited Feb. 11, 2020).

<sup>26</sup> Including hospitals and ASCs operating exclusively as state facilities.

**Sections 2 and 4** amend ss. 395.1055 and 408.061, F.S., respectively, to make conforming and cross-reference changes.

**Section 5** 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:

Hospitals and ASCs that are required to complete and submit a patient safety culture survey or surveys under CS/SB 1370 will incur an indeterminate cost to fulfill that requirement.

C. Government Sector Impact:

The AHCA has not provided a fiscal impact estimate for SB 1370 or CS/SB 1370. However, under HB 763, which is similar to CS/SB 1370, the AHCA reported<sup>27</sup> that it will be required to collect, compile, and prepare the survey results for publication. Data collection will require developing new information technology applications or infrastructure, or both, to accept the survey data files electronically from each of, at least, 776 facilities. Survey data collection must include identity verification to ensure that the

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<sup>27</sup> *Supra* note 1.

party submitting data on behalf of a facility is properly authorized to do so, along with a validation process to ensure that submitted data files are complete and meet required specifications.

AHCA also reported that, under HB 763, its staff will be required to compile the submitted data for publication. Due to the number of facilities reporting, the AHCA estimates the need for one full-time analyst to perform these functions and to monitor and report facility compliance. The costs associated with internal development of a reporting portal for facilities to submit their survey data are estimated based on known development costs associated with recent and relatively similar reporting projects. The secure data submission portal will need to include identity verification, validation of data specifications, documentation of the date and time of submission, and reporting requirements. The costs for the AHCA to build such a system were estimated at \$60,000 in the first year.

Publication of survey findings or scores at the facility level will require custom programming to the AHCA's existing consumer transparency website, FloridaHealthFinder.gov. The development of new transparency tools in recent years have had associated vendor costs ranging from \$6,400 to \$30,000, depending on the size and scope of the new function or tool. The publication of the patient safety culture survey data would be a significant endeavor, requiring the AHCA's contracted vendor to create search functionality, publication, and integration of results for all of the state's licensed hospitals and ASCs. AHCA's rough estimate of associated programming and web-design costs was approximately \$25,000 in the first year and \$2,000 recurring annually thereafter.

The AHCA estimated the need for one analyst to manage the survey vendor contract, perform data analysis functions, monitor facility compliance, and analyze and report noncompliant facilities to AHCA licensure staff for regulatory follow-up as needed. Comparable contracts managed by the AHCA are administered by a Government Analyst II level staff member. AHCA reported that the patient safety culture survey program would be a significant implementation, and, in order for it to be successful, the program will require, at a minimum, a dedicated contract manager who also has data analysis skills and experience.

Overall, the AHCA estimated the need for one FTE and \$162,477 to implement the bill in State Fiscal Year 2020-2021, followed by recurring costs of \$75,306 per year in subsequent fiscal years.<sup>28</sup>

## **VI. Technical Deficiencies:**

None.

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<sup>28</sup> *Id.*

**VII. Related Issues:**

The AHCA recommends that hospitals and ASCs be required under the bill to contract with an independent third-party organization to administer the surveys in order to ensure anonymity of responses and encourage honesty from respondents. Under this recommendation, each facility would be required to capture and provide data from a statistically valid sample of employees in order to ensure that findings are representative of the facility as a whole.<sup>29</sup>

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 395.1012, 395.1055, 408.05, 408.061.

**IX. Additional Information:**

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

**CS by Health Policy on February 11, 2020:**

The CS replaces requirements in the underlying bill with the requirement that each hospital and ASC conduct a patient safety culture survey at least biennially. The CS eliminates the exemption for facilities operating exclusively as state facilities.

The CS specifies that facilities must use the Hospital Survey on Patient Safety Culture developed by the federal Agency for Healthcare Research and Quality, requires the survey to be anonymous, allows facilities to contract for the administration of the survey, and requires that each facility must submit survey data to the AHCA.

The bill requires the Florida Center to customize the survey with additional questions and to collect, compile, and publish aggregated survey data.

- B. **Amendments:**

None.

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

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<sup>29</sup> *Id.*

By Senator Harrell

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A bill to be entitled  
An act relating to patient safety culture surveys;  
amending s. 408.05, F.S.; requiring the Agency for  
Health Care Administration to develop surveys to  
assess patient safety culture in certain health care  
facilities; prescribing measures for the surveys;  
providing applicability; requiring the agency to  
conduct and make available the results of such  
surveys; amending s. 408.061, F.S.; revising  
requirements for the submission of health care data to  
the agency; amending s. 395.1055, F.S.; conforming a  
cross-reference; providing an effective date.

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

Section 1. Present paragraphs (d) through (k) of subsection  
(3) of section 408.05, Florida Statutes, are redesignated as  
paragraphs (e) through (l), respectively, a new paragraph (d) is  
added to that subsection, and present paragraph (j) of that  
subsection is amended, to read:

408.05 Florida Center for Health Information and  
Transparency.—

(3) HEALTH INFORMATION TRANSPARENCY.—In order to  
disseminate and facilitate the availability of comparable and  
uniform health information, the agency shall perform the  
following functions:

(d) Design a patient safety culture survey or surveys to be  
completed annually by each hospital and ambulatory surgical  
center licensed under chapter 395. The survey must be designed

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to measure aspects of patient safety culture, including, but not limited to frequency of adverse events; quality of handoffs and transitions; comfort in reporting a potential problem or error; the level of teamwork within hospital units and the facility as a whole; staff compliance with patient safety regulations and guidelines; staff perception of facility support for patient safety; and staff opinions on whether the staff would undergo a health care service or procedure at the facility. The survey must be anonymous to encourage staff employed by or working in the facility to complete the survey. The agency shall review and analyze nationally recognized patient safety culture survey products, including, but not limited to, the patient safety surveys developed by the Agency for Healthcare Research and Quality and the Safety Attitudes Questionnaire developed by the University of Texas, to develop the patient safety culture survey. This paragraph does not apply to licensed facilities operating exclusively as state facilities.

(k)~~(j)~~ Conduct and make available the results of special health surveys, including facility patient safety culture surveys, health care research, and health care evaluations conducted or supported under this section. Each year the center shall select and analyze one or more research topics that can be investigated using the data available pursuant to paragraph (c). The selected topics must focus on producing actionable information for improving quality of care and reducing costs. The first topic selected by the center must address preventable hospitalizations.

Section 2. Paragraph (a) of subsection (1) of section 408.061, Florida Statutes, is amended to read:



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408.061 Data collection; uniform systems of financial reporting; information relating to physician charges; confidential information; immunity.—

(1) The agency shall require the submission by health care facilities, health care providers, and health insurers of data necessary to carry out the agency's duties and to facilitate transparency in health care pricing data and quality measures. Specifications for data to be collected under this section shall be developed by the agency and applicable contract vendors, with the assistance of technical advisory panels including representatives of affected entities, consumers, purchasers, and such other interested parties as may be determined by the agency.

