Tab 1	**SB 1734** by **Gibson**; (Identical to H 01361) Resident Care in Nursing Home Facilities

Tab 2	**SB 1114** by **Bradley**; (Similar to H 00817) Emergency Medical Care and Treatment of Minors

Tab 3	**SB 1892** by **Burgess**; (Similar to CS/H 01209) Administration of Vaccines

513936	A	S	RCS	HP, Burgess	Delete L.32 - 45:	02/10 11:09 AM

Tab 4	**SB 700** by **Burgess**; (Similar to CS/H 00413) Delegation of Medication Administration

625372	A	S	RCS	HP, Burgess	Delete L.48 - 60:	02/10 11:10 AM

Tab 5	**SB 730** by **Harrell (CO-INTRODUCERS) Polsky**; (Similar to H 00459) Step-therapy Protocols

Tab 6	**SB 804** by **Albritton**; (Compare to CS/H 01239) Modernization of Nursing Home Facility Staffing

667406	D	S	RCS	HP, Albritton	Delete everything after	02/10 11:11 AM

Tab 7	**CS/SB 1026** by **BI, Cruz**; (Similar to CS/H 01099) Living Organ Donors in Insurance Policies

Tab 8	**SB 296** by **Garcia**; (Compare to CS/H 01527) Health Care Expenses

536352	A	S		HP, Garcia	Delete L.126:	02/09 08:06 AM

Tab 9	**SB 1442** by **Jones**; (Identical to H 00657) Medical Education Reimbursement and Loan Repayment Program

Tab 10	**SB 1572** by **Baxley (CO-INTRODUCERS) Gibson, Jones, Garcia**; (Similar to CS/H 01507) Dementia-related Staff Training

683352	D	S	RCS	HP, Baxley	Delete everything after	02/10 11:19 AM

Tab 11	**SM 1108** by **Baxley**; (Similar to H 00791) China/Forced Organ Harvesting

Tab 12	**SB 1350** by **Diaz**; (Identical to H 00869) Public Records and Meetings/In-hospital Medical Staff Committees

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

HEALTH POLICY
Senator Diaz, Chair
Senator Brodeur, Vice Chair

MEETING DATE: Thursday, February 10, 2022
TIME: 8:30—10:30 a.m.
PLACE: *Pat Thomas Committee Room,* 412 Knott Building

MEMBERS: Senator Diaz, Chair; Senator Brodeur, Vice Chair; Senators Albritton, Baxley, Bean, Book, Cruz, Garcia, Jones, and Powell

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**SB 1734** Gibson (Identical H 1361)	Resident Care in Nursing Home Facilities; Requiring a resident's attending health care provider in a nursing home facility to consult with the resident's personal physician, if selected, in the provision of acute care to the resident and before ordering or prescribing medication to the resident; requiring the resident's attending health care provider to document any such consultations in the resident's records; requiring nursing home facilities to take certain measures before admitting a resident; requiring nursing home facilities to provide each resident with the opportunity to select a personal physician; revising the timeframe in which nursing home facilities must furnish requested records of a current or former resident, etc. HP 02/10/2022 Favorable CF RC	Favorable Yeas 10 Nays 0
2	**SB 1114** Bradley (Similar H 817)	Emergency Medical Care and Treatment of Minors; Deleting the requirement that emergency medical care or treatment by physicians and emergency medical personnel without parental consent be provided only in specified settings, etc. JU 01/18/2022 Favorable HP 02/10/2022 Favorable RC	Favorable Yeas 10 Nays 0
3	**SB 1892** Burgess (Similar CS/H 1209)	Administration of Vaccines; Specifying training requirements for registered pharmacy technicians seeking to administer certain immunizations and vaccines; authorizing certified registered pharmacy technicians to administer specified immunizations and vaccines under certain circumstances; revising the specified immunizations and vaccines that certified pharmacists, registered interns, and registered pharmacy technicians may administer; specifying certification requirements for registered pharmacy technicians seeking to administer immunizations and vaccines, etc. HP 02/10/2022 Fav/CS ED RC	Fav/CS Yeas 10 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	**SB 700** Burgess (Similar CS/H 413)	Delegation of Medication Administration; Requiring licensed nurse registries to ensure specified requirements are met if they allow registered nurses to delegate certain tasks to certified nursing assistants or home health aides; authorizing registered nurses to delegate to certified nursing assistants and home health aides the administration of certain medications to nurse registry patients under certain circumstances; authorizing certified nursing assistants to administer certain medication to nurse registry patients under certain circumstances, etc. HP 02/10/2022 Fav/CS JU RC	Fav/CS Yeas 10 Nays 0
5	**SB 730** Harrell (Similar H 459)	Step-therapy Protocols; Revising the circumstances under which step-therapy protocols may not be required; requiring health insurers to publish on their websites and provide to their insureds specified information; requiring health maintenance organizations to publish on their websites and provide to their subscribers specified information; providing requirements for procedures for requests and appeals of denials of protocol exemptions, etc. BI 02/02/2022 Favorable HP 02/10/2022 Favorable RC	Favorable Yeas 10 Nays 0
6	**SB 804** Albritton (Similar H 1239)	Modernization of Nursing Home Facility Staffing; Specifying functions that do not constitute direct care staffing hours for purposes of required nursing home staffing ratios; revising nursing home staffing requirements; requiring nursing home facilities to maintain and report staffing information consistent with federal law, etc. HP 02/10/2022 Fav/CS CA RC	Fav/CS Yeas 9 Nays 1
7	**CS/SB 1026** Banking and Insurance / Cruz (Similar CS/H 1099)	Living Organ Donors in Insurance Policies; Prohibiting insurers under specified policies from declining or limiting coverages and discriminating against persons based solely on their status as living organ donors, and from precluding insureds from donating organs; authorizing the Financial Services Commission to adopt rules and take actions to enforce specified laws, etc. BI 01/18/2022 Fav/CS HP 02/10/2022 Favorable RC	Favorable Yeas 10 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	**SB 296** Garcia (Compare CS/H 1527)	Health Care Expenses; Requiring a licensed facility to establish, update, and make public a list of the facility's charges for services which meets certain federal requirements; prohibiting consumer reporting agencies from publishing a consumer report containing a medical debt credit impairment under certain circumstances; requiring the consumer reporting agency to remove the credit impairment, free of charge, under certain circumstances; authorizing patient-consumers to initiate legal proceedings for violations; prohibiting persons from reporting certain consumer debt to a consumer reporting agency without the express written consent of the creditor, etc. HP 11/03/2021 Temporarily Postponed HP 02/10/2022 Temporarily Postponed AHS AP	Temporarily Postponed
9	**SB 1442** Jones (Identical H 657)	Medical Education Reimbursement and Loan Repayment Program; Revising the purpose of the program; expanding eligibility criteria for the program to include certain practice areas; requiring practitioners to provide specified proof of eligibility to receive payments under the program, etc. HP 02/10/2022 Favorable ED RC	Favorable Yeas 10 Nays 0
10	**SB 1572** Baxley (Similar CS/H 1507)	Dementia-related Staff Training; Citing this act as the "Florida Alzheimer's Disease and Dementia Training and Education Act"; requiring the Department of Elderly Affairs or its designee to develop or approve certain dementia-related education and training; requiring the department or its designee to offer certain education to the public; requiring the department or its designee to develop or approve certain dementia-related training for covered provider employees; requiring covered providers to provide specified information and dementia-related training to new employees within a specified timeframe; providing that the dementia-related training counts toward a certified nursing assistant's annual training requirements, etc. HP 02/10/2022 Fav/CS AHS AP	Fav/CS Yeas 9 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
11	**SM 1108** Baxley (Similar HM 791)	China/Forced Organ Harvesting ; Urging the President and Congress to condemn the People's Republic of China for its practice of forcibly removing human organs for transplant and to adopt certain legislation and policies that hold China accountable for such human rights violations, etc. HP 02/10/2022 Favorable RC	Favorable Yeas 10 Nays 0
12	**SB 1350** Diaz (Identical H 869)	Public Records and Meetings/In-hospital Medical Staff Committees; Providing an exemption from public records requirements for certain confidential information held by in-hospital medical staff committees of public hospitals; providing an exemption from public meetings requirements for portions of meetings held by such medical staff committees during which such confidential information is discussed; providing for future legislative review and repeal of the exemptions; providing a statement of public necessity, etc. HP 02/10/2022 Favorable GO RC	Favorable Yeas 9 Nays 1
	Other Related Meeting Documents		

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1734

INTRODUCER: Senator Gibson

SUBJECT: Resident Care in Nursing Home Facilities

DATE: February 9, 2022 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Brown	HP	**Favorable**
2.			CF	
3.			RC	

I. Summary:

SB 1734 amends and creates multiple sections of the Florida Statues related to nursing home licensure.

The bill requires nursing homes to allow residents to select a personal physician and requires the nursing home to consult with that physician when providing acute care to the resident or prescribing medication to the resident, and to provide the physician with medical records and any other records relating to the resident's care at least on a monthly basis and also at other specified times.

The bill creates a new section of law to establish admission procedures for nursing homes and details what a nursing home is required to do before admitting a resident. The bill specifies that a nursing home must provide the resident with a copy of his or her care plan immediately after it is developed. A nursing home is also required to review each resident's care plan at least quarterly and provides details as to who must be involved and what must be assessed in the review.

The bill reduces the time allowed for nursing homes to provide records upon receipt of a written Health Insurance Portability and Accountability Act of 1996 (HIPAA) compliant request from 14 working days to three working days if the request relates to a current resident and from 30 working days to 14 working days if the request relates to a former resident. The also bill expands what information must be posted on a nursing home's website related to staffing and requires a nursing home to post, both online and in its facility, the name and contact information of specified members of its staff.

The bill provides an effective date of July 1, 2022.

II. Present Situation:

Nursing Home Residents' Rights

Section 400.022, F.S., establishes rights that a nursing must afford to each of its residents. The section requires that all nursing home facilities must adopt and make public a statement of the rights and responsibilities of the residents of such facilities and treat such residents in accordance with the provisions of that statement. The statement must assure each resident receives the following rights:

- The right to civil and religious liberties.
- The right to private and uncensored communication.
- Any entity or individual that provides health, social, legal, or other services to a resident has the right to have reasonable access to the resident. The resident has the right to deny or withdraw consent to access at any time by any entity or individual. Notwithstanding the visiting policy of the facility, the section specifies that certain individuals, including immediate family members and regulatory personnel, must be permitted immediate access to the resident.
- The right to present grievances on behalf of himself or herself or others to the staff or administrator of the facility, to governmental officials, or to any other person; to recommend changes in policies and services to facility personnel; and to join with other residents or individuals within or outside the facility to work for improvements in resident care, free from restraint, interference, coercion, discrimination, or reprisal.
- The right to organize and participate in resident groups in the facility and the right to have the resident's family meet in the facility with the families of other residents.
- The right to participate in social, religious, and community activities that do not interfere with the rights of other residents.
- The right to examine, upon reasonable request, the results of the most recent inspection of the facility conducted by a federal or state agency and any plan of correction in effect with respect to the facility.
- The right to manage his or her own financial affairs or to delegate such responsibility to the licensee, but only to the extent of the funds held in trust by the licensee for the resident.
- The right to be fully informed, in writing and orally, prior to or at the time of admission and during his or her stay, of services available in the facility and of related charges for such services.
- The right to be adequately informed of his or her medical condition and proposed treatment, unless the resident is determined to be unable to provide informed consent under Florida law, or the right to be fully informed in advance of any nonemergency changes in care or treatment that may affect the resident's well-being; and, except with respect to a resident adjudged incompetent, the right to participate in the planning of all medical treatment, including the right to refuse medication and treatment, unless otherwise indicated by the resident's physician; and to know the consequences of such actions.
- The right to refuse medication or treatment and to be informed of the consequences of such decisions, unless determined unable to provide informed consent under state law.
- The right to receive adequate and appropriate health care and protective and support services, including social services; mental health services, if available; planned recreational activities; and therapeutic and rehabilitative services consistent with the resident care plan, with

established and recognized practice standards within the community, and with rules as adopted by the Agency for Health Care Administration (AHCA).

- The right to have privacy in treatment and in caring for personal needs; to close room doors and to have facility personnel knock before entering the room, except in the case of an emergency or unless medically contraindicated; and to security in storing and using personal possessions.
- The right to be treated courteously, fairly, and with the fullest measure of dignity and to receive a written statement and an oral explanation of the services provided by the licensee, including those required to be offered on an as-needed basis.
- The right to be free from mental and physical abuse, corporal punishment, extended involuntary seclusion, and from physical and chemical restraints, except those restraints authorized in writing by a physician for a specified and limited period of time or as are necessitated by an emergency.
- The right to be transferred or discharged only for medical reasons or for the welfare of other residents, and the right to be given reasonable advance notice of no less than 30 days of any involuntary transfer or discharge, with certain exceptions.
- The right to freedom of choice in selecting a personal physician; to obtain pharmaceutical supplies and services from a pharmacy of the resident's choice; and to obtain information about, and to participate in, community-based activities programs, unless medically contraindicated as documented by a physician in the resident's medical record.
- The right to retain and use personal clothing and possessions as space permits, unless to do so would infringe upon the rights of other residents or unless medically contraindicated as documented in the resident's medical record by a physician.
- The right to have copies of the rules and regulations of the facility and an explanation of the responsibility of the resident to obey all reasonable rules and regulations of the facility and to respect the personal rights and private property of the other residents.
- The right to receive notice before the room of the resident in the facility is changed.
- The right to be informed of the bed reservation policy for a hospitalization.
- For residents of Medicaid or Medicare certified facilities, the right to challenge a decision by the facility to discharge or transfer the resident, as required under 42 C.F.R. s. 483.12.

Each nursing home must orally inform the resident of the resident's rights and provide a copy of the statement to each resident or the resident's legal representative at or before the resident's admission to a facility and to each staff member of the facility. Each licensee must prepare a written plan and provide appropriate staff training to implement the provisions of the section.

The written statement of rights must include a statement that a resident may file a complaint with the AHCA or state or local ombudsman council. The statement must be in boldfaced type and include the telephone number and e-mail address of the State Long-Term Care Ombudsman Program and the telephone numbers of the local ombudsman council and the Elder Abuse Hotline operated by the Department of Children and Families.

The section specifies that any violation of the resident's rights constitutes grounds for licensure action. Also, in order to determine whether the licensee is adequately protecting residents' rights, the licensure inspection of the facility must include private informal conversations with a sample of residents to discuss residents' experiences within the facility with respect to rights specified in

this section and general compliance with standards and consultation with the State Long-Term Care Ombudsman Program.

Any person who submits or reports a complaint concerning a suspected violation of the resident's rights or concerning services or conditions in a facility or who testifies in any administrative or judicial proceeding arising from such complaint will have immunity from any criminal or civil liability for that report, unless that person acted in bad faith, with malicious purpose, or if the court finds that there was a complete absence of a justiciable issue of either law or fact raised by the losing party.

In addition to the rights listed in s. 400.022, F.S., federal law in 42 CFR s. 483.10 establishes rights for residents in Medicaid and Medicare certified nursing homes. Many of the rights mirror rights established in the section above. In general, federal law guarantees the right to:

- Be treated with respect;
- Participate in activities;
- Be free from discrimination;
- Be free from abuse and neglect;
- Be free from restraints;
- Make complaints;
- Get proper medical care (including choosing one's own personal physician);
- Have representatives notified of certain occurrences;
- Get information on services and fees;
- Manage one's own money;
- Have proper privacy, property, and living arrangements;
- Spend time with visitors;
- Get social services;
- Leave the nursing home;
- Have protection against unfair transfers and discharges;
- Form or participate in resident groups; and
- Include family and friends.[1]

Nursing Home Records

Section 400.145, F.S., requires that a nursing home release copies of records of care and treatment of a resident as detailed in the section. When a nursing home has received a written request that complies with HIPAA and the section, a nursing home facility must furnish to a competent resident, or to a representative of that resident who is authorized to make requests for the resident's records under HIPAA or as detailed in the section, copies of the resident's paper and electronic records that are in possession of the facility. Such records must include any medical records and records concerning the care and treatment of the resident performed by the facility, except for progress notes and consultation report sections of a psychiatric nature.

[1] For a summary of these rights please see: Your Rights and Protections as a Nursing Home Resident, Centers for Medicare and Medicaid Services, available at https://downloads.cms.gov/medicare/your_resident_rights_and_protections_section.pdf (last visited Feb. 7, 2022).

The facility must provide the requested records within 14 working days after receipt of a request relating to a current resident or within 30 working days after receipt of a request relating to a former resident.

The section specifies who may request resident records if the resident is deceased and allows a nursing home to charge a reasonable fee for the copying of resident records. If a nursing home determines that disclosure of the records to the resident would be detrimental to the physical or mental health of the resident, the facility may refuse to furnish the record directly to the resident; however, upon such refusal, the resident's records must, upon written request by the resident, be furnished to any other medical provider designated by the resident.

The section also indemnifies nursing homes for releasing records and specifies that a nursing home is not required to release records more than once per month. A nursing may not be cited by the AHCA for violating these requirements and the section does not limit any right to obtain records through the legal system.

III. Effect of Proposed Changes:

Section 1 amends s. 400.022, F.S., to add to the nursing home residents rights the requirement that, if a resident selects a personal physician, the resident's attending health care provider at the facility must consult with the resident's personal physician in providing any acute care to the resident and before ordering or prescribing medication for the resident to ensure that the medication is not medically contraindicated. The attending health care provider must document any consultation with the resident's personal physician in the resident's records and provide copies of the resident's records to the resident's personal physician in accordance with s. 400.141(1)(e), F.S.

The bill also amends this section to add a new right to receive a response from a facility within three days after the resident or the resident's legal representative makes an inquiry or otherwise requests information related to the resident or the resident's care or treatment at the facility.

Section 2 creates s. 400.0221, F.S., in order to establish new admission procedures for nursing homes. The bill requires that before admitting a resident, a nursing home facility must do all of the following:

- Provide the resident or the resident's legal representative with a printed copy of all of the following:
  - The residents' rights provided in s. 400.022, F.S. The resident and the resident's legal representative must also be orally informed of the resident's right under s. 400.022(1)(q), F.S., to select a personal physician and of the requirement that the personal physician be provided with the resident's records and consulted in providing any acute care to the resident and before ordering or prescribing any medication for the resident. The facility must document in the resident's care plan whether he or she selects a personal physician.
  - The most recent version of the Nursing Home Guide published under s. 400.191, F.S.
  - The AHCA's most recent inspection report of the facility.
  - The facility's resident grievance procedures developed pursuant to s. 400.1183, F.S.
  - The name and contact information of the medical director, managers, directors of nursing, care coordinators, and billing staff of the facility.

- Give the resident or the resident's legal representative a meaningful opportunity to discuss the information provided.
- Discuss with the resident or the resident's legal representative any dietary restrictions applicable to the resident. The facility must confirm that it can comply with such restrictions before accepting a resident. The facility must include the resident's dietary restrictions in his or her resident care plan.
- Discuss with the resident or the resident's legal representative any physical or cognitive impairments affecting the resident which require accommodations in facilities or services or require that care be provided by individuals appropriately trained to serve residents with such impairments. If the facility cannot make such accommodations or does not have adequately trained staff to provide the care the resident needs, the facility may not accept the resident until such accommodations and care can be provided. If the resident is admitted, the facility must document the required accommodations and care for the resident in his or her resident care plan.
- Ensure that it has a complete medical history for the resident, including, but not limited to, any prescribed medications, contraindicated medications or treatments, and allergies, which must be included in the resident care plan. The facility must inform the resident's legal representative, if any, and the resident's personal physician, if selected, before prescribing a new medication to the resident.

Additionally, the bill requires that immediately after a facility develops an initial resident care plan, the facility must provide the resident or the resident's legal representative with a copy of the resident care plan. A physician, a registered nurse, or the care coordinator responsible for the resident must discuss the resident care plan with the resident or the resident's legal representative to determine whether any information is missing or incorrect and whether the plan of care delineated in the resident care plan accounts for all of the concerns expressed by the resident, the resident's legal representative, or the resident's personal physician, if applicable, before admission, including, but not limited to, any dietary restrictions or needed accommodations or care specific to the resident.

The nursing home must also, at least quarterly, review the resident care plan to assess:

- The resident's needs;
- The type and frequency of services required to provide the necessary care for the resident to attain or maintain the highest practical physical, mental, and psychosocial well-being;
- The services that are provided to the resident, both within and outside of the facility, and whether such services are sufficient to meet the resident's needs; and
- The resident's service goals.

This assessment must be done by a physician or registered nurse, with participation from other facility staff and the resident or the resident's legal representative. If it is determined that any of the resident's needs are not being met, the resident care plan must be revised to promote the highest practical physical, mental, and psychosocial well-being of the resident.

Section 3 amends s. 400.141, F.S., to requires that nursing home provide each resident with the opportunity to select a personal physician as specified in s. 400.022(1)(q), F.S. The resident's attending health care provider at the facility must consult with the resident's personal physician

in providing any acute care to the resident and before ordering or prescribing medication for the resident to ensure the medication is not medically contraindicated for the resident.

The attending health care provider must document any consultation with the resident's personal physician in the resident's records and the facility must provide the resident's personal physician with the resident's medical records and any records relating to the resident's care and treatment at the facility on a monthly basis. However, in the event of a change in the resident's condition, care, or treatment, the facility must inform and provide related records to the resident's personal physician within three days after such change.

If the facility conducts any test or examination on the resident, the facility must immediately forward the results of such test or examination to the resident's personal physician. The facility must continue to provide the resident's records to the resident's personal physician until the resident or the resident's representative notifies the facility that the transfer of such records is no longer requested.

The bill also requires a nursing home to maintain on its website the name and contact information for the medical director, managers, directors of nursing, care coordinators, administrator, and billing staff of the facility. The nursing home must also publicly display in the facility the names of the manager and director of nursing on duty each day or, if different, each shift.

Section 4 amends s. 400.145, F.S., to reduce the time allowed for nursing homes to provide records upon receipt of a written HIPAA compliant request from 14 working days to three working days if the request relates to a current resident and from 30 working days to 14 working days if the request relates to a former resident.

The bill also requires that if a current resident of the facility or his or her legal representative has selected a personal physician outside of the facility for the resident or has requested that any of the resident's health care providers outside of the facility be kept informed of the resident's care and treatment in the facility, the facility must provide such records on a monthly basis. However, in the event of a change in the resident's condition, care, or treatment, the facility must inform and provide related records to the resident's applicable health care providers within three days after such change.

If the facility conducts any test or examination on the resident, the facility must immediately forward the results of such test or examination to the resident's applicable health care providers. The facility must continue to provide the resident's records to the resident's health care providers as applicable until the resident or the resident's legal representative notifies the facility that the transfer of such records is no longer requested. The bill authorizes the AHCA to cite nursing for violating the newly added provisions.

Section 5 amends s. 400.23, F.S., to require each nursing home to post on its website the names of staff on duty and their affiliated staffing agency, if any; the average daily resident-to-staff ratio at the facility; the monthly staff turnover rate at the facility; and any fines imposed by the AHCA for noncompliance with the staffing standards specified in this paragraph. Currently,

facilities are only required to post the names of staff. The facility must post such information in a conspicuous location on its website in an easily accessible format.

Sections 6-12 amend multiple additional sections to make conforming and cross reference changes.

Section 13 provides an effective date of July 1, 2022.

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:

SB 1734 creates several new requirements for nursing homes which may have an indeterminate negative fiscal impact.

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: 400.022, 400.141, 400.145, 400.23, 400.172, 400.211, 408.822, 409.221, 430.80, 430.81, 651.118.

This bill creates section 400.0221 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.

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

By Senator Gibson

6-00935-22 20221734__

1 A bill to be entitled
2 An act relating to resident care in nursing home
3 facilities; amending s. 400.022, F.S.; requiring a
4 resident’s attending health care provider in a nursing
5 home facility to consult with the resident’s personal
6 physician, if selected, in the provision of acute care
7 to the resident and before ordering or prescribing
8 medication to the resident; requiring the resident’s
9 attending health care provider to document any such
10 consultations in the resident’s records; requiring the
11 nursing home facility to provide the resident’s
12 records to the resident’s personal physician in
13 accordance with specified provisions; providing that
14 residents or their legal representatives have the
15 right to receive a response from a nursing home
16 facility within a specified timeframe of an inquiry or
17 request for information; creating s. 400.0221, F.S.;
18 requiring nursing home facilities to take certain
19 measures before admitting a resident; requiring
20 nursing home facilities to provide residents or their
21 legal representatives with a copy of the resident care
22 plan immediately after it is developed; requiring a
23 physician, registered nurse, or care coordinator to
24 discuss the plan with the resident or the resident’s
25 legal representative for a specified purpose;
26 requiring such plan to be reviewed at least quarterly
27 by specified individuals; requiring the plan to be
28 revised under certain circumstances; amending s.
29 400.141, F.S.; requiring nursing home facilities to

6-00935-22 20221734__

30 provide each resident with the opportunity to select a
31 personal physician; requiring the attending health
32 care provider at the facility, if selected, to consult
33 with the resident’s personal physician for certain
34 care or before ordering or prescribing medication to
35 the resident; requiring the attending health care
36 provider to document such consultations in the
37 resident’s records; requiring the facility to provide
38 the resident’s records to his or her personal
39 physician on a monthly basis and within a specified
40 timeframe of any changes in the resident’s condition,
41 care, or treatment; requiring the facility to
42 immediately forward the results of any test or
43 examination of the resident to the resident’s personal
44 physician; requiring the facility to continue
45 providing such records until notified otherwise by the
46 resident or the resident’s legal representative;
47 requiring nursing home facilities to maintain the
48 names and contact information of specified individuals
49 on their websites; requiring nursing home facilities
50 to publicly display in the facility the names of the
51 manager and director of nursing on duty; amending s.
52 400.145, F.S.; revising the timeframe in which nursing
53 home facilities must furnish requested records of a
54 current or former resident; requiring nursing home
55 facilities to provide a resident’s records to the
56 resident’s selected health care providers outside of
57 the facility on a monthly basis and within a specified
58 timeframe of any change in the resident’s condition,

59 care, or treatment; requiring facilities to
60 immediately provide the results of any test or
61 examination conducted on the resident to the
62 applicable health care providers; requiring the
63 facility to continue providing such records until
64 notified otherwise by the resident or the resident's
65 legal representative; authorizing the agency to cite
66 nursing home facilities during the survey process for
67 alleged or actual noncompliance with certain
68 requirements; amending s. 400.23, F.S.; requiring
69 nursing home facilities to post on their websites
70 specified information relating to staffing at their
71 facilities; requiring such information to be in a
72 conspicuous location on their websites and in a
73 specified format; amending ss. 400.172, 400.211,
74 408.822, 409.221, 430.80, 430.81, and 651.118, F.S.;
75 conforming cross-references; providing an effective
76 date.
77
78 Be It Enacted by the Legislature of the State of Florida:
79
80 Section 1. Paragraph (q) of subsection (1) of section
81 400.022, Florida Statutes, is amended, and paragraph (w) is
82 added to that subsection, to read:
83 400.022 Residents' rights.—
84 (1) All licensees of nursing home facilities shall adopt
85 and make public a statement of the rights and responsibilities
86 of the residents of such facilities and shall treat such
87 residents in accordance with the provisions of that statement.

88 The statement shall assure each resident the following:
89 (q) The right to freedom of choice in selecting a personal
90 physician; to obtain pharmaceutical supplies and services from a
91 pharmacy of the resident's choice, at the resident's own expense
92 or through Title XIX of the Social Security Act; and to obtain
93 information about, and to participate in, community-based
94 activities programs, unless medically contraindicated as
95 documented by a physician in the resident's medical record. If a
96 resident selects a personal physician, the resident's attending
97 health care provider at the facility must consult with the
98 resident's personal physician in providing any acute care to the
99 resident and before ordering or prescribing medication for the
100 resident to ensure that the medication is not medically
101 contraindicated. The attending health care provider shall
102 document any consultation with the resident's personal physician
103 in the resident's records and provide copies of the resident's
104 records to the resident's personal physician in accordance with
105 s. 400.141(1)(e). If a resident chooses to use a community
106 pharmacy and the facility in which the resident resides uses a
107 unit-dose system, the pharmacy selected by the resident must
108 ~~shall~~ be one that provides a compatible unit-dose system,
109 provides service delivery, and stocks the drugs normally used by
110 long-term care residents. If a resident chooses to use a
111 community pharmacy and the facility in which the resident
112 resides does not use a unit-dose system, the pharmacy selected
113 by the resident must ~~shall~~ be one that provides service delivery
114 and stocks the drugs normally used by long-term care residents.
115 (w) The right to receive a response from the facility
116 within 3 days after the resident or the resident's legal

117 representative makes an inquiry or otherwise requests
118 information related to the resident or the resident's care or
119 treatment at the facility.
120 Section 2. Section 400.0221, Florida Statutes, is created
121 to read:
122 400.0221 Resident admission procedures; resident care
123 plans.—
124 (1) Before admitting a resident, a nursing home facility
125 must do all of the following:
126 (a) Provide the resident or the resident's legal
127 representative with a printed copy of all of the following:
128 1. The residents' rights provided in s. 400.022. The
129 resident and the resident's legal representative must also be
130 orally informed of the resident's right under s. 400.022(1)(q)
131 to select a personal physician and of the requirement that the
132 personal physician be provided with the resident's records and
133 consulted in providing any acute care to the resident and before
134 ordering or prescribing any medication for the resident. The
135 facility must document in the resident's care plan whether he or
136 she selects a personal physician.
137 2. The most recent version of the Nursing Home Guide
138 published under s. 400.191.
139 3. The agency's most recent inspection report of the
140 facility.
141 4. The facility's resident grievance procedures developed
142 pursuant to s. 400.1183.
143 5. The name and contact information of the medical
144 director, managers, directors of nursing, care coordinators, and
145 billing staff of the facility.

146 (b) Give the resident or the resident's legal
147 representative a meaningful opportunity to discuss the
148 information provided under paragraph (a).
149 (c) Discuss with the resident or the resident's legal
150 representative any dietary restrictions applicable to the
151 resident. The facility must confirm that it can comply with such
152 restrictions before accepting a resident. The facility shall
153 include the resident's dietary restrictions in his or her
154 resident care plan.
155 (d) Discuss with the resident or the resident's legal
156 representative any physical or cognitive impairments affecting
157 the resident which require accommodations in facilities or
158 services or require that care be provided by individuals
159 appropriately trained to serve residents with such impairments.
160 If the facility cannot make such accommodations or does not have
161 adequately trained staff to provide the care the resident needs,
162 the facility may not accept the resident until such
163 accommodations and care can be provided. If the resident is
164 admitted, the facility must document the required accommodations
165 and care for the resident in his or her resident care plan.
166 (e) Ensure that it has a complete medical history for the
167 resident, including, but not limited to, any prescribed
168 medications, contraindicated medications or treatments, and
169 allergies, which must be included in the resident care plan. The
170 facility must inform the resident's legal representative, if
171 any, and the resident's personal physician, if selected, before
172 prescribing a new medication to the resident.
173 (2) Immediately after a facility develops an initial
174 resident care plan, the facility must provide the resident or

175 the resident's legal representative with a copy of the resident
176 care plan. A physician, a registered nurse, or the care
177 coordinator responsible for the resident shall discuss the
178 resident care plan with the resident or the resident's legal
179 representative to determine whether any information is missing
180 or incorrect and whether the plan of care delineated in the
181 resident care plan accounts for all of the concerns expressed by
182 the resident, the resident's legal representative, or the
183 resident's personal physician, if applicable, before admission,
184 including, but not limited to, any dietary restrictions or
185 needed accommodations or care specific to the resident.
186 (3) At least quarterly, a physician or registered nurse,
187 with participation from other facility staff and the resident or
188 the resident's legal representative, shall review the resident
189 care plan to assess the resident's needs; the type and frequency
190 of services required to provide the necessary care for the
191 resident to attain or maintain the highest practical physical,
192 mental, and psychosocial well-being; the services that are
193 provided to the resident, both within and outside of the
194 facility, and whether such services are sufficient to meet the
195 resident's needs; and the resident's service goals. If it is
196 determined that any of the resident's needs are not being met,
197 the resident care plan must be revised to promote the highest
198 practical physical, mental, and psychosocial well-being of the
199 resident.
200 Section 3. Present paragraphs (e) through (l) and (m)
201 through (w) of subsection (1) of section 400.141, Florida
202 Statutes, are redesignated as paragraphs (f) through (m) and (o)
203 through (y), respectively, and new paragraphs (e) and (n) are

204 added to that subsection, to read:
205 400.141 Administration and management of nursing home
206 facilities.—
207 (1) Every licensed facility shall comply with all
208 applicable standards and rules of the agency and shall:
209 (e) Provide each resident with the opportunity to select a
210 personal physician as specified in s. 400.022(1)(q). The
211 resident's attending health care provider at the facility shall
212 consult with the resident's personal physician in providing any
213 acute care to the resident and before ordering or prescribing
214 medication for the resident to ensure the medication is not
215 medically contraindicated for the resident. The attending health
216 care provider shall document any consultation with the
217 resident's personal physician in the resident's records. The
218 facility shall provide the resident's personal physician with
219 the resident's medical records and any records relating to the
220 resident's care and treatment at the facility on a monthly
221 basis; however, in the event of a change in the resident's
222 condition, care, or treatment, the facility must inform and
223 provide related records to the resident's personal physician
224 within 3 days after such change. If the facility conducts any
225 test or examination on the resident, the facility must
226 immediately forward the results of such test or examination to
227 the resident's personal physician. The facility shall continue
228 to provide the resident's records to the resident's personal
229 physician until the resident or the resident's representative
230 notifies the facility that the transfer of such records is no
231 longer requested.
232 (n) Maintain on its website the name and contact

information for the medical director, managers, directors of nursing, care coordinators, administrator, and billing staff of the facility. The facility shall also publicly display in the facility the names of the manager and director of nursing on duty each day or, if different, each shift.