(a) Data submitted by health care facilities, including the facilities as defined in chapter 395, shall include, but are not limited to: case-mix data, patient admission and discharge data, hospital emergency department data which shall include the number of patients treated in the emergency department of a licensed hospital reported by patient acuity level, data on hospital-acquired infections as specified by rule, data on complications as specified by rule, data on readmissions as specified by rule, with patient and provider-specific identifiers included, actual charge data by diagnostic groups or other bundled groupings as specified by rule, facility patient safety culture surveys, financial data, accounting data, operating expenses, expenses incurred for rendering services to patients who cannot or do not pay, interest charges, depreciation expenses based on the expected useful life of the property and equipment involved, and demographic data. The

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88 agency shall adopt nationally recognized risk adjustment  
89 methodologies or software consistent with the standards of the  
90 Agency for Healthcare Research and Quality and as selected by  
91 the agency for all data submitted as required by this section.  
92 Data may be obtained from documents such as, but not limited to:  
93 leases, contracts, debt instruments, itemized patient statements  
94 or bills, medical record abstracts, and related diagnostic  
95 information. Reported data elements shall be reported  
96 electronically in accordance with rule 59E-7.012, Florida  
97 Administrative Code. Data submitted shall be certified by the  
98 chief executive officer or an appropriate and duly authorized  
99 representative or employee of the licensed facility that the  
100 information submitted is true and accurate.

101 Section 3. Paragraph (d) of subsection (14) of section  
102 395.1055, Florida Statutes, is amended to read:

103 395.1055 Rules and enforcement.—

104 (14)

105 (d) Each onsite inspection must include all of the  
106 following:

107 1. An inspection of the program's physical facilities,  
108 clinics, and laboratories.

109 2. Interviews with support staff and hospital  
110 administrators.

111 3. A review of:

112 a. Randomly selected medical records and reports,  
113 including, but not limited to, advanced cardiac imaging,  
114 computed tomography, magnetic resonance imaging, cardiac  
115 ultrasound, cardiac catheterization, and surgical operative  
116 notes.

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b. The program's clinical outcome data submitted to the Society of Thoracic Surgeons and the American College of Cardiology pursuant to s. 408.05(3)(1) ~~s. 408.05(3)(k)~~.

c. Mortality reports from cardiac-related deaths that occurred in the previous year.

d. Program volume data from the preceding year for interventional and electrophysiology catheterizations and surgical procedures.

Section 4. This act shall take effect July 1, 2020.



# 2020 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Agency for Health Care Administration

## BILL INFORMATION

<b>BILL NUMBER:</b>	HB 763
<b>BILL TITLE:</b>	Patient Safety Culture Surveys
<b>BILL SPONSOR:</b>	Representative Michael Grant
<b>EFFECTIVE DATE:</b>	July 1, 2020

## COMMITTEES OF REFERENCE

1) N/A
2)
3)
4)
5)

## CURRENT COMMITTEE

N/A

## SIMILAR BILLS

**BILL NUMBER:**

**SPONSOR:**

## PREVIOUS LEGISLATION

<b>BILL NUMBER:</b>	CS/CS/HB 319
<b>SPONSOR:</b>	Rep. Michael Grant
<b>YEAR:</b>	2019
<b>LAST ACTION:</b>	Died in Senate Health Policy

## IDENTICAL BILLS

**BILL NUMBER:**

**SPONSOR:**

**Is this bill part of an agency package?**

Y \_\_\_ N \_x\_

## BILL ANALYSIS INFORMATION

<b>DATE OF ANALYSIS:</b>	December 4, 2019
<b>LEAD AGENCY ANALYST:</b>	Nikole Helvey, Florida Center for Health Information and Transparency
<b>ADDITIONAL ANALYST(S):</b>	
<b>LEGAL ANALYST:</b>	Thomas M. Hoeler
<b>FISCAL ANALYST:</b>	

## **POLICY ANALYSIS**

### **1. EXECUTIVE SUMMARY**

The Florida Agency for Health Care Administration (the Agency) monitors and reports on patient care quality at licensed hospitals and Ambulatory Surgical Centers (ASCs) through a variety of functions. The Agency's Division of Health Quality Assurance (HQA) is responsible for monitoring and reporting of risk management and patient safety incidents and additional required reporting functions of health care facilities in accordance with applicable state and federal laws.

This bill requires hospitals and ASCs to submit patient safety culture survey data to the Agency for Health Care Administration and revises requirements for the submission of health care data to the Agency.

This bill requires the Agency to develop surveys to assess patient safety culture in certain health facilities. Patient safety culture surveys will be completed annually and assess: the frequency of adverse events, quality of handoffs and transitions of care, comfort in reporting a problem or error, the level of teamwork within hospital units and the facility as a whole, staff compliance with patient safety regulations, and staff opinions on whether the staff would undergo a health care service or procedure at the facility.

This bill will go into effect July 1, 2020.

### **2. SUBSTANTIVE BILL ANALYSIS**

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

There are 306 licensed hospitals and 479 licensed ASCs in the state of Florida.

Chapter 395, F.S., provides licensure requirements for hospitals and ASCs regarding required inspections, medical staff membership, clinical privileges, patient safety, risk management programs, complaint and investigation procedures, disclosure of information to patients, and many other provisions designed to ensure and protect patient safety and consumer rights. As part of state and federal regulatory oversight, the Agency conducts onsite inspections of hospitals and ASCs to evaluate factors such as:

- management and administration
- nursing services
- social services
- dietary services
- laboratory services
- compliance with state and federal fire safety codes

Agency regulatory inspections occur periodically, according to specific guidelines for each facility type, and to investigate complaints and serious incidents. The Agency also conducts annual risk management inspections in each licensed hospital. When deficiencies are found, a report is generated to the facility for corrective action. When necessary, Agency staff conduct follow-up surveys and/or recommend sanctions, fines, and de-certifications when appropriate.

Hospitals and ASCs, when accredited, are "deemed" for the purposes of inspections and accreditation reports as a substitute for Agency routine inspections. Currently, 285 hospitals and 404 ASCs are accredited. Section 1865(a)(1) of the Social Security Act (the Act) permits providers and suppliers "accredited" by an approved national accreditation organization (AO) to be exempt from routine surveys by State survey agencies to determine compliance with Medicare conditions. Accreditation by an AO is voluntary and is not required for Medicare certification or participation in the Medicare Program.

#### **Adverse Incidents**

The Agency manages serious patient injury reporting, tracking, trending, and problem resolution programs in hospitals, ASCs, assisted living facilities (ALFs), nursing homes, and certain health maintenance organizations (HMOs), as directed by Florida Statutes. Adverse incidents required to be reported to the

Agency from hospitals and ASCs are defined in s. 395.0197, F.S. Subsections (5) and (7). However, these definitions are not identical. Due to the inconsistency in how adverse incident is defined in statute, some facilities have communicated uncertainty about whether or not to report certain incidents. This feedback indicates that some hospitals may be under-reporting some incidents, while others may be over-reporting. During calendar year 2018, 15 hospitals and 0 ASCs were cited by the Agency for failure to submit adverse incident reports.

Adverse incidents are self-reported by the facilities once they determine that an incident meets the statutory definition. The Agency receives and reviews more than 5,000 adverse incident reports annually. The most frequently reported outcomes from hospitals and ASCs are patient death, a patient requiring surgery that is unrelated to their admitting diagnosis, and surgery to remove a foreign object from a previous surgery. The Agency publishes [quarterly](#)<sup>1</sup> and [annual](#)<sup>2</sup> statistics for adverse incidents as required by law. The number of adverse incidents reported from hospitals and ASCs over the previous five calendar years are shown in the following table:

Calendar Year	Hospitals	ASCs
<b>YTD 2019*</b>	617*	70*
<b>2018</b>	636	77
<b>2017</b>	520	62
<b>2016</b>	470	58
<b>2015</b>	483	69
<b>2014</b>	427	80

*\*Data obtained on December 4, 2019*

Source: [https://bi.ahca.myflorida.com/t/ABICC/views/QuarterlyReport\\_ASC-HOSP-HMO/DetailData?embed=y&:showAppBanner=false&:showShareOptions=true&:display\\_count=no&:showVizHome=no](https://bi.ahca.myflorida.com/t/ABICC/views/QuarterlyReport_ASC-HOSP-HMO/DetailData?embed=y&:showAppBanner=false&:showShareOptions=true&:display_count=no&:showVizHome=no)

## Health Care Quality and Cost Transparency

The Agency collects patient-level administrative discharge data from all licensed acute care hospitals (including psychiatric and comprehensive rehabilitation units), comprehensive rehabilitation hospitals, ASCs, and emergency departments in the state. Discharge datasets are submitted by the facilities on a quarterly schedule. The Agency uses the data to provide information about providers, service utilization, quality, and costs – and to make certain information available to the public through [FloridaHealthFinder.gov](#). Performance outcome indicators are risk adjusted or severity adjusted, as applicable, using nationally recognized risk adjustment methodologies.

Current quality measures on the website include facility and procedure specific volume, average length of stay, Hospital Consumer Assessment of Healthcare Providers and Systems (HCAHPS) survey findings as made available from the U.S. Centers for Medicare and Medicaid Services (CMS), and Potentially Preventable 15-Day Readmissions<sup>3</sup> for up to 150 common medical conditions and procedures.<sup>4</sup>

Health care price transparency legislation that passed in 2016 (HB1175) required the Agency to contract with a vendor to develop a consumer-friendly internet platform for consumers to look up and compare the average cost of common health care services, as determined by paid claims collection from health insurers statewide. FloridaHealthPriceFinder.com provides public access to cost estimates for up to 276 common health care services.

<sup>1</sup> [https://bi.ahca.myflorida.com/t/ABICC/views/QuarterlyReport\\_ASC-HOSP-HMO/DetailData?embed=y&:showAppBanner=false&:showShareOptions=true&:display\\_count=no&:showVizHome=no](https://bi.ahca.myflorida.com/t/ABICC/views/QuarterlyReport_ASC-HOSP-HMO/DetailData?embed=y&:showAppBanner=false&:showShareOptions=true&:display_count=no&:showVizHome=no)

<sup>2</sup> [https://bi.ahca.myflorida.com/t/ABICC/views/AIRSAAnnualReport/ReportingbyFieldOffice?iframeSizedToWindow=true&:embed=y&:showAppBanner=false&:display\\_count=no&:showVizHome=no](https://bi.ahca.myflorida.com/t/ABICC/views/AIRSAAnnualReport/ReportingbyFieldOffice?iframeSizedToWindow=true&:embed=y&:showAppBanner=false&:display_count=no&:showVizHome=no)

<sup>3</sup> Calculated under license agreement with 3M utilizing their proprietary methodology

<sup>4</sup> Additional quality information available to consumers on the website includes hospital-wide measures of six primary types of healthcare-associated infections (HAIs) as reported annually by the CMS and the number of sanctions or final orders administered by the Agency. The Agency is currently working to reintroduce the Agency for Health Research and Quality’s (AHRQ) procedure specific mortality and complication measures for each hospital and ASC onto the website in the Spring of 2020, utilizing updated algorithms published by AHRQ in August of 2019.

## Culture of Safety

The Agency for Healthcare Research and Quality (AHRQ) sponsored the development of patient safety culture assessment tools for hospitals, nursing homes, medical offices, community pharmacies, and ASCs. The hospital survey was designed to measure staff perceptions about the safety culture in their work area/unit and in the hospital as a whole.

The hospital survey covers 12 topic areas:

1. Communication Openness.
2. Feedback & Communication about error.
3. Frequency of Events Reported.
4. Hospital Handoffs & Transitions.
5. Hospital Management Support for Patient Safety.
6. Non-punitive Response to Error.
7. Organizational Learning-Continuous Improvement.
8. Overall Perceptions of Safety.
9. Staffing.
10. Supervisor/Manager Expectations & Actions Promoting Patient Safety.
11. Teamwork across Hospital Units.
12. Teamwork within Units.

In addition, the hospital survey includes:






1. An item that asks respondents to provide an overall grade on patient safety for their hospital.
2. An item asking the number of events the respondent has reported over the past 12 months.
3. Seven items about respondent background characteristics.

There are supplemental items for Health Information Technology Patient Safety as well as Value and Efficiency. The AHRQ survey development process was careful and rigorous, based on a review of the existing research and other culture surveys; and the survey questions have demonstrated reliability and validity<sup>5</sup>.

The Agency for Healthcare Research and Quality has recently established national [Surveys on Patient Safety Culture™ \(SOPS™\) Databases](https://www.ahrq.gov/sops/about/faq.html#Q1)<sup>6</sup> as central repositories for survey data from participating facilities. Healthcare organizations that administer one of the AHRQ patient safety culture surveys can voluntarily submit their data to the appropriate database. Participating facilities will receive an individual feedback report as well as a summary report displaying their results against aggregated results from all database participants. The national database for ASC survey submissions opened in June 2019 and the hospital database is expected to open in June 2020, as shown below:

<sup>5</sup> <https://www.ahrq.gov/sops/about/faq.html#Q1>

<sup>6</sup> <https://www.ahrq.gov/sops/databases/index.html>

SOPS Survey		2018	2019	2020	2021	2022
	<a href="#">Ambulatory Surgery Center</a>	-	June 3-July 22	-	June 1-21	-
	<a href="#">Medical Office</a> <ul style="list-style-type: none"> <li>• <a href="#">Value and Efficiency Supplemental Items for Medical Office SOPS</a></li> </ul>	-	Sept. 3-Oct. 21	-	Sept. 1-Oct. 20	-
	<a href="#">Hospital</a> <ul style="list-style-type: none"> <li>• <a href="#">Health IT Patient Safety Supplemental Items for Hospital SOPS</a></li> <li>• <a href="#">Value and Efficiency Supplemental Items for Hospital SOPS</a></li> </ul>	-	-	June 1-Jul 20	-	June 1-20
	<a href="#">Nursing Home</a>	June 1-July 20	-	Sept. 1-21	-	Sept. 1 -21
	<a href="#">Community Pharmacy</a>	Oct. 1-23	-	-	-	-

Source: <https://www.ahrq.gov/sops/databases/index.html>

There are no costs to use the AHRQ tool.

## 2. EFFECT OF THE BILL:

Sections 1 of the bill amends s. 395.1012, and adds a requirement for facilities to submit patient safety culture surveys to the Agency in accordance with applicable rules. The Agency anticipates needing to develop rule(s) governing the survey format, process, and submission of data to the Agency for reporting.

Sections 3 amends s. 408.05(3), F.S., and adds a new requirement for the Agency to design a patient safety culture survey that will be completed annually by each licensed hospital and ASC in the state. The survey must be anonymous in order to encourage facility staff to participate. The bill also lists minimum information to be captured and directs the Agency to review and leverage existing models from AHRQ and Texas in order to develop the survey instrument. The bill also requires the Agency to make the results of the patient safety culture surveys available.