Section 4. Subsections (1) and (8) of section 400.145, Florida Statutes, are amended to read:

400.145 Copies of records of care and treatment of resident.—

(1)(a) Upon receipt of a written request that complies with the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) and this section, a nursing home facility shall furnish to a competent resident, or to a representative of that resident who is authorized to make requests for the resident's records under HIPAA or subsection (2), copies of the resident's paper and electronic records that are in possession of the facility. Such records must include any medical records and records concerning the care and treatment of the resident performed by the facility, except for progress notes and consultation report sections of a psychiatric nature. The facility shall provide the requested records within 3 calendar ~~14 working~~ days after receipt of a request relating to a current resident or within 14 calendar ~~30 working~~ days after receipt of a request relating to a former resident.

(b) If a current resident of the facility or his or her legal representative has selected a personal physician outside of the facility for the resident or has requested that any of the resident's health care providers outside of the facility be kept informed of the resident's care and treatment in the

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facility, the facility must provide such records on a monthly basis; however, in the event of a change in the resident's condition, care, or treatment, the facility must inform and provide related records to the resident's applicable health care providers within 3 days after such change. If the facility conducts any test or examination on the resident, the facility must immediately forward the results of such test or examination to the resident's applicable health care providers. The facility shall continue to provide the resident's records to the resident's health care providers as applicable until the resident or the resident's legal representative notifies the facility that the transfer of such records is no longer requested.

(8) A nursing home facility may not be cited by the agency through the survey process for any alleged or actual noncompliance with any of the requirements of this section, except for those under paragraph (1)(b).

Section 5. Paragraph (a) of subsection (3) of section 400.23, Florida Statutes, is amended to read:

400.23 Rules; evaluation and deficiencies; licensure status.—

(3)(a)1. The agency shall adopt rules providing minimum staffing requirements for nursing home facilities. These requirements must include, for each facility:

a. A minimum weekly average of certified nursing assistant and licensed nursing staffing combined of 3.6 hours of direct care per resident per day. As used in this sub-subparagraph, a week is defined as Sunday through Saturday.

b. A minimum certified nursing assistant staffing of 2.5

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hours of direct care per resident per day. A facility may not staff below one certified nursing assistant per 20 residents.

c. A minimum licensed nursing staffing of 1.0 hour of direct care per resident per day. A facility may not staff below one licensed nurse per 40 residents.

2. Nursing assistants employed under s. 400.211(2) may be included in computing the staffing ratio for certified nursing assistants if their job responsibilities include only nursing-assistant-related duties.

3. Each nursing home facility shall ~~must~~ document compliance with staffing standards as required under this paragraph and, for the benefit of facility residents and the public, shall post on its website daily the names of staff on duty and their affiliated staffing agency, if any; the average daily resident-to-staff ratio at the facility; the monthly staff turnover rate at the facility; and any fines imposed by the agency for noncompliance with the staffing standards specified in this paragraph. The facility shall post such information in a conspicuous location on its website in an easily accessible format ~~for the benefit of facility residents and the public~~.

4. The agency must ~~shall~~ recognize the use of licensed nurses for compliance with minimum staffing requirements for certified nursing assistants if the nursing home facility otherwise meets the minimum staffing requirements for licensed nurses and the licensed nurses are performing the duties of a certified nursing assistant. Unless otherwise approved by the agency, licensed nurses counted toward the minimum staffing requirements for certified nursing assistants must exclusively perform the duties of a certified nursing assistant for the

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entire shift and not also be counted toward the minimum staffing requirements for licensed nurses. If the agency approved a facility’s request to use a licensed nurse to perform both licensed nursing and certified nursing assistant duties, the facility must allocate the amount of staff time specifically spent on certified nursing assistant duties for the purpose of documenting compliance with minimum staffing requirements for certified and licensed nursing staff. The hours of a licensed nurse with dual job responsibilities may not be counted twice.

Section 6. Subsection (1) of section 400.172, Florida Statutes, is amended to read:

400.172 Respite care provided in nursing home facilities.—

(1) For each person admitted for respite care as authorized under s. 400.141(1)(g) ~~s. 400.141(1)(f)~~, a nursing home facility operated by a licensee must:

(a) Have a written abbreviated plan of care that, at a minimum, includes nutritional requirements, medication orders, physician orders, nursing assessments, and dietary preferences. The nursing or physician assessments may take the place of all other assessments required for full-time residents.

(b) Have a contract that, at a minimum, specifies the services to be provided to a resident receiving respite care, including charges for services, activities, equipment, emergency medical services, and the administration of medications. If multiple admissions for a single person for respite care are anticipated, the original contract is valid for 1 year after the date the contract is executed.

(c) Ensure that each resident is released to his or her caregiver or an individual designated in writing by the

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caregiver.

Section 7. Paragraph (d) of subsection (2) of section 400.211, Florida Statutes, is amended to read:

400.211 Persons employed as nursing assistants; certification requirement.—

(2) The following categories of persons who are not certified as nursing assistants under part II of chapter 464 may be employed by a nursing facility for a single consecutive period of 4 months:

(d) Persons who are employed as personal care attendants and who have completed the personal care attendant training program developed pursuant to s. 400.141(1)(y) ~~s. 400.141(1)(w)~~. As used in this paragraph, the term "personal care attendants" means persons who meet the training requirement in s. 400.141(1)(y) ~~s. 400.141(1)(w)~~ and provide care to and assist residents with tasks related to the activities of daily living.

The certification requirement must be met within 4 months after initial employment as a nursing assistant in a licensed nursing facility.

Section 8. Subsection (1) of section 408.822, Florida Statutes, is amended to read:

408.822 Direct care workforce survey.—

(1) For purposes of this section, the term "direct care worker" means a certified nursing assistant, a home health aide, a personal care assistant, a companion services or homemaker services provider, a paid feeding assistant trained under s. 400.141(1)(x) ~~s. 400.141(1)(v)~~, or another individual who provides personal care as defined in s. 400.462 to individuals

who are elderly, developmentally disabled, or chronically ill.

Section 9. Paragraph (e) of subsection (4) of section 409.221, Florida Statutes, is amended to read:

409.221 Consumer-directed care program.—

(4) CONSUMER-DIRECTED CARE.—

(e) *Services.*—Consumers shall use the budget allowance only to pay for home and community-based services that meet the consumer's long-term care needs and are a cost-efficient use of funds. Such services may include, but are not limited to, the following:

1. Personal care.

2. Homemaking and chores, including housework, meals, shopping, and transportation.

3. Home modifications and assistive devices which may increase the consumer's independence or make it possible to avoid institutional placement.

4. Assistance in taking self-administered medication.

5. Day care and respite care services, including those provided by nursing home facilities pursuant to s. 400.141(1)(g) ~~s. 400.141(1)(f)~~ or by adult day care facilities licensed pursuant to s. 429.907.

6. Personal care and support services provided in an assisted living facility.

Section 10. Subsection (3) of section 430.80, Florida Statutes, is amended to read:

430.80 Implementation of a teaching nursing home pilot project.—

(3) To be designated as a teaching nursing home, a nursing home licensee must, at a minimum:

407 (a) Provide a comprehensive program of integrated senior
408 services that include institutional services and community-based
409 services;
410 (b) Participate in a nationally recognized accrediting
411 program and hold a valid accreditation, such as the
412 accreditation awarded by the Joint Commission, or, at the time
413 of initial designation, possess a Gold Seal Award as conferred
414 by the state on its licensed nursing home;
415 (c) Have been in business in this state for a minimum of 10
416 consecutive years;
417 (d) Demonstrate an active program in multidisciplinary
418 education and research that relates to gerontology;
419 (e) Have a formalized contractual relationship with at
420 least one accredited health profession education program located
421 in this state;
422 (f) Have senior staff members who hold formal faculty
423 appointments at universities, which must include at least one
424 accredited health profession education program; and
425 (g) Maintain insurance coverage pursuant to s.
426 400.141(1)(s) ~~s. 400.141(1)(q)~~ or proof of financial
427 responsibility in a minimum amount of $750,000. Such proof of
428 financial responsibility may include:
429 1. Maintaining an escrow account consisting of cash or
430 assets eligible for deposit in accordance with s. 625.52; or
431 2. Obtaining and maintaining pursuant to chapter 675 an
432 unexpired, irrevocable, nontransferable and nonassignable letter
433 of credit issued by any bank or savings association organized
434 and existing under the laws of this state or any bank or savings
435 association organized under the laws of the United States that

436 has its principal place of business in this state or has a
437 branch office which is authorized to receive deposits in this
438 state. The letter of credit shall be used to satisfy the
439 obligation of the facility to the claimant upon presentment of a
440 final judgment indicating liability and awarding damages to be
441 paid by the facility or upon presentment of a settlement
442 agreement signed by all parties to the agreement when such final
443 judgment or settlement is a result of a liability claim against
444 the facility.
445 Section 11. Paragraph (h) of subsection (2) of section
446 430.81, Florida Statutes, is amended to read:
447 430.81 Implementation of a teaching agency for home and
448 community-based care.—
449 (2) The Department of Elderly Affairs may designate a home
450 health agency as a teaching agency for home and community-based
451 care if the home health agency:
452 (h) Maintains insurance coverage pursuant to s.
453 400.141(1)(s) ~~s. 400.141(1)(q)~~ or proof of financial
454 responsibility in a minimum amount of $750,000. Such proof of
455 financial responsibility may include:
456 1. Maintaining an escrow account consisting of cash or
457 assets eligible for deposit in accordance with s. 625.52; or
458 2. Obtaining and maintaining, pursuant to chapter 675, an
459 unexpired, irrevocable, nontransferable, and nonassignable
460 letter of credit issued by any bank or savings association
461 authorized to do business in this state. This letter of credit
462 shall be used to satisfy the obligation of the agency to the
463 claimant upon presentation of a final judgment indicating
464 liability and awarding damages to be paid by the facility or

465 upon presentment of a settlement agreement signed by all parties
466 to the agreement when such final judgment or settlement is a
467 result of a liability claim against the agency.
468 Section 12. Subsection (13) of section 651.118, Florida
469 Statutes, is amended to read:
470 651.118 Agency for Health Care Administration; certificates
471 of need; sheltered beds; community beds.—
472 (13) Residents, as defined in this chapter, are not
473 considered new admissions for the purpose of s. 400.141(1)(p)1
474 ~~s. 400.141(1)(n)1~~.
475 Section 13. This act shall take effect July 1, 2022.

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR AUDREY GIBSON
6th District

COMMITTEES:
Judiciary, *Vice Chair*
Appropriations
Appropriations Subcommittee on Education
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Military and Veterans Affairs, Space, and Domestic Security
Reapportionment
Rules

SELECT SUBCOMMITTEE:
Select Subcommittee on Legislative Reapportionment

JOINT COMMITTEE:
Joint Legislative Budget Commission

January 18, 2022

Senator Manny Diaz Jr., Chair
Committee on Health Policy
530 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chair Diaz:

I respectfully request that SB 1734, relating to resident care in nursing home facilities, be placed on the next committee agenda.

SB 1734, will ensure communication between a residents' personal physician, whom they have the right to keep even as a nursing home resident, the residents Power of Attorney and the Medical Director of the nursing home facility by requiring the Director to consult with a residents' personal physician and Power of Attorney before prescribing medication in conflict to the residents' personal physician. The bill also requires lab work ordered by the residents' personal physician be sent to the residents' personal physician.

Thank you for your time and consideration.

Sincerely,

Audrey Gibson
State Senator
District 6

The Florida Senate

APPEARANCE RECORD

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

2/10/2022
Meeting Date

Health Policy
Committee

1734
Bill Number or Topic

Amendment Barcode (if applicable)

Name: Zayne Smith - AARP

Phone: 850-228-4243

Address: 215 South Monroe St
Street

Email: zsmith@aarp.org

Tallahassee — FL — 32301
City — State — Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:

AARP

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

2/10/22
Meeting Date

Health Policy
Committee

1734
Bill Number or Topic

Amendment Barcode (if applicable)

Name Tom Parker

Phone 850-224-3907

Address 307 W. Park Avenue
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Tallahassee FL 32301
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:

Florida Health Care Association

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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

S-001 (08/10/2021)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1114

INTRODUCER: Senator Bradley

SUBJECT: Emergency Medical Care and Treatment of Minors

DATE: February 9, 2022 REVISED: ________ ________ ________ ________

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Cibula	JU	**Favorable**
2.	Smith	Brown	HP	**Favorable**
3.			RC	

I. Summary:

SB 1114 broadens an exception to the general rule that medical treatment cannot be rendered without a patient’s consent. Under current law, parental consent is required for a physician to provide emergency medical care to a minor outside of a hospital or college health service. Similarly, parental consent is required for paramedics and other emergency medical services personnel to perform emergency care outside of a prehospital setting such as at an accident scene or in an ambulance.

The bill deletes restrictions on location, thereby allowing, in practice, physicians and emergency medical personnel to provide emergency medical care or treatment to a minor at any location without the consent of the minor’s parents under specified conditions when parental consent cannot be immediately obtained.

The bill provides an effective date of July 1, 2022.

II. Present Situation:

Emergency Medical Care or Treatment of Minors Without Parental Consent

Physicians and Osteopathic Physicians

Section 743.064(1), F.S., establishes limited circumstances under which emergency medical care or treatment may be given to minors without parental consent. Parental consent is not required if a minor has been injured in an accident or is suffering from an acute illness, disease, or condition and a physician[1] or osteopathic physician[2] believes, within a reasonable degree of medical certainty, that a delay in initiating or providing the emergency care or treatment would endanger

[1] Licensed under ch. 458, F.S.

[2] Licensed under ch. 459, F.S.

the health or physical well-being of the minor. Under this section, such emergency care or treatment may be administered only in a licensed hospital or in a college health service.

Paramedics, Emergency Medical Technicians, and Other Emergency Personnel

Similarly, paramedics, emergency medical technicians, and other emergency medical services personnel may provide emergency medical care or treatment to a minor without parental consent if the care is rendered in a "prehospital"[3] setting and rendered in a manner consistent with ch. 401, F.S., the Medical Telecommunications and Transportation chapter.