### Survey Development

The AHRQ has developed and extensively tested a series of Surveys on Patient Safety Culture (SOPS)<sup>™</sup> to focus on specific healthcare settings including hospitals, ASCs, medical offices, nursing homes, and community pharmacies. The survey instruments are supplemented with detailed implementation guidance, scoring templates, standardized scoring instructions, and national results databases for benchmarking. Alternatively, the model from Texas does not currently offer a standard way of scoring the labor and delivery or the operating room portions of the survey, and so there is no guidance on administering the Texas survey in those environments. Given this limitation, the Agency envisions adoption the standard AHRQ survey formats for both hospitals and ASCs respectively. Utilizing the existing, nationally standardized surveys and scoring methodologies will enable direct benchmarking of Florida's scores with national peers.

### Survey Collection

The Agency will be required to collect, compile, and prepare the survey results for publication. Data collection will require developing new IT applications and/or infrastructure to accept the survey data files electronically from each of the, at least, 776 facilities. Survey data collection must include identity verification to ensure that the party submitting data on behalf of a facility is properly authorized to do so, along with a validation process to ensure that submitted data files are complete and meet required specifications. Additionally, staff will be



required to compile the submitted data for publication. Due to the number of facilities reporting, the Agency estimates the need for one full-time analyst to perform these functions and to monitor and report facility compliance. The costs associated with internal development of a reporting portal for facilities to submit their survey data are estimated based on known development costs associated with recent and relatively similar reporting projects. The secure data submission portal will need to include identity verification, validation of data specifications, documentation of the date and time of submission, and reporting requirements. The costs for the Agency to build such a system are estimated at \$60,000 in the first year.

### Survey Results Publication

Publication of survey findings or scores at the facility level will require custom programming to the Agency's existing consumer transparency website, FloridaHealthFinder.gov. The development of new transparency tools in recent years, including the Nursing Home compare, Assisted Living Facility compare, and Home Health Agency compare tools have had associated vendor costs ranging from \$6,400 to \$30,000, depending on the size and scope of the new function or tool. The publication of the patient safety culture survey data would be a significant endeavor requiring the Agency's contracted vendor to create search functionality, publication, and integration of results for all of the state's licensed hospitals and ASCs. A preliminary rough estimate of associated programming and web-design costs is approximately \$25,000 in the first year and \$2,000 recurring annually thereafter.

The Agency estimates the need for one analyst to manage the survey vendor contract, perform data analysis functions, monitor facility compliance, and analyze and report noncompliant facilities to Agency licensure staff for regulatory follow-up as needed. Comparable contracts managed by the Agency are administered by a Government Analyst II level staff member. The Florida Center for Health Information and Transparency, where the contract would be administered, is currently managing a significant contract workload with a limited number of state certified contract managers. The Patient Safety Culture Survey program would be a large implementation. For it to be successful, the program will require, at a minimum, a dedicated contract manager who also has data analysis skills and experience.

As an alternative option, the Agency recommends consideration of the new national databases established by AHRQ for ASCs and hospitals. Mandatory utilization of these national reporting platforms would alleviate the need for the state to develop a separate reporting system or collate results. The Agency would presumably be required to enter into a contract with AHRQ to receive survey data and/or findings and publish specific findings for purposes of public transparency and consumer awareness. Except for vendor costs to add the new information to FloridaHealthFinder, which is estimated at \$25,000 in the first year and \$2,000 annually thereafter, the Agency anticipates the ability to execute this model within existing resources.

The Agency recommends that licensed facilities be required to contract with an independent third-party organization to administer the surveys in order to ensure anonymity of responses and encourage honesty from respondents. Each facility should be required to capture and provide data from a statistically valid sample of employees in order to ensure that findings are representative of the facility as a whole. Identification and procurement of the third-party vendor to complete the survey work will be the responsibility of the licensee.

The bill provides an appropriation for the 2020-2021 fiscal year, including one full-time equivalent position with an associated salary rate of \$46,560, along with \$74,173 in recurring funds and \$87,474 in nonrecurring funds from the Health Care Trust Fund for the purpose of implementing this act.

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

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

If yes, explain:	Survey format, process, data submission, and reporting specifications will require rule development
Is the change consistent with the agency's core mission?	Y <u>X</u> N ____
Rule(s) impacted (provide references to F.A.C., etc.):	

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

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

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

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

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

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

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**FISCAL ANALYSIS**


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**1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? Y \_\_\_ N X**

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

**2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT? Y X N \_\_\_**

Revenues:	N/A
Expenditures:	
Does the legislation contain a State Government appropriation?	Yes. <ul style="list-style-type: none"> <li>• 1 FTE w/ associate salary of \$46,560</li> <li>• \$87,474 in non-recurring funds and \$74,173 in recurring funds from the HCTF</li> </ul>
If yes, was this appropriated last year?	

**3. DOES THE BILL HAVE A THE FISCAL IMPACT TO THE PRIVATE SECTOR? Y \_\_\_ N X**

Revenues:	
-----------	--

Expenditures:	
Other:	

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?    Y \_\_\_ N X

If yes, explain impact.	
Bill Section Number:	

FISCAL IMPACT:	Year 1 (FY 2020-21)	Year 2 (FY 2021-22)	Year 3 (FY 2022-23)
----------------	------------------------	------------------------	------------------------

1. Non-Recurring Impact:

<u>Expenditures:</u>							
<b>Expense (Agency Standard Expense Package)</b>							
Professional Staff	1.00	@	\$ 4,171	\$ 4,171			
Support Staff	0.00	@	3,741	-			
<b>Total Non-Recurring Expense</b>	<b>1.00</b>			<b>\$ 4,171</b>			
<b>Operating Capital Outlay (Agency Standard Operating Capital Outlay Package)</b>							
-	-	@	\$ -	\$ -			
<b>Total Operating Capital Outlay</b>				<b>\$ -</b>			
<b>Total Non-Recurring Expenditures</b>				<b>\$ 4,171</b>			

2. Recurring Impact:

<u>Revenues:</u>							
<b>Total Recurring Revenues</b>					\$ -	\$ -	\$ -
<u>Expenditures:</u>							
<b>Salaries</b>	<b>Class</b>	<b>FTEs</b>	<b>Pay</b>	<b>Rate</b>			
	<u>Code</u>		<u>Grade</u>				
Government Analyst II	2225	1.00	26	46,560	\$ 66,973	\$ 66,973	\$ 66,973
-				-	-	-	-
-				-	-	-	-
<b>Total Salary and Benefits</b>		<b>1.00</b>		<b>46,560</b>	<b>\$ 66,973</b>	<b>\$ 66,973</b>	<b>\$ 66,973</b>
<b>OPS</b>		<b>FTEs</b>					
-		0.00			\$ -	\$ -	\$ -
<b>Total OPS</b>		<b>0.00</b>			<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Expenses</b>							
Professional Staff		1.00	@	\$ 6,004	\$ 6,004	\$ 6,004	\$ 6,004
Support Staff		0.00	@	5,107	-	-	-
<b>Total Expenses</b>					<b>\$ 6,004</b>	<b>\$ 6,004</b>	<b>\$ 6,004</b>
<b>Human Resources Services</b>							
FTE Positions		1.00	@	\$ 329	\$ 329	\$ 329	\$ 329
OPS Positions		0.00	@	107	-	-	-
<b>Total Human Resources Services</b>					<b>\$ 329</b>	<b>\$ 329</b>	<b>\$ 329</b>
<b>Special Categories/Contracted Services</b>							

100777 Contracted Services - Submission platform	\$ 60,000	\$ -	\$ -
100777 Contracted Services - Transparency/Publication	25,000	2,000	2,000
<b>Total Special Categories/Contracted Services</b>	<b>\$ 85,000</b>	<b>\$ 2,000</b>	<b>\$ 2,000</b>
<b>Total Recurring Expenditures</b>	<b>\$ 158,306</b>	<b>\$ 75,306</b>	<b>\$ 75,306</b>