Prerequisites for Authorization

Such physicians and emergency personnel may provide emergency medical care or treatment without parental consent when:

- The minor's condition has rendered him or her unable to provide the identity of his or her parents, guardian, or legal custodian, and no one who accompanies the minor to the hospital knows that information; or
- The parents, guardian, or legal custodian cannot be immediately located by phone at their residence or business.[4]

Essential Updates to Medical Records

After emergency care or treatment is administered to the minor, the health care provider must notify the minor's parents, guardian, or legal custodian of the provision of medical care or treatment as soon as possible. The hospital records must reflect why the hospital was unable to obtain consent before treatment and contain a statement from the attending physician that the emergency care or treatment was necessary for the minor's heath or physical well-being. The hospital records must then be open for inspection by the person who is legally responsible for the minor.[5]

Parents' Bill of Rights

General Overview

In 2021, the Legislature passed the "Parents' Bill of Rights" act that is now contained in ch. 1014, F.S.[6] The bill of rights provides that the state, its political subdivisions, any other governmental entity, or other institution may not infringe upon the fundamental rights of a parent to direct the upbringing, education, health care, and mental health of a minor child. In addition to listing parental rights relating to a child's education, the law includes requirements for obtaining parental consent before health care services may be provided to a minor child.

It should be noted that the provisions contained in the Parents' Bill of Rights do not apply to abortion, which are governed by ch. 390, F.S.[7]

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[3] The term "prehospital" is not defined in the statutes.
[4] Section 743.064(2), F.S.
[5] Section 743.064(3), F.S.
[6] Chapter 2021-199, Laws of Fla.
[7] *See* section 1014.06(3), F.S.

Criminal Penalties and Exceptions

Section 1014.06(1), F.S., states that, *except as otherwise provided by law*, a health care practitioner or his or her employee, "may not provide or solicit or arrange to provide health care services or prescribe medicinal drugs to a minor child without first obtaining *written* parental consent."

Section 1014.06(2), F.S., states that, *except as otherwise provided by law or by a court order*, a provider "may not allow a medical procedure to be performed on a minor child in its facility without first obtaining w*ritten* parental consent."[8] A health care practitioner or other person who violates these provisions is subject to disciplinary action, as applicable, and commits a first degree misdemeanor. A first degree misdemeanor is punishable by a term of imprisonment not to exceed one year and a fine that may not exceed $1,000.[9]

Potential Complications of Construing the Emergency Treatment of Minors Provisions with the Parents' Bill of Rights

Before the Parents' Bill of Rights was enacted in 2021 and excluding abortion regulations,[10] the statutes did not expressly criminalize the rendering of medical care to minors without parental consent.[11] In *Brown v. Wood*,[12] however, the court acknowledged that a plaintiff may bring an action for negligence or assault and battery against a physician who did not obtain the informed consent of a parent before performing an operation on a minor child.

Depending on how the two "except as otherwise provided" provisions of the Parents' Bill of Rights are interpreted, it is unclear if physicians and osteopathic physicians could be subjected to criminal penalties for providing emergency care or treatment to a minor. If the provision of emergency medical care on a minor without parental consent as permitted in s. 743.064, F.S., constitutes an exception to the Parents' Bill of Rights, then there is no criminal risk for the medical professional who provides emergency treatment in a licensed hospital or college health service. However, the provision of emergency medical care to a minor outside of those locations could be subject to a criminal penalty.

III. Effect of Proposed Changes:

SB 1114 will, in practice, allow physicians and emergency medical personnel to provide emergency medical care or treatment to a minor at any location without the consent of the minor's parents under specified conditions when parental consent cannot be immediately obtained. The bill removes the restrictions on the locations where emergency medical care or treatment may be rendered for a minor without parental consent.

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[8] Section 1014.06(3), F.S., states that this section does not apply to abortion, which is governed by chapter 390. Section 1014.06(4), F.S., states that this section does not apply to services provided by a clinical laboratory, unless the services are delivered through a direct encounter with the minor at the clinical laboratory facility.

[9] *See* s. 775.082(4)(a), F.S., for penalties and s. 775.083(1)(d), F.S., for fines.

[10] *See* s. 390.01114, F.S.

[11] Arguably, the provision of medical care without consent constitutes the criminal offense of battery. Section 784.03(1), F.S., states that battery includes situations in which a person "[a]ctually and intentionally touches or strikes another person against the will of the other."

[12] *Brown v. Wood*, 202 So. 2d 125 (Fla. 2d DCA 1967).

Physicians and Osteopathic Physicians

Under the bill, the emergency medical care or treatment location is not restricted for physicians and osteopathic physicians to a licensed hospital or a college health service. Before rendering emergency aid, such physicians must determine that the minor has been injured in an accident or is suffering from an acute illness, disease, or condition, and he or she believes, with a reasonable degree of medical certainty, that delaying in initiating or providing emergency medical care or treatment will endanger the minor's health or well-being.

Paramedics, Emergency Medical Technicians, and Other Emergency Medical Services Personnel

Under the bill, paramedics, emergency medical technicians, and other emergency medical services personnel are not limited to rendering aid in a prehospital setting. Such emergency personnel must render emergency medical care consistent with the provisions of ch. 401, F.S., the Medical Telecommunications and Transportation chapter.

Additional Requirements for Rendering Emergency Care or Treatment

Under the bill, current law would continue to prohibit such physicians and emergency medical personnel from rendering treatment to a minor without parental consent unless: the minor's condition has rendered him or her unable to reveal the identity of his or her parents, guardian, or legal custodian, and such information is unknown to any person who accompanied the minor to the hospital; or the parents, guardian, or legal custodian cannot be immediately located by telephone at their place of residence or business. Additionally, the parents must be notified as soon as possible after the emergency care or treatment has been administered.

Under current law, hospital records must reflect the reason such consent was not initially obtained and must contain a statement by the attending physician that immediate emergency medical care or treatment was necessary for the patient's health or physical well-being. The hospital records must be open for inspection by the person legally responsible for the minor. The bill removes the reference to "hospital records" and replaces the term with "patient records" to conform to changes made by the bill.

The bill deletes the phrase "hospital, or college health service" in s. 743.064(4), F.S., for the purpose of conforming to other changes made by the bill.

The bill provides an effective date of July 1, 2022.

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 identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Health reports that SB 1114 will have no impact on the department.[13]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 743.064 of the Florida Statutes.

[13] Florida Department of Health, *Senate Bill 1114 Agency Analysis*, Jan. 10, 2022. (on file with the Senate Health Policy Committee).

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By Senator Bradley

5-01013-22 20221114__

1 A bill to be entitled
2 An act relating to emergency medical care and
3 treatment of minors; amending s. 743.064, F.S.;
4 deleting the requirement that emergency medical care
5 or treatment by physicians and emergency medical
6 personnel without parental consent be provided only in
7 specified settings; making technical and conforming
8 changes; providing an effective date.
9
10 Be It Enacted by the Legislature of the State of Florida:
11
12 Section 1. Section 743.064, Florida Statutes, is amended to
13 read:
14 743.064 Emergency medical care or treatment to minors
15 without parental consent.—
16 (1) The absence of parental consent notwithstanding, a
17 physician licensed under chapter 458 or an osteopathic physician
18 licensed under chapter 459 may render emergency medical care or
19 treatment to any minor who has been injured in an accident or
20 who is suffering from an acute illness, disease, or condition
21 if, within a reasonable degree of medical certainty, delay in
22 initiation or provision of emergency medical care or treatment
23 would endanger the health or physical well-being of the minor~~,~~
24 ~~and provided such emergency medical care or treatment is~~
25 ~~administered in a hospital licensed by the state under chapter~~
26 ~~395 or in a college health service~~. Emergency medical care or
27 treatment may also be rendered ~~in the prehospital setting~~ by
28 paramedics, emergency medical technicians, and other emergency
29 medical services personnel, provided that such care is rendered

5-01013-22 20221114__

30 consistent with ~~the provisions of~~ chapter 401. These persons
31 shall follow the general guidelines and notification provisions
32 of this section.
33 (2) This section shall apply only when parental consent
34 cannot be immediately obtained for one of the following reasons:
35 (a) The minor’s condition has rendered him or her unable to
36 reveal the identity of his or her parents, guardian, or legal
37 custodian, and such information is unknown to any person who
38 accompanied the minor ~~to the hospital~~.
39 (b) The parents, guardian, or legal custodian cannot be
40 immediately located by telephone at their place of residence or
41 business.
42 (3) Notification shall be accomplished as soon as possible
43 after the emergency medical care or treatment is administered.
44 The patient ~~hospital~~ records shall reflect the reason such
45 consent was not initially obtained and shall contain a statement
46 by the attending physician that immediate emergency medical care
47 or treatment was necessary for the patient’s health or physical
48 well-being. The patient ~~hospital~~ records shall be open for
49 inspection by the person legally responsible for the minor.
50 (4) A ~~No~~ person as delineated in subsection (1) may not~~,~~
51 ~~hospital, or college health service shall~~ incur civil liability
52 by reason of having rendered emergency medical care or treatment
53 pursuant to this section, provided such treatment or care was
54 rendered in accordance with acceptable standards of medical
55 practice.
56 Section 2. This act shall take effect July 1, 2022.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR JENNIFER BRADLEY
5th District

COMMITTEES:
Community Affairs, *Chair*
Agriculture, *Vice Chair*
Appropriations Subcommittee on Agriculture, Environment, and General Government
Education
Ethics and Elections
Judiciary
Reapportionment

SELECT SUBCOMMITTEE:
Select Subcommittee on Congressional Reapportionment, *Chair*

JOINT COMMITTEES:
Joint Legislative Auditing Committee
Joint Select Committee on Collective Bargaining

January 20, 2022

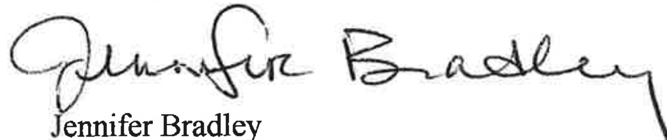
Senator Manny Diaz, Jr., Chairman
Senate Committee on Health Policy
306 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Diaz:

I respectfully request that Senate Bill 1114 be placed on the committee's agenda at your earliest convenience. This bill relates to emergency medical care and treatment of minors.

Thank you for your consideration.

Sincerely,



Jennifer Bradley

cc: Allen Brown, Staff Director
Tori Denson, Administrative Assistant

REPLY TO:
❒ 1279 Kingsley Avenue, Kingsley Center, Suite 117, Orange Park, Florida 32073 (904) 278-2085
❒ 324 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5005

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

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

2022 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Florida Department of Health

BILL INFORMATION	
BILL NUMBER:	1114 **NO IMPACT**
BILL TITLE:	Emergency Medical Care and Treatment of Minors – **NO IMPACT**
BILL SPONSOR:	Bradley
EFFECTIVE DATE:	July 1, 2021

COMMITTEES OF REFERENCE
1) Judiciary
2) Health Policy
3) Rules
4)
5)

CURRENT COMMITTEE

SIMILAR BILLS	
BILL NUMBER:	817
SPONSOR:	Massullo

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

IDENTICAL BILLS	
BILL NUMBER:	
SPONSOR:	

Is this bill part of an agency package?
No

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	
LEAD AGENCY ANALYST:	
ADDITIONAL ANALYST(S):	
LEGAL ANALYST:	
FISCAL ANALYST:	

POLICY ANALYSIS

1. **EXECUTIVE SUMMARY**

NO IMPACT

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

NO IMPACT

2. EFFECT OF THE BILL:

NO IMPACT

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

If yes, explain:	
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:	Unknown
Opponents and summary of position:	Unknown

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

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

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

Board:	
Board Purpose:	
Who Appoints:	
Changes:	
Bill Section Number(s):	

FISCAL ANALYSIS

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

Revenues:	N/A
Expenditures:	N/A
Does the legislation increase local taxes or fees? If yes, explain.	N/A
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	N/A

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

Revenues:	
Expenditures:	
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	N/A

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

Revenues:	Unknown
Expenditures:	Unknown
Other:	N/A

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

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

TECHNOLOGY IMPACT

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

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

FEDERAL IMPACT

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

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

ADDITIONAL COMMENTS

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	

The Florida Senate

APPEARANCE RECORD

2/10/22
Meeting Date

Health Policy
Committee

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

1114
Bill Number or Topic

Amendment Barcode (if applicable)

Name Chris Nuland Phone 904-233-3051

Address 4427 Herschel St Email nulandlaw@aol.com
Street

Jacksonville, FL 32210
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:

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

Florida Chapter, American College of Physicians

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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The Florida Senate

APPEARANCE RECORD

Feb 10, 22
Meeting Date

1114
Bill Number or Topic

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Health Policy
Committee

Amendment Barcode (if applicable)

Name: Toni Large

Phone: (850) 556-1461

Address: 1100 Brookwood DR
Street

Email: toni@largestrategies.com

Tallahassee, FL 32308
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:

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

Florida College of Emergency Physicians

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

2/10/22
Meeting Date

Health Policy
Committee

The Florida Senate
APPEARANCE RECORD

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1114
Bill Number or Topic

Amendment Barcode (if applicable)

Name Mary Thomas

Phone 850 224 6496

Address 1430 Piedmont Dr E
Street

Email MThomas@flmedical.org

TLH FL 32308
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:

Florida Medical Association

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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

S-001 (08/10/2021)

2/10/22
Meeting Date

Health Policy
Committee

The Florida Senate

APPEARANCE RECORD

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1114
Bill Number or Topic

Amendment Barcode (if applicable)

Name Chris Lyon

Phone 850-222-5702

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Street

Email clyon@llw-law.com

Tallahassee FL 32301
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
Florida Osteopathic Medical Association

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2/10/22
Meeting Date

Health Policy
Committee

1114
Bill Number or Topic

Amendment Barcode (if applicable)

Name: Aimee Diaz Lyon

Phone: 850-205-9000

Address: 119 S. Monroe St., Suite 200
Street

Email: adl@mhdfirm.com

Tallahassee | FL | 32301
City | State | Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:

Florida Academy of Family Physicians

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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

S-001 (08/10/2021)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1892

INTRODUCER: Health Policy Committee and Senator Burgess

SUBJECT: Administration of Vaccines

DATE: February 10, 2022 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Brown	HP	**Fav/CS**
2.			ED	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1892 expands the scope of practice of registered pharmacy technicians by authorizing a registered pharmacy technician, who meets specified requirements regarding education and training, to become certified to administer immunizations and vaccines to adults under the supervision of a licensed pharmacist who is also certified to administer immunizations and vaccines within the framework of an established protocol under a supervising physician.

The bill also updates the statutory list of immunizations and vaccines that pharmacists, registered pharmacy interns, and (under the bill) registered pharmacy technicians may become certified to administer.

The bill provides an effective date of July 1, 2022.

II. Present Situation:

The Practice of Pharmacy

The Board of Pharmacy (BOP), in conjunction with the Department of Health (DOH), regulates the practice of pharmacy pursuant to ch. 465, F.S.

Pharmacist Licensure

To be licensed as a pharmacist in Florida, a person must:[1]

- 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;[2]
- Have completed a BOP-approved internship; and
- Successfully complete the BOP-approved examination.

A pharmacist must complete at least 30 hours of BOP-approved continuing education during each biennial licensure renewal period.[3] 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 their licensure renewal.[4]

Scope of Pharmacy Practice

In Florida, the practice of the profession of pharmacy includes:[5]

- Compounding, dispensing, and consulting concerning the contents, therapeutic values, and uses of a medicinal drug;
- Consultation concerning therapeutic values and interactions of patented or proprietary preparations;
- Monitoring a patient's drug therapy and assisting the patient in the management of his or her drug therapy;
- Reviewing, and making recommendations regarding the patient's drug therapy and health care status in communication with the patient's prescribing health care provider as authorized by the patient;
- Initiating, modifying, or discontinuing drug therapy for a chronic health condition under a collaborative pharmacy practice agreement;[6]
- Transmitting information from prescribers to their patients;
- Administering anti-psychotropic medications by injection;[7]
- Preparing prepackaged drug products in facilities holding Class III institutional facility permits;[8]
- Ordering and dispensing over-the-counter drugs approved by the U.S. Food and Drug Administration (FDA);[9]

[1] Section 465.007, F.S. The DOH may also issue a license by endorsement to a pharmacist who is licensed in another state upon meeting the applicable requirements set forth in law and rule. *See* s. 465.0075, F.S.
[2] If the applicant has graduated from a four-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 BOP-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.
[3] Section 465.009, F.S.
[4] Section 465.009(6), F.S.
[5] Section 465.003(13), F.S.
[6] Section 465.1865, F.S.
[7] Section 465.1893, F.S.
[8] A Class III institutional pharmacy are those pharmacies affiliated with a hospital. *See* s. 465.019(2)(d), F.S.
[9] Section 465.186, F.S.

- Ordering and dispensing within his or her professional judgment, subject to specified conditions:[10]
  - Certain oral analgesics for mild to moderate pain;
  - Anti-nausea preparations;
  - Certain antihistamines and decongestants;
  - Certain topical antifungal/antibacterial;
  - Topical anti-inflammatory preparations containing an amount of hydrocortisone not exceeding 2.5 percent;
  - Otic antifungal/antibacterial;
  - Salicylic acid;
  - Vitamins;
  - Ophthalmics;
  - Certain histamine H2 antagonists;
  - Acne products; and
  - Topical antivirals for herpes simplex infections of the lips.

Pharmacist Authorization to Administer Immunizations and Epinephrine Auto-Injections

A pharmacist may be authorized to administer immunizations to adults, according to guidelines issued by the federal Centers for Disease Control and Prevention (CDC), and epinephrine auto-injections to address unforeseen allergic reactions, within the framework of an established protocol with a supervising physician. A pharmacist must first become certified to administer immunizations and vaccines, and, once certified, may administer immunizations and vaccines that are:[11]

- Listed in the CDC Adult Immunization Schedule as of April 30, 2021, or so listed after that date if authorized by BOP rule;
- Recommended by the CDC for international travel as of April 30, 2021, or so recommended after that date if authorized by BOP rule;
- Licensed for use in the United States, or authorized for emergency use, by the FDA as of April 30, 2021, or so licensed or authorized after that date if authorized by BOP rule; or
- Approved by the BOP in response to an emergency declared by the Governor.

Certification Requirements

To be certified to administer vaccines, a pharmacist must:

- Enter into a written protocol with a supervising allopathic or osteopathic physician, and the protocol must:[12]
  - Specify the categories of patients and patient conditions for which the pharmacist may administer vaccines;
  - Be appropriate to the pharmacist's training and certification for administering the vaccine;
  - Outline the process and schedule for the review of the administration of vaccines by the pharmacist under the written protocol; and
  - Be submitted to the BOP;

[10] Fla. Admin. Code R. 64B16-27.220
[11] Section 465.189(1), F.S.
[12] Section 465.189(8), F.S.

- Complete a BOP-approved vaccine administration certification program that consists of at least 20 hours of continuing education;[13]
- Pass an examination and demonstrate vaccine administration technique;[14]
- Maintain and make available patient records using the same standards for confidentiality and retention of such records as required by s. 456.057, F.S., and maintain the records for at least five years;[15] and
- Maintain at least $200,000 of professional liability insurance.[16]

A certified pharmacist may administer epinephrine using an auto-injector delivery system within the framework of the established protocol under a supervising physician in order to address any unforeseen allergic reactions.

As of January 11, 2022, there were 15,675 pharmacists certified under Florida Statutes to administer immunizations and vaccines.[17]

Pharmacist Vaccination of Children

In 2021, the Legislature authorized a certified pharmacist to also administer influenza vaccines to children seven years of age or older if such administration is included in the written protocol with a supervising physician.[18]

Pharmacy Interns

To register with the state as a pharmacy intern, a person must be certified by the BOP as being enrolled in an intern program at an accredited school or college of pharmacy or as a graduate of an accredited school or college of pharmacy and not yet licensed as a pharmacist in Florida.[19] The DOH is required to register as a pharmacy intern a person so certified by the BOP.

For brevity, this analysis henceforth refers to registered pharmacy interns as “pharmacy interns” or “interns.”

A pharmacist is responsible for any delegated act performed by a pharmacy intern employed or supervised by the pharmacist.[20]

---

[13] Section 465.189(7), F.S., Fla. Admin. Code R. 64B16-26.1031, provides more detail regarding subject matter that must be included in the certification course.
[14] *Id.*
[15] Section 456.057, F.S., requires certain health care practitioners to develop and implement policies, standards, and procedures to protect the confidentiality and security of medical records, provides conditions under which a medical record may be disclosed without the express consent of the patient, provides procedures for disposing of records when a practice is closing or relocating, and provides for enforcement of its provisions.
[16] Section 465.189(4), F.S.
[17] Department of Health, *2022 Agency Legislative Bill Analysis: HB 1209,* Jan. 28, 2022 (on file with the Senate Health Policy Committee).
[18] Section 465.189(2), F.S., as created in CS/CS/SB 768 (2021).
[19] Section 465.013, F.S.
[20] Fla. Admin. Code R. 64B16-27.430

To administer vaccines, a pharmacy intern must complete the same BOP-approved vaccine administration certification program as the pharmacist and also be supervised by a certified pharmacist, at a ratio of one pharmacist to one intern.[21]

Pharmacy interns are not authorized under Florida Statutes to administer immunizations or vaccines to children.

As of January 11, 2022, there were 3,635 pharmacy interns certified under Florida Statutes to administer immunizations and vaccines.[22]

Pharmacy Technicians

Pharmacy technicians assist pharmacists in dispensing medications and are accountable to a supervising pharmacist who is legally responsible for the care and safety of the patients served.[23] A person must register with the DOH to practice as a pharmacy technician. To register, an individual must:[24]

- Be at least 17 years of age;
- Submit an application and pay an application fee; and
- Complete a BOP-approved pharmacy technician training program.[25]

As of January 11, 2022, there were 57,521 registered pharmacy technicians in Florida.[26]

For brevity, this analysis henceforth refers to registered pharmacy technicians as "pharmacy technicians" or "technicians."

A pharmacist is responsible for any delegated act performed by a pharmacy technician who is supervised by the pharmacist.[27]

A pharmacy technician must renew his or her registration biennially. For each renewal cycle, a pharmacy technician must complete 20 continuing education hours.[28]

Pharmacy Technician Training Programs

The BOP has preapproved certain training programs that have been accredited by certain accreditation agencies or provided by a branch of the U.S. Armed Forces.[29] The BOP may review and approve other training programs that do not meet the criteria for pre-approval. Such programs must be licensed by the Commission for Independent Education or equivalent licensing

---

[21] *Supra* note 11.
[22] *Supra* note 17.
[23] Section 465.014(1), F.S.
[24] Section 465.014(2), F.S.
[25] An individual is exempt from the training program if he or she was registered as a pharmacy technician before January 1, 2011, and either worked as a pharmacy technician at least 1,500 hours under a licensed pharmacists or received certification from an accredited pharmacy technician program.
[26] *Supra* note 17.
[27] Section 465.014(1), F.S.
[28] Section 465.014(6), F.S.
[29] Fla. Admin. Code R. 64B16-26.351(1)-(2)

authority or be within the public school system of this state and offer a course of study that includes:

- Introduction to pharmacy and health care systems;
- Confidentiality;
- Patient rights and the federal Health Insurance Portability and Accountability Act;
- Relevant state and federal law;
- Pharmaceutical topics, including medical terminology, abbreviations, and symbols; medication safety and error prevention; and prescriptions and medication orders;
- Records management and inventory control, including pharmaceutical supplies, medication labeling, medication packaging and storage, controlled substances, and adjudication and billing;
- Interpersonal relations and ethics, including diversity of communications, empathetic communications, ethics governing pharmacy practice, patient and caregiver communications; and
- Pharmaceutical calculations. [30]

The training program must provide the BOP with educational and professional background of its faculty.[31] A licensed pharmacist or pharmacy technician with appropriate expertise must be involved with planning and instruction and must supervise learning experiences.[32]

The BOP may also review and approve employer-based pharmacy technician training programs. An employer-based program must be offered by a Florida-permitted pharmacy or affiliated group of pharmacies under common ownership. [33] The program must include 160 hours of training over a period of no more than six months and may be provided only to the employees of that pharmacy.[34] The employer-based training program must:

- Meet the same qualifications as required for non-employment based pharmacy technician training programs as indicated above;
- Provide an opportunity for students to evaluate learning experiences, instructional methods, facilitates, and resources;
- Ensure that self-directed learning experience, such as home study or web-based courses, evaluate the participant’s knowledge at the completion of the learning experience; and
- Designate a person to assume responsibility for the pharmacy technician-training program. [35]

Pharmacy Technician Scope of Practice

A pharmacy technician may not engage in the practice of the profession of pharmacy; however, a licensed pharmacist may delegate those duties, tasks, and functions that do not fall within the definition of the practice of professional pharmacy.[36] The BOP specifies, by rule, certain acts that pharmacy technicians are prohibited from performing, which include:

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[30] Fla. Admin. Code R. 64B16-26.351(3)(b)
[31] Fla. Admin. Code R. 64B16-26.351(3)(e)
[32] *Id.*
[33] Fla. Admin. Code R. 64B16-26.351(4)
[34] *Id.*
[35] *Id.*
[36] Section 465.014(1), F.S.

- Receiving new verbal prescriptions or any change in the medication, strength, or directions of an existing prescription;
- Interpreting a prescription or medication order for therapeutic acceptability and appropriateness;
- Conducting a final verification of dosage and directions;
- Engaging in prospective drug review;
- Monitoring prescription drug usage;
- Transferring a prescription;
- Overriding clinical alerts without first notifying the pharmacist;
- Preparing a copy of a prescription or reading a prescription to any person for the purpose of providing reference concerning treatment of the patient for whom the prescription was written;
- Engaging in patient counseling; or
- Engaging in any other act that requires the exercise of a pharmacist's professional judgment.[37]

A pharmacy technician must wear an identification badge with a designation of "registered pharmacy technician" and identify herself or himself as being registered with the state as a pharmacy technician in telephone conversations or other forms of communication that pertain to pharmacy care.[38]

Pharmacy technicians are not authorized under Florida Statutes to administer immunizations or vaccines to anyone.

Pharmacist Supervision of Pharmacy Technicians

A licensed pharmacist must directly supervise the performance of a pharmacy technician[39] and is responsible for acts performed by technicians under his or her supervision.[40] A pharmacist may use technological means to communicate with or observe a pharmacy technician who is performing delegated tasks.[41]

Florida law prohibits a pharmacist from supervising more than one pharmacy technician at a time, unless otherwise permitted by guidelines adopted by the BOP.[42] The guidelines include the following restrictions:[43]

- A pharmacist engaging in sterile compounding may supervise up to three pharmacy technicians.

[37] Fla. Admin. Code R. 64B16-27.420(2)
[38] Fla. Admin. Code R. 64B16-27.100(2)
[39] Direct supervision means supervision by a pharmacist who is on the premises at all times the delegated tasks are being performed; who is aware of delegated tasks being performed; and who is readily available to provide personal assistance, direction, and approval throughout the time the delegated tasks are being performed (Fla. Admin. Code R. 64B16-27.4001(2)(a))
[40] Fla. Admin. Code R. 64B16-27.1001(7)
[41] Fla. Admin. Code R. 64B16-27.4001(2)(b)
[42] Section 465.014(1), F.S.
[43] Fla. Admin. Code R. 64B16-27.410

- A pharmacist who is not engaged in sterile compounding may supervise up to six pharmacy technicians.
- In a pharmacy that does not dispense medicinal drugs, a pharmacist may supervise up to eight pharmacy technicians, as long as the pharmacist or pharmacy is not involved in sterile compounding.
- In a pharmacy that dispenses medicinal drugs in a physically separate area[44] of the pharmacy from which medicinal drugs are not dispensed, a pharmacist may supervise up to eight pharmacy technicians.

Immunizations – U. S. Department of Health and Human Services

The Office of Infectious Disease and HIV/AIDS Policy (Office), in the U.S. Department of Health and Human Services (HHS), oversees the National Vaccine Program, which provides strategic leadership for vaccine and immunization activities among federal agencies and to the states and other stakeholders, to help reduce the burden of preventable infectious diseases. The Office's services include the National Vaccine Strategic Plans (NVSP) and National Vaccine Advisory Committee (NVAC).[45] The NVSP for 2021-2025, released January 19, 2021, is the newest roadmap to coordinate vaccine development and use and is based on the NVAC's recommendations that revise the Standards for Adult Immunization Practices.[46]

The CDC's Immunization Recommendations

The CDC, under the Secretary of HHS,[47] sets the adult and childhood immunization and vaccination schedules based on the recommendations from the Advisory Committee on Immunization Practices (ACIP).[48] The ACIP works with professional organizations, such as the American Academy of Pediatrics, the American Academy of Family Physicians, the American College of Obstetricians and Gynecologists, and the American College of Physicians, to develop annual childhood and adult immunization schedules.[49] The CDC reviews the ACIP's recommendations and, if approved, they are published as the CDC's official recommendations for immunizations for the population.[50] The current recommended immunization schedule for persons 18 years of age and older includes:[51]

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[44] A "physically separate area" is a part of the pharmacy that is separated by a permanent wall or other barrier, which restricts access between the two areas.
[45] U.S. Department of Health & Human Services, *Vaccines & Immunizations*, *available at* https://www.hhs.gov/vaccines/index.html (last visited Feb. 3, 2022).
[46] U.S. Department of Health & Human Services, *Vaccines National Strategic Plan*, *available at* https://www.hhs.gov/vaccines/vaccines-national-strategic-plan/index.html (last visited Feb. 3, 2022).
[47] U.S. Department of Health & Human Service, HHS Leadership, *Office of the Secretary Leaders*, *available at* https://www.hhs.gov/about/leadership/index.html#opdiv (last visited Feb. 3, 2022).
[48] Center for Disease Control and Prevention, Advisory Committee on Immunization Practices (ACIP), *Role of the Advisory Committee on Immunization Practices in CDC's Vaccine Recommendations*, *available at* https://www.cdc.gov/vaccines/acip/committee/role-vaccine-recommendations.html (last visited Mar. Feb. 3, 2022).
[49] Centers for Disease Control and Prevention, Advisory Committee on Immunization Practices (ACIP), *ACIP Recommendations*, *available at* https://www.cdc.gov/vaccines/acip/recommendations.html (last visited Feb. 3, 2022).
[50] *Id.*
[51] Centers for Disease Control and Prevention, *Recommended Adult Immunization Schedule for Ages 19 Years or Older, United States, 2020*, *available at* https://www.cdc.gov/vaccines/schedules/hcp/imz/adult.html (last visited Feb. 3, 2022). The schedule provides the recommended age, as well as the administration intervals for vaccines that require multiple doses. Some vaccines are recommended only for populations with special situations that put those populations at higher risk.

- Influenza (annually) (IIV, RIV or LAIV);
- Measles, mumps, rubella (MMR) (if patient is born in 1957 or later);
- Zoster (ZVL) or (RZV);
- Pneumococcal polysaccharide (PPSV23);
- Haemophilus influenza Type B (Hib);
- Hepatitis B (HepB);
- Varicella (VAR) (if patient is born 1980 or later);
- Tetanus, diphtheria, pertussis (Tdap or Td) (booster every 10 years);
- Human papillomavirus (HPV);
- Pneumococcal conjugate (PCV13);
- Hepatitis A (HepA);
- Meningococcal A, C, W, Y (MenACWY); and
- Meningococcal B (MenB).

New vaccines are considered for addition to the schedule after being licensed by the FDA.[52] Not all newly licensed vaccines are added to the schedule. Some licensed vaccines are only recommended for people who are traveling to areas where certain vaccine-preventable diseases occur, such as yellow fever, cholera, dengue, Japanese encephalitis, plague, rabies, smallpox, and typhoid.[53]

CDC Health Information for International Travel

The CDC's Health Information for International Travel, commonly called the Yellow Book, is published biennially by the CDC as a reference to advise international travelers about health risks.[54] The Yellow Book includes the CDC's most current travel health guidelines, including pre-travel vaccine recommendations and destination-specific health advice. The Yellow Book is authored by subject-matter experts both within and outside the CDC and its guidelines are evidence-based and supported by best practices.[55]

Certain vaccinations are recommended by the CDC to protect international travelers from illness and prevent the importation of infectious diseases across international borders. The Yellow Book recommends that persons traveling internationally should be up to date on all CDC-recommended vaccines. Additionally, the Yellow Book recommends additional vaccinations based on a traveler's destination and other factors.