- - -

3. **Total Revenues and Expenditures:**

Sub-Total Recurring Revenues	\$ -	\$ -	\$ -
<b>Total Revenues</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
Sub-Total Non-Recurring Expenditures	\$ 4,171	\$ -	\$ -
Sub-Total Recurring Expenditures	158,306	75,306	75,306
<b>Total Expenditures</b>	<b>\$ 162,477</b>	<b>\$ 75,306</b>	<b>\$ 75,306</b>
<b>Net Impact (Total Revenues minus Total Expenditures)</b>	<b>\$ (162,477)</b>	<b>\$ (75,306)</b>	<b>\$ (75,306)</b>

4. **Net Impact (By Fund)**

-	\$ -	\$ -	\$ -
<b>Net Impact (By Fund)</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>

## TECHNOLOGY IMPACT

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

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

The Agency will need to develop an electronic system for hospitals and ASCs to submit their survey data. The system will require, at a minimum, identity validation and authorization mechanisms, tracking, and reporting capabilities.

## FEDERAL IMPACT

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

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

## ADDITIONAL COMMENTS

## LEGAL – GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:

None.

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/11/20

Meeting Date

1370

~~1370~~

Bill Number (if applicable)

556258

Amendment Barcode (if applicable)

Topic Patient Safety Culture Surveys

Name Crystal Stickle

Job Title Interim President

Address 306 East College Ave

Street

TLH

City

FL

State

32301

Zip

Phone 445 4544

Email crystals@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

## THE FLORIDA SENATE

## APPEARANCE RECORD

2/11/2020

Meeting Date

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

1370

Bill Number (if applicable)

Topic Patient Safety Culture Surveys

Amendment Barcode (if applicable)

Name Matthew Choy

Job Title Policy Director

Address 136 S. Bronough St.

Phone 561-386-3451

Street

Tallahassee

FL

32301

Email mchoy@flchamber.com

City

State

Zip

Speaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Chamber of Commerce

Appearing at request of Chair: ☐ Yes ☒ NoLobbyist 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: CS/SB 584

INTRODUCER: Health Policy Committee and Senator Harrell

SUBJECT: Council on Physician Assistants

DATE: February 19, 2020

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Brown	HP	<b>Fav/CS</b>
2.			AHS	
3.			AP	

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 584 amends ss. 458.347(9) and 459.022(9), F.S., to increase the number of members on the Council on Physician Assistants (Council) from five members to six. The bill alters the composition of the Council to:

- Reduce the number of physicians licensed under ch. 458, F.S., who are appointed by the chairperson of the Board of Medicine (BOM) from three to two with the requirement that at least one BOM-appointed member must supervise a physician assistant (PA) in his or her practice;
- Maintain the Board of Osteopathic Medicine's (BOOM) representation on the Council at one member who is a physician licensed under ch. 459, F.S.; and
- Increase the number of PAs on the Council from one to three, with all being appointed by the State Surgeon General.

The bill provides that at least two physician members of the Council must supervise PAs in their practices. Finally, the bill requires that in the event of a tie vote in the election of the Council's chair, the State Surgeon General will select the chair from among the Council's members.

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



## **II. Present Situation:**

### **Department of Health**

The Legislature created the Department of Health (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) is responsible for the boards<sup>2</sup> and professions within the DOH.<sup>3</sup>

### **Physicians Assistants (PAs)**

The DOH licenses PAs in Florida, either under s. 458.347(7), F.S., if the physician assistant works with a physician, or s. 459.022(7), F.S., if he or she works with an osteopathic physician. PAs are regulated by the BOM if licensed under ch. 458, F.S., or the BOOM if licensed under ch. 459, F.S., and the Council.

The boards and the Council are responsible for adopting the principles that a supervising physician must use for developing a PA's scope of practice, developing a formulary of drugs that may not be prescribed by a PA, and approving educational programs.<sup>4</sup> The boards make disciplinary decisions as to whether a doctor or PA has violated the provisions of his or her practice act. In June, 2019, there were 8,658 PAs holding active Florida licenses, 1,069 active out of state, and 66 active military.<sup>5</sup>

### ***Scope of Practice***

Physician Assistants may practice only under the direct or indirect supervision of a medical doctor or doctor of osteopathic medicine with whom they have a clinical relationship.<sup>6</sup> A supervising physician may delegate to a PA tasks and procedures that are within the scope of practice of the supervising physician.<sup>7</sup> The supervising physician is responsible and liable for any acts or omissions of his or her PA<sup>8</sup> and may not supervise more than four PAs at a time.<sup>9</sup>

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

<sup>2</sup> Under s. 456.001(1), F.S., the term "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 MQA.

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

<sup>4</sup> Sections 458.347(4) and (6), F.S., and 459.022(4) and (6), F.S.

<sup>5</sup> Florida Department of Health, Division of Medical Quality Assurance, *Annual Report and Long-Range Plan, Fiscal Year 2018-2019*, available at [http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/\\_documents/annual-report-1819.pdf](http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/_documents/annual-report-1819.pdf), (last visited Feb. 4, 2020).

<sup>6</sup> Sections 458.347(2)(f) and 459.022(2)(f), F.S., are identical and define "supervision" as "responsible supervision" and control which requires the easy availability or physical presence of the licensed physician for consultation and direction of the PA.

<sup>7</sup> Sections 458.347(12) and 459.022(12), F.S.

<sup>8</sup> Fla. Admin. Code R. 64B8-30.012(1) and 64B15-6.010(1), (2019).

<sup>9</sup> Section 458.347(3) and 459.022(3), F.S.

### ***Physician's Assistants Education Curriculums***

According to the American Academy of Physician Assistants, most PA programs last approximately 26 months, or three academic years, and award master's degrees. They include classroom instruction and clinical rotations.

PA students complete approximately 2,000 hours of clinical rotations, with an emphasis on primary care in ambulatory clinics, physician offices, and acute or long-term care facilities. PA rotations may, but are not required to, include:

- Family medicine;
- Internal medicine;
- Obstetrics and gynecology;
- Pediatrics;
- General surgery;
- Emergency medicine; and
- Psychiatry.<sup>10</sup>

PAs are authorized to perform only those services delegated by their supervising physicians. The delegated service must also be within a PA's ability to practice in accordance with his or her education and training, unless expressly prohibited under chs. 458 or 459, F.S., or by board rules.

### ***Licensure of Physician Assistants***

To be licensed as a PA in Florida, an applicant must:

- Pass the exam established by the National Commission on Certification of Physician Assistants;
- Complete the application and submit the application fee;<sup>11</sup>
- Complete an approved PA training program;
- Acknowledge any prior felony convictions;
- Acknowledge any previous revocations or denials of licensure in any state; and
- If the applicant wishes to apply for prescribing authority, submit a copy of course transcripts and a copy of the course description from his or her PA training describing the course content in pharmacotherapy.<sup>12</sup>

Licenses are renewed biennially.<sup>13</sup> At the time of renewal, a PA must demonstrate that he or she has met the continuing education requirements and must submit an acknowledgement that he or she has not been convicted of any felony in the previous two years.<sup>14</sup>

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<sup>10</sup> American Association of Physician Assistants, *Become a PA*, <https://www.aapa.org/career-central/become-a-pa/> (last visited Feb. 4, 2020).

<sup>11</sup> The application fee is \$100 (non-refundable) and the initial license fee is \$205. Florida Board of Medicine, Physician Assistant (PA), *Fees*, available at <https://flboardofmedicine.gov/licensing/physician-assistant-licensure/#tab-fees> (last visited Feb. 4, 2020).

<sup>12</sup> Sections 458.347(7) and 459.022(7), F.S.

<sup>13</sup> For timely renewed licenses, the renewal fee is \$280 and the prescribing registration is \$150. An applicant may be charged an additional fee if the license is renewed after expiration or is more than 120 days delinquent. Florida Board of Medicine, *Renewals, Physician Assistants*, <http://flboardofmedicine.gov/renewals/physician-assistants/> (last visited Feb. 4, 2020).

<sup>14</sup> Sections 458.347(7)(b)-(c) and 459.022(7)(b)-(c), F.S.

***The Council on Physician Assistant (Council)***

The Council was created within the DOH under statutory parameters. The Council must consist of five members, two of which must be physicians who supervise PAs in their practice, appointed as follows:

- Three physician BOM members, appointed by the chairperson of the BOM, one of which must supervise a PA in his or her practice;
- One physician BOOM member, appointed by the chairperson of the BOOM, who is not required to be supervising a PA in his or her practice; and
- Two PAs appointed by the State Surgeon General, with one licensed under ch. 458, F.S., and one licensed under ch. 459, F.S.

Council members are appointed for four-year terms and may not serve more than two consecutive terms. The Council must annually elect a chairperson from among the members and must:

- Recommend to the DOH regarding the licensure of PAs;
- Develop rules regulating the use of PAs by physicians to ensure the maintenance of continuity of supervision in every practice setting for consideration and possible adoption by the boards;
- Make recommendations to the boards regarding all matters relating to PAs; and
- Address concerns and problems of PAs to improve safety in the clinical practices.

The boards must consider adopting a Council-proposed rule at the regularly scheduled meeting following the submission of the proposed rule. A proposed rule submitted by the Council may not be adopted by either board unless both boards have approved of the identical language contained in the proposed rule. If either board rejects the Council's proposed rule, that board must specify its objection to the Council with particularity and include any recommendations for the modification of the proposed rule.

When the Council finds that an applicant for a PA license has failed to meet the requirements for licensure, the Council may enter an order to:

- Refuse to certify the applicant for licensure;
- Approve the applicant for licensure with restrictions on the scope of practice or license; or
- Approve the applicant for conditional licensure. Such conditions may include:
  - Placing the licensee on probation;
  - Placing specific conditions on the licensee including requiring the licensee to:
    - Undergo treatment;
    - Attend continuing education courses;
    - Work under the direct supervision of a supervising physician; or
    - Take corrective action.

**III. Effect of Proposed Changes:**

CS/SB 584 amends ss. 458.347(9) and 459.022(9), F.S., to increase the number of members on the Council on Physician Assistants (Council) from five members to six. The bill alters the composition of the Council to:

- Reduce the number of physicians licensed under ch. 458, F.S., who are appointed by the chairperson of the Board of Medicine (BOM) from three to two with the requirement that at least one BOM-appointed member must supervise a physician assistant (PA) in his or her practice;
- Maintain the Board of Osteopathic Medicine's (BOOM) representation on the Council at one member who is a physician licensed under ch. 459, F.S.; and
- Increase the number of PAs on the Council from one to three, with all being appointed by the State Surgeon General.

The bill provides that at least two physician members of the Council must supervise PAs in their practices. The bill also requires that in the event of a tie vote in the election of the Council's chair, the State Surgeon General will select the chair from among the Council's members. Finally, the bill removes obsolete language from ss. 458.347 and 459.022, F.S.

The bill 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:

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 458.347 and 459.022.

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

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

**CS by Health Policy on February 18, 2020:**

See below for a comparison of the membership of the PA Council under the CS versus the underlying bill and current law:

<b>PA Council</b>	<b>Current law</b>	<b>SB 584</b>	<b>CS/SB 584</b>
Total members	5	5	6
BOM physicians	3	1	2
BOOM physicians	1	1	1
Total physicians	4	2	3
PAs	1	3	3
Physicians who supervise a PA	2	2	At least 2

The CS also:

- Provides that if the election of a chairperson ends in a tie vote, the State Surgeon General will select the chairperson from among the Council members; and
- Removes obsolete language from ss. 458.347 and 459.022, F.S.

**B. Amendments:**

None.

By Senator Harrell

25-00787-20

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A bill to be entitled  
An act relating to the Council on Physician  
Assistants; amending ss. 458.347 and 459.022, F.S.;  
revising requirements relating to the Council on  
Physician Assistants membership; conforming provisions  
to changes made by the act; providing an effective  
date.

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

Section 1. Paragraphs (a) and (b) of subsection (9) of  
section 458.347, Florida Statutes, are amended to read:

458.347 Physician assistants.—

(9) COUNCIL ON PHYSICIAN ASSISTANTS.—The Council on  
Physician Assistants is created within the department.

(a) The council shall consist of five members appointed as  
follows:

1. The chairperson of the Board of Medicine shall appoint  
one member ~~three members~~ who is a physician and member ~~are~~  
~~physicians and members~~ of the Board of Medicine who supervises.  
~~One of the physicians must supervise~~ a physician assistant in  
the physician's practice.

2. The chairperson of the Board of Osteopathic Medicine  
shall appoint one member who is a physician and ~~a~~ member of the  
Board of Osteopathic Medicine who supervises a physician  
assistant in the physician's practice.

3. The State Surgeon General or his or her designee shall  
appoint three ~~a~~ fully licensed physician assistants ~~assistant~~  
licensed under this chapter or chapter 459.

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(b) ~~Two of the members appointed to the council must be physicians who supervise physician assistants in their practice.~~ Members shall be appointed to terms of 4 years, except that of the initial appointments, two members shall be appointed to terms of 2 years, two members shall be appointed to terms of 3 years, and one member shall be appointed to a term of 4 years, as established by rule of the boards. Council members may not serve more than two consecutive terms. The council shall annually elect a chairperson from among its members.

Section 2. Paragraphs (a) and (b) of subsection (9) of section 459.022, Florida Statutes, are amended to read:

459.022 Physician assistants.—

(9) COUNCIL ON PHYSICIAN ASSISTANTS.—The Council on Physician Assistants is created within the department.

(a) The council shall consist of five members appointed as follows:

1. The chairperson of the Board of Medicine shall appoint one member ~~three members~~ who is a physician and member ~~are physicians and members~~ of the Board of Medicine who supervises ~~One of the physicians must supervise~~ a physician assistant in the physician's practice.

2. The chairperson of the Board of Osteopathic Medicine shall appoint one member who is a physician and ~~a~~ member of the Board of Osteopathic Medicine who supervises a physician assistant in the physician's practice.

3. The State Surgeon General or her or his designee shall appoint three ~~a~~ fully licensed physician assistants ~~assistant~~ licensed under chapter 458 or this chapter.

(b) ~~Two of the members appointed to the council must be~~

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~~physicians who supervise physician assistants in their practice.~~

Members shall be appointed to terms of 4 years, except that of the initial appointments, two members shall be appointed to terms of 2 years, two members shall be appointed to terms of 3 years, and one member shall be appointed to a term of 4 years, as established by rule of the boards. Council members may not serve more than two consecutive terms. The council shall annually elect a chairperson from among its members.