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[52] College of Physicians of Philadelphia, *The History of Vaccines: The Development of the Immunization Schedule, available at* http://www.historyofvaccines.org/content/articles/development-immunization-schedule (last visited Feb. 3, 2022).
[53] *Id*. For a complete list of FDA-licensed vaccines, *see* U.S. Food & Drug Administration, *Vaccines Licensed for Use in the United States*, (last rev. Jan. 1, 2022), *available at* https://www.fda.gov/vaccines-blood-biologics/vaccines/vaccines-licensed-use-united-states (last visited Feb. 3, 2022).
[54] Centers for Disease Control and Prevention. *CDC Yellow Book 2020: Health Information for International Travel*, *available at* https://wwwnc.cdc.gov/travel/page/yellowbook-home (last visited Feb. 3, 2022).
[55] *Id.*

Florida's Immunization Policy

Communicable Disease Prevention and Control

The DOH is responsible for the state's public health system. As part of fulfilling its public health mission, the DOH is responsible for conducting a communicable disease prevention and control program. A communicable disease is any disease caused by the transmission of a specific infectious agent, or its toxic products, from an infected person, animal, or the environment to a susceptible host, either directly or indirectly.[56]

Immunizations for Adults Recommended by the DOH

The DOH recommends the following vaccines for adults:[57]
- Human Papillomavirus (HPV);
- Tetanus-diphtheria-pertussis (Tdap);
- Tetanus-diphtheria (Td) booster every ten years;
- Hepatitis A;
- Meningococcal;
- Measles-mumps-rubella (MMR);
- Varicella (chickenpox);
- Seasonal influenza;
- Zoster (shingles); and
- Pneumococcal.

Required Immunizations for Children

Each school district board and non-public school governing body is required to ensure that every child entering school in kindergarten through grade 12 must present or have on file a Florida Certificate of Immunization (FCI) before entering or enrolling in school.[58] Children entering, attending, or transferring to Florida public or non-public schools, kindergarten through grade 12, must have on file as part of their permanent school record[59] an FCI documenting that they have had the following immunizations: [60]
- Four or five doses of DTaP (Diphtheria-tetanus-acellular pertussis);
- Four or five doses of IPV (Inactivated polio vaccine);
- Two doses of MMR (Measles-mumps-rubella);
- Three doses of Hep B (Hepatitis B);
- One Tdap (Tetanus-diphtheria-acellular pertussis);
- Two doses of Varicella (unless there is a history of varicella disease documented by a health care provider); and

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[56] Section 381.003(1), F.S.
[57] The Florida Department of Health, *Don't Miss Opportunities to Vaccinate!, available at* http://www.floridahealth.gov/programs-and-services/immunization/publications/_documents/opportunities-to-vaccinate-adult.pdf (last visited Feb. 3, 2022).
[58] Section 1003.22(4), F.S.
[59] *Id.*
[60] *See also* Department of Health, *School Immunization Requirements* (last modified Mar. 8, 2021), *available at* http://www.floridahealth.gov/programs-and-services/immunization/children-and-adolescents/school-immunization-requirements/index.html#childcare (last visited Feb. 3, 2022).

- If entering a public or non-public school in seventh grade or later, an additional dose of Tdap (Tetanus-diphtheria-acellular pertussis).

Private health care providers may grant a temporary medical exemption (TME), documented on the FCI form,[61] for those who are in the process of completing any necessary immunizations. The TME incorporates an expiration date after which the exemption is no longer valid, and the immunizations must be completed before or at that time. A permanent medical exemption may be granted if a child cannot be fully immunized due to medical reasons. In such case, the child's physician must state in writing the reasons for the exemption on the FCI form, based on valid clinical reasoning or evidence.[62]

A request for a religious exemption from immunizations requires the parent or guardian to provide the school or facility with a religious exemption immunization form.[63] The form is issued only by county health departments and only for children who are not immunized because of the family's religious tenets or practices. Exemptions for personal or philosophical reasons are not permitted under Florida law.[64]

Access to Vaccines via Pharmacies During the COVID-19 Pandemic

State Emergency Action to Authorize Pharmacists and Interns to Vaccinate Children

On March 9, 2020, Governor Ron DeSantis issued Executive Order 20-52 declaring a state of emergency for the entire state of Florida as a result of COVID-19, allowing for the suspension of certain statutes and rules that prevent, hinder, or delay any necessary action in dealing with the state of emergency caused by COVID-19.[65]

On October 1, 2020, the State Surgeon General issued an emergency order,[66] pursuant to authority granted by Executive Order No. 20-52, suspending the provision of s. 465.189(1), F.S., to the extent necessary to authorize a certified pharmacist, or a certified pharmacy intern, to administer vaccines approved or licensed by the FDA to individuals under 18 years of age if the vaccine were approved for use in individuals under 18 years of age and upon receipt of a medical

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[61] Department of Health, Form DH-680, *Florida Certification of Immunizations* (Jul. 2010) (on file with Senate Health Policy Committee).

[62] Department of Health, *Exemptions from Required Immunizations*, (last updated Sept. 18, 2019), *available at* http://www.floridahealth.gov/programs-and-services/immunization/children-and-adolescents/immunization-exemptions/index.html (last visited Feb. 3, 2022).

[63] Department of Health, Form DH 681, *Religious Exemption From Immunization,* (Jul. 2008) puts a parent or guardian on notice that any child not immunized against a communicable disease that has been declared a communicable disease emergency will be temporarily excluded from school until such time as the county health department says the child can return. (on file with the Senate Health Policy Committee).

[64] Department of Health, Immunization Section, Bureau of Communicable Diseases, *Immunization Guidelines, Florida Schools, Childcare Facilities and Family Daycare Homes* (Mar. 2013), *available at* http://www.floridahealth.gov/%5C/programs-and-services/immunization/schoolguide.pdf (last visited Feb. 3, 2022).

[65] State of Florida, Office of the Governor, *Executive Order*, Number 20-52, *available at* https://www.flgov.com/wp-content/uploads/orders/2020/EO_20-52.pdf (last visited Feb. 3, 2022).

[66] State of Florida, Department of Health, State Surgeon General, *Emergency Order*, (Oct. 1, 2020) DOH No. 20-014, *available at* https://floridahealthcovid19.gov/wp-content/uploads/2020/10/DOH-Emergency-Order-No-20-014.pdf (last visited Feb. 3, 2022).

consent for the minor signed by a person who has the power to consent to the minor's medical care or treatment.

The Surgeon General's emergency order also authorized such practitioners to order and administer vaccines according to the CDC's ACIP immunization schedules and any vaccine approved by the FDA to immunize individuals against COVID-19.

This emergency order remained in effect until the expiration of all extensions of Executive Order No. 20-52 on June 26, 2021.

Federal Authorization for Pharmacy Technicians to Vaccinate Children and Adults

On January 31, 2020, HHS Secretary Alex M. Azar II issued an official determination that, due to confirmed cases of COVID-19, a public health emergency existed and had existed since January 27, 2020, nationwide.[67] That declaration has been renewed eight times, most recently on January 14, 2022, by current HHS Secretary Xavier Becerra, and is still in effect as of this writing.[68] The current renewal became effective January 16, 2022, and will expire after 90 days unless renewed again.

On October 20, 2020, HHS issued guidance[69] under the public health emergency regarding the administration of vaccines to children and adults by pharmacy interns and technicians during the COVID-19 pandemic.

Under the October 20, 2020, guidance, HHS authorized pharmacy interns and technicians, acting under the supervision of a qualified pharmacist and subject to satisfaction of specified requirements, to administer FDA-authorized or FDA-licensed COVID-19 vaccines to persons three years old or older and to administer FDA-authorized or FDA-licensed vaccines that are ACIP-recommended to persons three years old through 18 years old, according to ACIP's standard immunization schedule. The guidance also provides that such interns and technicians are "covered persons" under the federal Public Readiness and Emergency Preparedness Act (PREP Act).[70]

The guidance requires pharmacy interns and technicians who are not authorized to administer vaccines to children and adults by their licensing state, to satisfy a set of requirements before administering vaccines under the guidance, including:

- The vaccination must be ordered by the supervising pharmacist.

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[67] U.S. Dept. of Health and Human Services, *Determination that a Public Health Emergency Exists,* Jan. 31, 2020, *available at:* https://www.phe.gov/emergency/news/healthactions/phe/Pages/2019-nCoV.aspx (last visited Feb. 2, 2022).
[68] U.S. Dept. of Health and Human Services, *Renewal of Determination that a Public Health Emergency Exists,* Jan. 14, 2022, available at: https://aspr.hhs.gov/legal/PHE/Pages/COVID19-14Jan2022.aspx (last visited Feb. 2, 2022).
[69] U.S. Dept. of Health and Human Services, Guidance for PREP Act Coverage for Qualified Pharmacy Technicians and State-Authorized Pharmacy Interns for Childhood Vaccines, COVID-19 Vaccines, and COVID-19 Testing, Oct. 20, 2020, *available at:* https://www.hhs.gov/sites/default/files/prep-act-guidance.pdf (last visited Feb. 2, 2022).
[70] The PREP Act of 2005 authorizes the Secretary of HHS to issue a declaration to provide liability immunity to certain individuals and entities against any claim of loss caused by, arising out of, relating to, or resulting from the manufacture, distribution, administration, or use of medical countermeasures, except for claims involving ''willful misconduct'' as defined in the PREP Act. Under the PREP Act, a declaration may be amended as circumstances warrant.

- The supervising pharmacist must be readily and immediately available to an immunizing pharmacy technician.
- In the case of a COVID-19 vaccine, the vaccination must be ordered and administered according to ACIP's COVID-19 vaccine recommendation(s).
- A pharmacy technician or intern must complete a practical training program that is approved by the Accreditation Council for Pharmacy Education (ACPE).[71] This training program must include hands-on injection technique and the recognition and treatment of emergency reactions to vaccines.
- A pharmacy technician or intern must have a current certificate in basic cardiopulmonary resuscitation.
- A pharmacy technician must complete a minimum of two hours of ACPE-approved, immunization-related continuing pharmacy education during his or her state licensing renewal period.
- The pharmacy technician or intern must, if the patient is 18 years of age or younger, inform the patient and the adult caregiver accompanying the patient of the importance of a well-child visit with a pediatrician or other licensed primary-care provider and refer patients as appropriate.

Preemption of State or Local Law

The HHS guidance further provides that its authorization described above preempts any state or local law that prohibits or effectively prohibits those who satisfy the guidance's requirements from administering COVID-19 or routine childhood vaccines according to the parameters found in the guidance.

Therefore, even though Florida law does not authorize pharmacy technicians to administer vaccines to anyone, and does not authorize pharmacy interns to administer vaccines to children, the HHS guidance prevails, and such interns and technicians meeting the requirements found in the guidance are federally authorized to vaccinate children and adults under the guidance despite Florida law to the contrary, until the HHS authority is terminated.

Participation by Pharmacies and Pharmacy Technicians

Only ten states currently allow pharmacy technicians to administer immunizations or vaccines under state regulatory authority, with varying requirements for training and supervision.[72] Florida is not among those states. However, with the HHS guidance, pharmacies nationwide have indicated a willingness to participate and utilize the federal authority for pharmacy technicians found in the guidance, with several national retail pharmacies encouraging the issuance of the guidance, according to Forbes Magazine, and one indicating its national

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[71] The ACPE sets standards for the education of pharmacists to prepare them for the delivery of pharmacist-provided patient care. The ACPE is recognized by the U.S. Dept. of Education as the national agency for the accreditation of professional degree programs in pharmacy. The ACPE also serves as the national agency for the accreditation of providers of continuing education. In collaboration with the American Society of Health-System Pharmacists, the ACPE accredits pharmacy technician education and training programs.

[72] *Supra* note 17.

workforce of 60,000 pharmacy technicians would be available, plus an additional 10,000 newly-hired technicians.[73]

Pharmacy Technician Supervisory Ratio

The HHS guidance authorizes pharmacy technicians to administer vaccines under the supervision of a qualified pharmacist but does not speak to how many pharmacy technicians may be supervised by a single pharmacist at one time during such vaccinations.

Under BOP rules, on most occasions, a Florida-licensed pharmacist is authorized to supervise up to six pharmacy technicians simultaneously. Under that authority, coupled with authority granted in the HHS guidance, a single pharmacist in Florida might currently be supervising up to six pharmacy technicians simultaneously while the pharmacy technicians are administering vaccines to children and adults, even though that six-to-one ratio was adopted by the BOP with the understanding that pharmacy technicians are not authorized to administer vaccines under any circumstances.[74]

Florida's Board of Medicine and Board of Osteopathic Medicine

The DOH is supported by numerous boards that oversee the regulation of various types of health care practitioners licensed by the state. Section 456.001(1), F.S., defines "board" as any board or commission, or other statutorily created entity to the extent such entity is authorized to exercise regulatory or rulemaking functions within the DOH. The Board of Medicine is created in s. 458.307, F.S., for the primary purpose of regulating and disciplining medical doctors and other practitioners licensed under ch. 458, F.S. The Board of Osteopathic Medicine is created in s. 459.004, F.S., for the primary purpose of regulating and disciplining osteopathic physicians and other practitioners licensed under ch. 459, F.S.

III. Effect of Proposed Changes:

CS/SB 1892 expands the scope of practice of pharmacy technicians by authorizing a pharmacy technician, who meets specified requirements regarding education and training, to become certified to administer immunizations and vaccines to adults under the supervision of a licensed pharmacist who is also certified to administer immunizations and vaccines within the framework of an established protocol under a supervising physician.

Section 1 of the bill creates s. 465.014(7), F.S., to require that a pharmacy technician seeking to administer immunizations and vaccines under s. 465.189, F.S., must be certified to do so pursuant to a certification program approved by the BOP, in consultation with the Board of Medicine and the Board of Osteopathic Medicine. The certification program must have at least 10 hours of immunization-related training approved by the BOP which must, at a minimum, have a curriculum of instruction concerning the safe and effective administration of immunizations

[73] Bruce Jaspen, Forbes.com, *In Boost To CVS And Walgreens, U.S. Expands Covid-19 Vaccination Powers To Pharmacy Techs,* Nov. 2, 2020, available at: https://www.forbes.com/sites/brucejapsen/2020/11/02/in-boost-to-cvs-and-walgreens-us-expands-covid-19-vaccination-powers-to-pharmacy-techs/ (last visited Feb. 2, 2022).
[74] The current version of Fla. Admin. Code R. 64B16-27.410, which allows for the six-to-one ratio, became effective January 16, 2019.

and vaccines that pharmacy technicians may become certified to administer under the bill, including, but not limited to, potential allergic reactions, first-aid training, and CPR training.

The bill also requires that, as a condition of registration renewal, a pharmacy technician seeking to administer immunizations and vaccines under s. 465.189, F.S., must complete at least two hours of continuing education approved by the BOP relating to the technician certification program training, in addition to the biennial continuing education otherwise required for renewal.

Section 2 of the bill amends s. 465.189, F.S., to add pharmacy technicians to the list of pharmacy practitioners who may become certified to administer immunizations and vaccines. Under current law, only pharmacists and pharmacy interns are so authorized.

The bill also changes the dates of certain federal immunization schedules, recommendations, licenses, and authorizations pertaining to the immunizations and vaccines that Florida pharmacy practitioners may become certified to administer, specifically those that are:

- Listed in the CDC Adult Immunization Schedule as of March 11, 2022, (instead of April 30, 2021, as in current law)[75] or so listed after that date if authorized by BOP rule;
- Recommended by the CDC for international travel as of March 11, 2022, (instead of April 30, 2021, as in current law) or so recommended after that date if authorized by BOP rule; and
- Licensed for use in the United States, or authorized for emergency use, by the FDA as of March 11, 2022, (instead of April 30, 2021, as in current law) or so licensed or authorized after that date if authorized by BOP rule.

The bill provides that a certified pharmacy intern or technician who administers an immunization or vaccine must be supervised by a certified pharmacist at a ratio of one pharmacist to one intern or technician.