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



# CourtSmart Tag Report

**Room:** KN 412

**Caption:** Senate Health Policy Committee

**Case:**

**Judge:**

**Type:**

**Started:** 2/11/2020 10:04:06 AM

**Ends:** 2/11/2020 11:59:00 AM

**Length:** 01:54:55

10:04:05 AM Meeting called to order  
10:04:16 AM Chair  
10:04:22 AM Roll Call - Quorum is present  
10:04:53 AM Tab 3 - CS/SB 772 by Senator Hutson - Recreational Vehicle Parks  
10:06:07 AM Questions? None  
10:06:15 AM Amendment 637732 by Senator Hutson  
10:06:29 AM Questions on amendment? None  
10:06:47 AM Appearance Cards on amendment? None  
10:06:55 AM Debate on amendment? None  
10:06:58 AM Objection to amendment? None  
10:07:04 AM Late-filed Amendment 5433040 by Senator Hutson  
10:07:17 AM Any objections to late-filed amendment? None  
10:07:26 AM Senator Hutson  
10:08:11 AM Questions on late-filed amendment? None  
10:08:15 AM Appearance Cards on late-filed amendment? None  
10:08:19 AM Debate on late-filed amendment? None  
10:08:23 AM Objection to amendment? None  
10:08:30 AM Amendment is adopted. Back on bill as amended  
10:08:36 AM Questions? None  
10:08:41 AM Appearance Cards?  
10:08:42 AM Mark Dunbar, FL Association of RV Parks and Campgrounds, waives in support  
10:08:50 AM Debate on Bill as amended? None  
10:08:58 AM Senator Huston waives close  
10:09:03 AM Roll Call CS/SB 772 - Favorable  
10:09:49 AM Tab 6 - CS/SB 736 by Senator Diaz -Coverage for Air Ambulance Services  
10:10:54 AM Questions? None  
10:10:58 AM Amendment 468164 by Senator Diaz  
10:11:26 AM Questions on amendment? None  
10:11:46 AM Appearance Cards on amendment? None  
10:11:51 AM Debate on amendment? None  
10:11:53 AM Objections to amendment? None  
10:11:59 AM Amendment is adopted  
10:12:03 AM Back on bill as amended  
10:12:10 AM Appearance Cards?  
10:12:15 AM Jim Millican, Florida Fire Chief's Association, speaking against  
10:14:02 AM Tim Nungesser, Leg. Dir., NFIB, waives in support  
10:14:18 AM Wences Troncoso, VP and General Counsel, FL Assoc. of Health Plans, speaking for  
10:17:38 AM Robert Reyes, Monroe County, waives in support  
10:18:43 AM Ruthie Barko, Dir. of Gov. Affairs, Air Methods, speaking against  
10:23:29 AM Questions?  
10:24:01 AM Senator Cruz  
10:24:06 AM Ruthie Barko  
10:24:30 AM Senator Cruz  
10:24:39 AM Senator Baxley  
10:25:05 AM Ruthie Barko  
10:26:03 AM Debate?  
10:26:07 AM Senator Hooper  
10:27:36 AM Senator Baxley  
10:28:37 AM Senator Cruz  
10:30:35 AM Senator Baxley  
10:31:28 AM Senator Book  
10:32:25 AM Senator Diaz to close

10:32:31 AM Roll Call - CS/SB 736 - Favorable  
 10:33:24 AM Tab 7 - SB 1094 by Senator Diaz - Consultant Pharmacists  
 10:34:02 AM Amendment 431574 by Senator Diaz  
 10:34:29 AM Questions on amendment? None  
 10:34:33 AM Appearance Cards on amendment? None  
 10:34:35 AM Debate on amendment? None  
 10:34:40 AM Objection to amendment? None  
 10:34:46 AM Amendment is adopted  
 10:34:54 AM Back on bill as amended  
 10:34:55 AM Appearance Cards?  
 10:34:57 AM Joseph Sulzverg, waives in support  
 10:35:08 AM Michael Jackson, FL Pharmacy Association, waives in support  
 10:35:13 AM Debate?  
 10:35:16 AM Senator Berman  
 10:35:27 AM Senator Diaz to close  
 10:35:47 AM Roll Call on SB 1094 - Favorable  
 10:36:26 AM Tab 4 - CS/SB 1668 by Senator Simmons - Damages  
 10:37:08 AM Late-filed amendment 601052 by Senator Simmons  
 10:38:07 AM Objections to late-filed amendment? None  
 10:39:06 AM Senator Simmons to explain amendment  
 10:39:17 AM Questions on amendment? None  
 10:40:15 AM Appearance Cards on amendment?  
 10:40:22 AM Thomas Sweeney, MD, Ph.D, Orthopedic Spine Surgeon, speaking against  
 10:41:08 AM Brewster Bevis, Sr. VP, National Assoc. of Mutual Insurance Companies, waives in support  
 10:41:20 AM Jeff Scott, FMA, waives in support  
 10:41:26 AM William Large, President, FL Justice Reform Institute, speaking for  
 10:42:15 AM Debate on amendment? None  
 10:42:20 AM Senator Simmons to close on amendment  
 10:42:51 AM Objection to amendment? None. Amendment is adopted  
 10:43:03 AM Back on the bill as amended  
 10:43:09 AM Questions?  
 10:43:10 AM Senator Berman  
 10:43:15 AM Senator Simmons  
 10:44:48 AM Senator Berman  
 10:44:56 AM Senator Simmons  
 10:45:18 AM Senator Berman  
 10:45:28 AM Senator Simmons  
 10:46:09 AM Senator Berman  
 10:46:33 AM Senator Simmons  
 10:47:26 AM Chair  
 10:48:47 AM Further questions? None  
 10:48:57 AM Appearance Cards?  
 10:49:11 AM William Large, President, FL Justice Reform Inst., speaking for the bill  
 10:55:18 AM Chair for a question  
 10:56:18 AM William Large  
 10:56:42 AM Beth Veccheoli, waives in support  
 10:56:56 AM Gary Guzzo, waives in support  
 10:57:03 AM Carolyn Johnson, Policy Director, FL Chamber of Commerce, speaking for  
 10:57:52 AM Alix Miller, VP, FL Trucking Association, waives in support  
 10:58:39 AM Tim Nungesser, Leg. Director, NFIB, waives in support  
 10:58:45 AM Thomas Sweeny, MD, PhD, waives in opposition  
 10:58:55 AM Tiffany Babis, waives in opposition  
 10:59:04 AM Steve Winn, waives in support  
 10:59:12 AM Dr. Samuel Young, Physician, speaking against  
 11:01:57 AM Jake Farmer, Dir. Gov. Affairs, FL Retail Federation, speaking in support  
 11:02:55 AM Joy Ryan, FL Insurance Council, waives in support  
 11:03:12 AM Debate?  
 11:03:25 AM Senator Baxley  
 11:04:36 AM Senator Baxley motion to TP bill  
 11:05:18 AM Senator Simmons  
 11:05:28 AM Chair  
 11:05:31 AM Tab 5 - SB 46 by Senator Farmer - Eye Care