The bill revises the requirements for a pharmacy practitioner to become certified to administer immunizations and vaccines by requiring pharmacy technicians, in order to become certified, to complete immunization-related training and continuing education as specified is s. 465.014(7), F.S., which is created in section 1 of the bill.

Other Provisions

The bill makes technical revisions and clarifications to existing statutory language found in ss. 465.014 and 465.189, F.S.

The bill provides an effective date of July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

[75] April 30, 2021, was day 60 of the 2021 Regular Session of the Legislature. March 11, 2022, is day 60 of the 2022 Regular Session of the Legislature.

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:

The bill might have the effect of making immunizations and vaccines more accessible and convenient for adults in Florida after the expiration of the HHS guidance that currently authorizes pharmacy technicians to administer vaccines to both children and adults.

The bill could allow Florida pharmacies to maintain a portion of the revenue stream they might currently be experiencing under the HHS guidance that authorizes pharmacy technicians to administer vaccines, despite state law to the contrary, assuming the COVID-19 pandemic eventually wanes and the federal authorization expires. Without expanding the scope of pharmacy technicians in state law to include the administration of vaccines, such a revenue stream, if any, will disappear altogether after the COVID-19 national public health emergency is terminated, along with the HHS guidance.

C. Government Sector Impact:

The DOH advises that, because the bill requires a pharmacy technician to apply to the BOP to become certified to administer immunizations and vaccines, and based on the population of pharmacy technicians in Florida (57,521), the likely increase in requests for certification will result in a significant impact to existing DOH staffing allocations, requiring additional staff to implement the bill's provisions and timely manage ongoing certification requests.[76]

The DOH further advises that:

[76] *Supra* note 17.

- The DOH will be required to update applications and related electronic licensing systems to accommodate the new certification requirement.
- The BOP will be required to complete rulemaking to revise the existing application forms and to adopt language specific to the certification process.
- A communications plan will need to be developed by the DOH to ensure all information on its website reflects the bill's provisions, that affected parties are notified of the change in law, and to ensure personnel are trained to provide accurate information.
- The DOH will be required to update the pharmacy technician registration renewal application and associated electronic application systems and complete rulemaking to adopt the new forms.

The DOH estimates the bill creates a recurring negative fiscal impact of $156,727 and a nonrecurring negative fiscal impact of $13,947, which includes three full-time-equivalent positions the department believes it will need to implement the bill.[77] In providing this estimate, the DOH did not indicate whether general revenue will be required or whether applicable trust fund revenues are sufficient to cover these costs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 465.014, 465.189.

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 10, 2022:
The CS modifies the education and training requirements that pharmacy technicians must meet before being certified by the BOP to administer vaccines and immunizations. The CS requires 10 hours of training, as opposed to 20 hours in the underlying bill. The CS also specifies that the training must include, but not be limited to, potential allergic reactions, first-aid, and CPR training, and be approved by the BOP, while the underlying bill required training to be approved by the BOP or the ACPE and specified the training must include, but not be limited to, potential allergic reactions. Likewise, the CS requires the related continuing education for pharmacy technicians must be approved by the BOP while the underlying bill allowed the continuing education to be approved by the BOP or the ACPE.

[77] *Id.*

B. Amendments:

None.

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

513936

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/10/2022	.	
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The Committee on Health Policy (Burgess) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete lines 32 - 45
4 and insert:
5 (7) A registered pharmacy technician seeking to administer
6 vaccines under s. 465.189 must be certified to administer such
7 vaccines pursuant to a certification program approved by the
8 board in consultation with the Board of Medicine and the Board
9 of Osteopathic Medicine. The certification program must have at
10 least 10 hours of immunization-related training approved by the

513936

11 board which must, at a minimum, have a curriculum of instruction
12 concerning the safe and effective administration of such
13 vaccines, including, but not limited to, potential allergic
14 reactions to such vaccines, first-aid training, and
15 cardiopulmonary resuscitation training. As a condition of
16 registration renewal, a registered pharmacy technician seeking
17 to administer vaccines under s. 465.189 must have at least 2
18 hours of continuing education approved by the board relating to
19 the certification program training, in addition to the biennial
20 continuing education required in subsection (6).
21
22 ================= T I T L E A M E N D M E N T ================
23 And the title is amended as follows:
24 Delete line 5
25 and insert:
26 seeking to administer certain

By Senator Burgess

A bill to be entitled

An act relating to administration of vaccines; amending s. 465.014, F.S.; specifying training requirements for registered pharmacy technicians seeking to administer certain immunizations and vaccines; providing requirements for such training; requiring such registered pharmacy technicians to complete certain additional continuing education as a condition of registration renewal; amending s. 465.189, F.S.; authorizing certified registered pharmacy technicians to administer specified immunizations and vaccines under certain circumstances; revising the specified immunizations and vaccines that certified pharmacists, registered interns, and registered pharmacy technicians may administer; revising a certain staffing ratio for supervising pharmacists; requiring pharmacists to maintain certain liability insurance in a specified amount in order to administer immunizations and vaccines; specifying certification requirements for registered pharmacy technicians seeking to administer immunizations and vaccines; providing an effective date.

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

Section 1. Present subsections (7) and (8) of section 465.014, Florida Statutes, are redesignated as subsections (8) and (9), respectively, and a new subsection (7) is added to that

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

section, to read:

465.014 Pharmacy technician.—

(7) A registered pharmacy technician seeking to administer immunizations and vaccines under s. 465.189 must have at least 20 hours of immunization-related training approved by the board or the Accreditation Council for Pharmacy Education which must, at a minimum, have a curriculum of instruction concerning the safe and effective administration of immunizations and vaccines specified in s. 465.189(1), including, but not limited to, potential allergic reactions to such immunizations and vaccines. As a condition of registration renewal, a registered pharmacy technician seeking to administer vaccines under s. 465.189 must complete at least 2 hours of continuing education approved by the board or the Accreditation Council for Pharmacy Education in addition to the biennial continuing education required by subsection (6).

Section 2. Subsections (1), (4), (5), and (7) of section 465.189, Florida Statutes, are amended to read:

465.189 Administration of vaccines and epinephrine autoinjection.—

(1) In accordance with guidelines of the Centers for Disease Control and Prevention for each recommended immunization or vaccine, a pharmacist who is certified under subsection (7), or a registered intern or registered pharmacy technician who is under the supervision of a pharmacist and ~~who~~ is certified under subsection (7), may administer the following immunizations or vaccines to an adult within the framework of an established protocol under a supervising physician licensed under chapter 458 or chapter 459:

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

59 (a) Immunizations or vaccines listed in the Adult
60 Immunization Schedule as of March 11, 2022 ~~April 30, 2021~~, by
61 the United States Centers for Disease Control and Prevention.
62 The board may authorize by rule additional immunizations or
63 vaccines as they are added to the Adult Immunization Schedule.
64 (b) Immunizations or vaccines recommended by the United
65 States Centers for Disease Control and Prevention for
66 international travel as of March 11, 2022 ~~April 30, 2021~~. The
67 board may authorize by rule additional immunizations or vaccines
68 as they are recommended by the United States Centers for Disease
69 Control and Prevention for international travel.
70 (c) Immunizations or vaccines licensed for use in the
71 United States, or which have been authorized for emergency use,
72 by the United States Food and Drug Administration as of March
73 11, 2022 ~~April 30, 2021~~. The board may authorize by rule
74 additional immunizations or vaccines as they are so licensed or
75 authorized.
76 (d) Immunizations or vaccines approved by the board in
77 response to a state of emergency declared by the Governor
78 pursuant to s. 252.36.
79
80 A registered intern or registered pharmacy technician who
81 administers an immunization or vaccine under this subsection
82 must be supervised by a certified pharmacist at a ratio of one
83 pharmacist to one registered intern or registered pharmacy
84 technician.
85 (4) A pharmacist may not enter into a protocol under a
86 supervising physician licensed under chapter 458 or chapter 459
87 or administer an immunization or vaccine under this section

88 unless he or she maintains at least $200,000 of professional
89 liability insurance and has completed training in administering
90 vaccines authorized under this section.
91 (5) A pharmacist administering immunizations or vaccines
92 under this section shall maintain and make available patient
93 records using the same standards for confidentiality and
94 maintenance of such records as those that are imposed on health
95 care practitioners under s. 456.057. These records shall be
96 maintained for a minimum of 5 years.
97 (7) Any pharmacist, ~~or~~ registered intern, or registered
98 pharmacy technician seeking to administer immunizations and
99 vaccines under this section must be certified to administer such
100 immunizations and vaccines pursuant to a certification program
101 approved by the board ~~of Pharmacy~~ in consultation with the Board
102 of Medicine and the Board of Osteopathic Medicine. The
103 certification program must ~~shall~~, at a minimum, require that the
104 pharmacist attend at least 20 hours of continuing education
105 classes approved by the board, ~~and~~ the registered intern
106 complete at least 20 hours of coursework approved by the board,
107 and the registered pharmacy technician complete immunization-
108 related training and continuing education as specified in s.
109 465.014(7). The certification programs must, at a minimum,
110 ~~program shall~~ have a curriculum of instruction concerning the
111 safe and effective administration of such immunizations and
112 vaccines, including, but not limited to, potential allergic
113 reactions to such vaccines.
114 Section 3. This act shall take effect July 1, 2022.

The Florida Senate

Committee Agenda Request

To: Senator Manny Diaz, Jr., Chair
Committee on Health Policy

Subject: Committee Agenda Request

Date: January 25, 2022

I respectfully request that **Senate Bill #1892**, relating to Administration of Vaccines, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Danny Burgess
Florida Senate, District 20

File signed original with committee office

S-020 (03/2004)

FLORIDA CERTIFICATION OF IMMUNIZATION

Legal Authority: Sections 1003.22, 402.305, 402.313, Florida Statutes; Rule 64D-3.046, Florida Administrative Code

LAST NAME	FIRST NAME	MI	DOB (MM/DD/YY)
PARENT OR GUARDIAN	CHILD'S SS# (optional)	STATE IMMUNIZATION ID# (optional)	

Directions:

- Enter all appropriate doses and dates below.
- Sign and date appropriate certificate (A, B, or C) on form.
- See DH Form 150-615, Immunization Guidelines - Florida Schools, Childcare Facilities and Family Daycare Homes (July 2010) for information and instructions on form completion. Guidelines are available at: www.immunizeflorida.org/schoolguide.pdf.

VACCINE	DOE CODE	Dose 1 MM/DD/YY	Dose 2 MM/DD/YY	Dose 3 MM/DD/YY	Dose 4 MM/DD/YY	Dose 5 MM/DD/YY
DTaP/DTP	A					
DT	B					
Tdap	P					
Td	Q					
Polio	D					
Hib	E					
MMR (Combined)	F					
(Separate)	G, H					
		Measles (dose 1)	*Measles (dose 2)*	*Mumps (dose 1)*	*Mumps (dose 2)*	
	I					
		Rubella (dose 1)	*Rubella (dose 2)*			
Hepatitis B	J					
Varicella	K					
Varicella Disease	L					
		Year				
PneumoConju	N					

Select appropriate box(es)

Certificate of Immunization for K-12

Part A-Complete

☐ DOE Code 1: Immunizations are complete K-12 (Excluding 7th grade/middle school requirements)

☐ DOE Code 8: Immunizations are complete for 7th grade

I have reviewed the records available, and to the best of my knowledge, the above named child has adequately been immunized for school attendance, as documented above.

Temporary Medical Exemption **Expiration date: ____________**

☐ **Part B-Temporary**

Part B (For children in daycare, family daycare homes, preschool, kindergarten and grades 1 through 12 who are incomplete for immunizations in Part A) **Invalid without expiration date**. DOE Code 2

I certify that the above named child has received the immunizations documented above and has commenced a schedule to complete the required immunization. Additional immunizations are not medically indicated at this time.

Permanent Medical Exemption

☐ **Part C-Permanent**

Part C (For medically contraindicated immunizations, list each vaccine and state valid clinical reasoning or evidence for exemption.)

DOE Code 3 ____

I certify the physical condition of this child is such that immunizations as indicated in Part C above are medically contraindicated.

Physician or Clinic Name: ____________________

Physician or Authorized Signature: ____________________

Issued By: ____________________

Date: ____________________

RELIGIOUS EXEMPTION FROM IMMUNIZATION

Exención Religiosa Para La Inmunización

Eksepsyon Pou Kwayans Relijyon Pou Pa Nan Pran Piki Ak Vaksen

______________________	_____/_____/_____	_____-_____-_____	______________________
Child's Name (printed) Nombre Del Niño (con letra de imprenta) Non Timoun Nan (an gran karaktè)	**Date of Birth** Fecha De Nacimiento Dat Li Te Fèt	**Child's SS# (optional)** Número De Seguro Social Del Niño (opcional) Nimewo Sekirite Sosyal Timoun Nan (si ou vie)	**Name of Parent or Guardian** Nombre Del Padre O Guardián Non Paran Oubyen Moun Ki Reskonsab Li Ya

(English) I am the parent or legal guardian of the above-named child. Immunizations are in conflict with my religious tenets or practices. Therefore, I request that my child be enrolled in school, preschool, child day care facilities, or family day care homes without immunizations required by sections 1003.22, F.S., 402.305, F.S., and 402.313, F.S.

The presence of any of the communicable diseases for which immunization is required by the Department of Health in Florida schools, preschools, child day care facilities, or family day care homes shall permit the county health department director or administrator or the State Health Officer to declare a communicable disease emergency. Those children identified as not being immunized against the disease for which the emergency has been declared shall be temporarily excluded from the facility by the district school board or governing authority until such time as is specified by the county health department director or administrator.

(Spanish) Yo soy uno de los padres o el guardián legal del niño mencionado anteriormente. Las inmunizaciones están en conflicto con mis principios o prácticas religiosas. Por lo tanto, pido que mi hijo se matricule en el colegio, preescolar, guardería infantil o servicios de cuidado para familias sin las inmunizaciones requeridas por las secciones 1003.22, F.A., 402.305, F.S., y 402.313, F.S.

La presencia de cualquier enfermedad contagiosa para la cual el Departamento de Salud en los colegios, preescolares, guarderías infantiles o servicios de cuidado para familias de la Florida requiere inmunización permitirá que el director o el administrador del departamento de salud del condado o el oficial de salud estatal declare una emergencia de enfermedad contagiosa. Aquellos niños que sean identificados como no inmunizados contra la enfermedad para la cual se ha declarado la emergencia serán excluidos temporalmente de las instalaciones por parte de la junta del distrito escolar o las autoridades gobernantes hasta que el director o el administrador del departamento de salud del condado lo especifique necesario.

(Creole) Mwen menm se paran oubyen moun ki reskonsab devan lalwa timoun sa ke nou sot baw non li ya piwo wa. Sa yo ap fè nan san yo tankou piki, seròm ak vaksen pa mache ak prensip oubyen ak pratik ki gen nan legliz mwen yan. Poutèt sa, mwen mande ke timoun mwen yan enskri nan lekòl, lekòl matènèl, jaden danfan, oubyen kote yo fè gadri pou timoun, san ke yo pa bezwen pran vaksen yo jan atik 1003.22, F.S., 402.305, F.S., ak 402.313, F.S. yo mandel.

Prezans nenpòt ki maladi kontajyez ki bezwen pou moun nan pran piki ak vaksen kan mèm dwe rekòmande pa Sèvis Sante ki nan lekòl yo ki anndan eta Florid la, lekòl matènèl, kote ke yo fasilite swen pou timoun, oubyen nan kay fanmi ki ap bay swen yo pou ka pèmèt direktè oubyen administratè Sante zòn nan oubyen ofisye sante eta deklare ke ou genyen you maladi kontajyez ki gen ijans. Timoun sa yo ke yo idanfifye ki pa te pran piki, seròm ak lòt bagay nan san kont maladi kontajyez ke yo deklare ki gen ijans lan nou pral mete yo deyò pou you ti tan jiskaske direktè ya oubyen administratè sante zòn nan deklare ke lè ya rive pou yo tounen.