11:05:58 AM Late-filed amendment 715644 by Senator Farmer  
11:06:12 AM Objection to Late -filed? None  
11:06:51 AM Questions on late filed amendment?  
11:06:58 AM Senator Bean  
11:07:20 AM Senator Farmer  
11:07:29 AM Senator Cruz  
11:08:00 AM Senator Farmer  
11:09:23 AM Appearance Cards on amendment?  
11:09:24 AM Dr. JC Sinkh, MD, FL Chapter of the American Academy of Pediatrics, speaking for amendment  
11:13:23 AM Senator Berman a question  
11:14:23 AM Dr. Sinkh  
11:15:08 AM Senator Berman  
11:15:14 AM Dr. Sinkh  
11:15:30 AM Senator Berman  
11:15:36 AM Dr. Sinkh  
11:15:42 AM Senator Book  
11:15:49 AM Senator Cruz  
11:16:30 AM Dr. Sinkh  
11:17:18 AM Senator Cruz  
11:17:23 AM Dr. Sinkh  
11:18:01 AM Chair  
11:18:13 AM Debate on amendment?  
11:18:24 AM Senator Book  
11:19:14 AM Senator Baxley  
11:20:53 AM Senator Farmer waives close on the amendment  
11:21:20 AM Amendment is adopted  
11:21:24 AM Back on bill as amended  
11:21:33 AM Questions? None  
11:21:37 AM Appearance Cards?  
11:21:49 AM Mary-Lynn Cullen, Leg. Liaison,, Advocacy Institute for Children, waives in support  
11:21:55 AM Sarah Jelgerhuis, self, waives in opposition  
11:22:09 AM Kori Brooks, Indep. Business Owner, self, speaking against  
11:22:18 AM Keva Ambre, waives in opposition  
11:22:27 AM Clayton Brooks, self, waives in opposition  
11:22:34 AM Kris Smithem, waives in support  
11:22:43 AM Pam Bergsman, FL Holocaust Museum, speaking for amendment  
11:24:19 AM Melissa Raffensperger, FL PTA, waives in support  
11:25:21 AM Euza Kolak, Billing Analyst, waives in opposition  
11:25:23 AM Drew Martin, waives in support  
11:25:26 AM Solomi Hernandez, waives in support  
11:25:31 AM Christine Hemphill, waives in support  
11:25:48 AM Debate on the bill?  
11:25:55 AM Senator Berman  
11:27:04 AM Senator Cruz  
11:28:19 AM Senator Book  
11:30:00 AM Senator Rouson  
11:31:08 AM Chair Harrell  
11:32:05 AM Senator Farmer to close  
11:38:38 AM Roll Call on SB 46 - Favorable  
11:39:40 AM Back on Tab 4 - CS/SB 1668 Senator Simmons  
11:40:26 AM Senator Hooper in debate  
11:41:09 AM  
11:41:10 AM Senator Simmons moves to TP the bill  
11:41:41 AM Bill is Tp'd  
11:41:50 AM Senator Simmons waives close  
11:41:57 AM CS/SB 1668 - Favorable  
11:42:39 AM Gavel to Vice Chair Berman  
11:43:01 AM Tab 10 - SB 1370 by Senator Harrell - Patient Safety Culture Surveys  
11:43:16 AM Strike-all amendment 556258 by Senator Harrell  
11:44:21 AM Questions on amendment? None  
11:45:21 AM Appearance Cards on amendment?  
11:45:25 AM Crystal Stickle, Interim President, FL Hospital Association, waives in support

11:45:31 AM Debate? None  
 11:45:35 AM Senator Harrell waive close  
 11:45:42 AM Amendment is adopted  
 11:45:45 AM Back on bill as amended  
 11:45:51 AM Question by Senator Berman  
 11:46:01 AM Senator Harrell  
 11:46:23 AM Senator Berman  
 11:46:26 AM Senator Harrell  
 11:46:43 AM Appearance Cards?  
 11:46:51 AM Matthew Choy, FL Chamber, waives in support  
 11:46:57 AM Debate? None  
 11:46:59 AM Senator Harrell waives close  
 11:47:01 AM Roll Call on SB 1370- Favorable  
 11:47:23 AM Gavel back to Chair Harrell  
 11:47:37 AM Tab 1 - SB 1406 by Senator Broxon - Youth Athletic Activities  
 11:48:25 AM Questions?  
 11:48:53 AM Senator Rouson  
 11:48:56 AM Senator Broxon  
 11:49:15 AM Melissa, PTA waives in support  
 11:49:24 AM Ashton Hayward, President, Andrew's Pre-school Education Foundation, waives in support  
 11:49:40 AM Debate? None  
 11:49:45 AM Senator Broxon to close  
 11:49:54 AM Roll Call SB 1406 - Favorable  
 11:50:32 AM Tab 2 - SB 190 by Senator Montford - Medicaid School-based Services  
 11:51:44 AM Questions? None  
 11:52:30 AM Amendment 864988 by Senator Rouson  
 11:53:05 AM Questions on amendment? None  
 11:53:45 AM Debate  
 11:53:51 AM Amendment is adopted  
 11:53:59 AM Back on bill as amended  
 11:54:06 AM Megan Turetsky, Gov. Affairs Manager, Children's Services Council of Broward County, waives in support  
 11:54:12 AM Matt Guse, CEO, FL Children's Council, waives in support  
 11:54:18 AM Mike Howat, Chief Comms Officer, Orange County Public Schools, waives in support  
 11:54:24 AM Jim Akin, ED, National Association of Social Workers - FL, waives in support  
 11:54:30 AM Natalie King, VP, United Way Suncoast, waives in support  
 11:54:34 AM Albert Balido, FL Policy Institute, waives in support  
 11:54:39 AM Melissa Raffensperger, FL PTA, waives in support  
 11:54:51 AM Amanda Frazier, waives in support  
 11:54:59 AM Doug Bell, waives in support  
 11:55:05 AM Debate? None  
 11:55:10 AM Senator Montford waives close  
 11:55:17 AM Roll Call on SB 190 - Favorable  
 11:55:40 AM Tab 8 - SB 1006 by Senator Baxley- Coverage for Hearing Aids for Children  
 11:55:58 AM Amendment 504702 by Senator Baxley  
 11:56:20 AM Questions on amendment? None  
 11:56:21 AM Appearance Cards on amendment?  
 11:56:24 AM Debra Gainski, Pres. CEO, Sertoma Speech and Hearing Foundation of Florida, Inc., waives in support  
 11:56:32 AM Theresa Bulger, Lobbyist, FL Audiologist, waives in support  
 11:56:39 AM Steve Winn, Lobbyist, FL Society Hearing Health Care Specialists, waives in support  
 11:56:44 AM Debate on amendment? None  
 11:56:48 AM Objection to adoption of amendment? None  
 11:56:52 AM Amendment is adopted  
 11:56:56 AM Back on bill as amended  
 11:56:59 AM Questions? None  
 11:57:00 AM Appearance Cards? Following who waived in support will be read into the meeting report. Mary-Lynn Cullen, Theresa Bulgen, Archie Campbell, Thomas Gage, Debra Gainski, Garrett Campbell, Lauren Gage, Harper Gage, Steve Winn, and Meussa Raffensperger.  
 11:57:13 AM Debate?  
 11:57:20 AM Senator Book  
 11:57:42 AM Senator Baxley waives close  
 11:57:52 AM Roll Call SB 1006 - Favorable

**11:58:15 AM** Senators wishing to vote in the affirmative. Senator Mayfield, Tab 3 - CS/SB 772, Tab 6 - CS/SB 736 and Tab 7 - SB 1094.

**11:58:28 AM** Senator Baxley would like to be shown voting in the affirmative on Tab 3 - SB 772.

**11:58:31 AM** Any other business before the committee? None

**11:58:41 AM** Senator Book moves to adjourn. Motion adopted. We are adjourned