______________________	_____/_____/_____
Electronic Signature of Parent or Guardian Firma del Padre o Guardián Siyati Paran Oubyen Moun Ki Reskonsab Li	**Date** Fecha Dat

______________________	_____/_____/_____	______________________
Electronic Signature of Director/Administrator	**Date**	**County Health Department**

DH 681, Eff. 7/08, Rule 64D-3.046 (Obsoletes earlier editions)

Electronic Signature Authority: Section 668.003(4), Florida Statutes

2022 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Florida Department of Health

BILL INFORMATION	
BILL NUMBER:	1209
BILL TITLE:	Administration of Vaccines
BILL SPONSOR:	Tuck
EFFECTIVE DATE:	July 1, 2022

COMMITTEES OF REFERENCE
1) Professions & Public Health Subcommittee
2) Health & Human Services Committee
3) Click or tap here to enter text.
4) Click or tap here to enter text.
5) Click or tap here to enter text.

CURRENT COMMITTEE
Click or tap here to enter text.

SIMILAR BILLS	
BILL NUMBER:	1892
SPONSOR:	Burgess

PREVIOUS LEGISLATION	
BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.
YEAR:	Click or tap here to enter text.
LAST ACTION:	Click or tap here to enter text.

IDENTICAL BILLS	
BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.

Is this bill part of an agency package?
No

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	January 28, 2022
LEAD AGENCY ANALYST:	Jessica Sapp
ADDITIONAL ANALYST(S):	Click or tap here to enter text.
LEGAL ANALYST:	Louise St. Laurent
FISCAL ANALYST:	Madison Adkins

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The bill authorizes registered pharmacy technicians to administer certain immunizations or vaccines under the supervision of a certified pharmacist.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Section 465.189, Florida Statutes, authorizes a pharmacist or a registered pharmacy intern under the supervision of a pharmacist, to administer vaccines to adults within an established protocol under a supervising physician licensed under chapter 458 or 459, Florida Statutes. The protocol between the pharmacist and the supervising physician dictates which types of patients to whom the pharmacist may administer allowable vaccines. The terms, scope, and conditions set forth in the protocol must be appropriate to the pharmacist's training and certification. A supervising physician must review the administration of vaccines by the pharmacist.

A pharmacist who is certified by the Board to administer vaccines may administer influenza vaccines to individuals 7 years of age or older within an established protocol under a supervising physician licensed under chapter 458 or 459, Florida Statutes.

A registered pharmacy intern who administers an immunization or vaccine must be supervised by a certified pharmacist at a ratio of one pharmacist to one registered pharmacy intern.

In response to the COVID-19 pandemic, on October 21, 2020, the U.S. Department of Health and Human Services (HHS) issued guidance authorizing qualified pharmacy technicians acting under the supervision of a qualified pharmacist to administer childhood vaccines, COVID-19 vaccines and COVID-19 tests, all subject to several requirements. This guidance preempts any state and local law that prohibits or effectively prohibits those who satisfy these requirements from administering COVID-19 or routine childhood vaccines as set forth above.

Ten states allow pharmacy technicians to administer immunizations or vaccines, with the most recent states being Arkansas and Colorado. Colorado requires the pharmacy technician be supervised by a certified pharmacist and complete at least four hours of training accredited by the Accreditation Council for Pharmacy Education (ACPE). The pharmacy technician must also hold a basic cardiopulmonary resuscitation (CPR) certification. Idaho, Indiana, Michigan, Nevada, Rhode Island, Utah, Washington, and Wisconsin also allow pharmacy technicians to administer immunizations or vaccines.

The American Pharmacists Association (APhA) is accredited by the ACPE as a provider of continuing pharmacy education. The APhA provides a 20-hour Immunization Program to prepare pharmacists with comprehensive knowledge, skills, and resources necessary to provide immunization services to patients. While pharmacy technicians are not prohibited from taking this course, it was designed for pharmacists.

The APhA partnered with Washington State University and recently revised the Pharmacy-Based Immunization Administration by Pharmacy Technicians 6-hour training program. This two-part program emphasizes a health care team collaboration between pharmacists and technicians which seeks to improve population health by increasing immunization rates in states that allow technicians to immunize. The course is composed of an online self-study component combined with a live seminar that teaches hands-on immunization techniques.

As of January 11, 2022, 15,675 pharmacists and 3,635 registered pharmacy interns were certified to administer immunizations or vaccines. As of December 31, 2021, there were 57,521 registered pharmacy technicians in Florida.

2. EFFECT OF THE BILL:

The bill amends section 465.189, Florida Statutes, authorizing registered pharmacy technicians to administer immunizations or vaccines:

- Listed in the current Adult Immunization Schedule by the United States Centers for Disease Control and Prevention (CDC).
- Recommended by the CDC for International Travel.
- Licensed for use, or have been authorized for emergency use, by the United States Food and Drug Administration.
- Approved by the board in response to a state of emergency declared by the Governor.

The bill updates the 2021 statutory limitation of approved or recommended immunizations and vaccines, effectively updating the reference to March 11, 2022.

The bill requires a registered pharmacy technician to complete 6-hours of immunization-related training approved by the Board of Pharmacy, or the Accreditation Council for Pharmacy Education (ACPE).

The bill would require a pharmacy technician to apply to the Board to become certified to administer immunizations and vaccines. The department will be required to update applications and related electronic licensing systems to accommodate this new requirement. The Board of Pharmacy will be required to complete rulemaking to revise the existing application forms and to adopt language specific to the certification process. A communications plan will be developed by the department to ensure all information on the website reflects accurately, that affected parties are notified of the change in law, and to ensure personnel are trained to provide accurate information. While the impact of the legislation is indeterminate, based on the population of registered pharmacy technicians (57,521) in Florida, the likely increase in requests for certification will result in a significant impact to existing staffing allocations requiring additional staff to implement the law and to maintain ongoing certification requests timely.

As a renewal condition, an additional 2 hours of continuing education approved by the Board or the ACPE must be completed. The department will be required to update the renewal application and associated electronic application systems and complete rulemaking to adopt the new forms.

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

If yes, explain:	While the bill does not explicitly provide authority to develop, adopt, or eliminate rules, existing rules will be required to be updated to promulgate certification registration requirements and update associated forms
Is the change consistent with the agency's core mission?	Y☒ N☐
Rule(s) impacted (provide references to F.A.C., etc.):	Rule 64B16-26.1031, F.A.C. Rule 64B16-26.1032, F.A.C.

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

Proponents and summary of position:	Unknown

Opponents and summary of position:	Unknown

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

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

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

Board:	N/A
Board Purpose:	N/A
Who Appoints:	N/A
Changes:	N/A
Bill Section Number(s):	

FISCAL ANALYSIS

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

Revenues:	N/A
Expenditures:	N/A
Does the legislation increase local taxes or fees? If yes, explain.	N/A
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	N/A

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

Revenues:	N/A

<table>
<tr><td>Expenditures:</td><td>3 full-time equivalent (FTE) positions and will be required to implement the provisions of this bill. Salary is computed at base of the position plus 43% for benefits.

As of December 31, 2021, there were 57,521 active pharmacy technicians. Based on data as of December 31, 2021, it is estimated that 46% of active pharmacy technicians will apply for certification to administer vaccines. This equates to 26,385 (57,521 * 46%).

Based on FY 2020-21 data, 1 FTE can manage an active/inactive licensure pool size of 9,247 for Pharmacy. The licensure pool for pharmacy technicians will not increase, yet the increase in workload cannot be absorbed with current resources. The projected number of vaccine certifications is 26,385; therefore, 2 FTEs are justified. 2 FTE Regulatory Specialist III, no travel is requested. Based on the LBR standards, the total FTE cost is $113,783 ($88,627/Salary $24,544/Expense $612/HR).

DOH/MQA may experience an increase in complaints, investigation, and prosecution, yet it is anticipated that the impact will be minimal and that current resources are adequate to absorb.

Based on FY 2020-21 data, MQA can manage a workload of 6,479 calls per FTE. MQA
anticipates 7,074 additional telephone calls in the Communication Center; therefore, 1 FTE is justified. 1 Regulatory Specialist III, no travel, is requested. Based on the LBR standards, the total FTE cost is $56,892 ($44,314/Salary $12,272/Expense $306/HR).

DOH will incur non-recurring costs for rulemaking, which current budget authority is
adequate to absorb.

DOH/MQA will experience a non-recurring increase in workload and costs associated with updating the Licensing and Enforcement Information Database System, Online Service and Data Download Portals, Cognitive Virtual Agent, Continuing Education Tracking System, License Verification and other search sites, MQA Business Intelligence Portal, and the board’s website to create and support the pathway/data collection for pharmacy technicians to become certified to administer immunizations and vaccines. Current resources and budget authority are adequate to absorb.

The total estimated annual cost is $170,674 in the following categories:

Annual Estimated Cost
Salary - $132,942/Recurring
Expense - $22,869/Recurring $13,947/Non-Recurring
Human Resources - $916/Recurring</td></tr>
<tr><td>Does the legislation contain a State Government appropriation?</td><td>No</td></tr>
</table>

If yes, was this appropriated last year?	N/A

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

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

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

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

TECHNOLOGY IMPACT

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

If yes, describe the anticipated impact to the agency including any fiscal impact.	DOH/MQA will experience a non-recurring increase in workload and costs associated with updating the Licensing and Enforcement Information Database System, Online Service and Data Download Portals, Cognitive Virtual Agent, Continuing Education Tracking System, License Verification and other search sites, MQA Business Intelligence Portal, and the board's website to create and support the pathway/data collection for pharmacy technicians to become certified to administer immunizations and vaccines. Updates are estimated to be completed within six months, following rule changes approved by the board.

FEDERAL IMPACT

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

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

ADDITIONAL COMMENTS

None.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

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

DUPLICATE

The Florida Senate

APPEARANCE RECORD

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

2/10/2022
Meeting Date

Senate Health Policy
Committee

SB1892
Bill Number or Topic

Amendment Barcode (if applicable)

Name: Michael Jackson

Phone: (850) 222-2400

Address: 610 N Adams Street
Street

Email: jackson@pharmview.com

Tallahassee — Florida — 32301
City — State — Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[✓] I am a registered lobbyist, representing:
Florida Pharmacy Association

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

S-001 (08/10/2021)

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

The Florida Senate

APPEARANCE RECORD

2/10/22
Meeting Date

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

1892
Bill Number or Topic

Health Policy
Committee

Amendment Barcode (if applicable)

Name Phillip Suderman   Phone

Address   Email
Street

City   State   Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
Americans for Prosperity

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

2/10/22
Meeting Date

Health Policy
Committee

The Florida Senate
APPEARANCE RECORD

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

SB 1892
Bill Number or Topic

Amendment Barcode (if applicable)

Name Claudia Davant

Phone 850 567 0979

Address
Street

City State Zip

Email

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:

Florida Pharmacy Assoc

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

2/10/2022
Meeting Date

Health Policy
Committee

The Florida Senate

APPEARANCE RECORD

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

1892
Bill Number or Topic

Amendment Barcode (if applicable)

Name Grace Lovett

Phone 850.222.4084

Address 227 S. Adams Street
Street

Email Grace@frf.org

Tallahassee FL 32301
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[✔] I am a registered lobbyist, representing:

Florida Retail Federation

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

S-001 (08/10/2021)

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

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 700

INTRODUCER: Health Policy Committee and Senator Burgess

SUBJECT: Delegation of Medication Administration

DATE: February 10, 2022 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Vanwinkle	Brown	HP	**Fav/CS**
2.			JU	
3.			RC	

Please see Section IX. for Additional Information:

PLEASE MAKE SELECTION

I. Summary:

CS/SB 700 authorizes a registered nurse (RN) to delegate to a certified nursing assistant (CNA) or a home health (HH) aide the administration of certain types of prescription medications to a patient of a nurse registry or patient in a county detention facility if the CNA or HH aide meets certain requirements in current law. The bill authorizes a CNA to administer such prescription medications to a patient of a nurse registry or patient in a county detention facility if so delegated by a RN and if the CNA meets certain requirements in current law. The bill also requires a nurse registry that authorizes a RN to delegate tasks, including medication administration, to a CNA or a HH aide, to ensure that such delegation meets certain requirements in statute and rule.

The bill has an effective date of July 1, 2022.

II. Present Situation:

Nurse Practice Act

Florida's Nurse Practice Act is found in Part I of ch. 464, F.S. The purpose of the Nurse Practice Act is to ensure that every nurse practicing in this state meets minimum requirements for safe practice. It is legislative intent that nurses who fall below minimum competency or who otherwise present a danger to the public are prohibited from practicing in this state.[1]

[1] Section 464.002, F.S.

Certified Nursing Assistants

Florida's statutory governance for CNAs is found in Part II of ch. 464, F.S. Section 464.201(5), F.S., defines the practice of a CNA as providing care and assisting persons with tasks relating to the activities of daily living. Activities of daily living include tasks associated with: personal care, maintaining mobility, nutrition and hydration, toileting and elimination, assistive devices, safety and cleanliness, data gathering, reporting abnormal signs and symptoms, postmortem care, patient socialization and reality orientation, end-of-life care, cardiopulmonary resuscitation (CPR) and emergency care, patients' rights, documentation of nursing-assistant services, and other tasks that a CNA may perform after training.[2]

A CNA can work in nursing homes, assisted living facilities, other community-based settings, hospitals, or private homes under general supervision.[3] The Florida Board of Nursing (BON), within the Department of Health (DOH), certifies CNAs, who must, among other qualifications, hold a high school diploma or equivalent, complete a 120-hour BON-approved training program, and pass a nursing assistant competency exam, which includes written and practical portions.[4] A CNA must biennially complete 24 hours of in-service training to maintain certification.[5]

The BON establishes the general scope of practice for CNAs. A CNA performs services under the general supervision[6] of a RN or licensed practical nurse (LPN).[7] A CNA may perform the following:

- Personal care services, such as bathing, dressing grooming, and light housekeeping;
- Tasks associated with maintaining mobility, such as ambulating, transferring, positioning, lifting, and performing range of motion exercises;
- Nutrition and hydration tasks, such a feeding or assisting with eating and drinking;
- Tasks associated with elimination, such as toileting, providing catheter care, and emptying or changing ostomy bags;
- Tasks associated with using assistive devices;
- Maintaining the environment and resident safety;
- Taking measurements and gathering data, i.e. pulse, blood, pressure, height, and weight;
- Reporting abnormal resident findings, signs, and symptoms;
- Post mortem care;
- Tasks associated with end of life care;
- Tasks associated with resident socialization, leisure activities, reality orientation, and validation techniques;
- Performing basic first aid, CPR, and emergency care; and
- Documentation of CNA services provided to the resident.

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[2] Section 464.201, F.S.
[3] Paraprofessional Healthcare Institute, *Who Are Direct-Care Workers?*, (Feb. 2011), available at https://phinational.org/wp-content/uploads/legacy/clearinghouse/NCDCW%20Fact%20Sheet-1.pdf (last visited Feb. 3, 2022).
[4] Section 464.203, F.S., and Fla. Admin. code r. 64B9-15.006. Eighty hours must be classroom instruction and 40 hours must be clinical instruction, 20 of which must be in long term care clinical instruction in a licensed nursing home. 42 C.F.R. § 483.95 requires 75 hours of training; Florida training requirements exceed the federal minimum training requirements.
[5] Section 464.203(7), F.S.
[6] Under general supervision, the registered nurse or licensed practical nurse does not need to be present but must be available for consultation and advice, either in person or by a communication device. Fla. Admin. Code R. 64B9-15.001(5).
[7] Fla. Admin. Code R. 64B9-15.002.

A CNA may not work independently and may not perform any tasks that require specialized nursing knowledge, judgment, or skills.

Agency for Health Care Administration

The Agency for Health Care Administration (AHCA) is responsible for, among other duties, health facility licensure, inspection, and regulatory enforcement; investigation of consumer complaints related to health care facilities and managed care plans; the administration of the Medicaid program; the administration of the contracts with the Florida Healthy Kids Corporation; and the certification of health maintenance organizations and prepaid health clinics. The AHCA is the lead agency responsible for the regulation of hospices, assisted living facilities, adult day care centers, and adult family-care homes.[8] HH agencies and nurse registries are also both required to be licensed by the AHCA to operate in Florida.[9]

Home Health Aides

HH aides provide essentially the same care and services as nursing assistants, but they assist people in their homes or in community settings under the supervision of a nurse or a physical, speech, occupational, or respiratory therapist.[10] In Florida, HH aides are not licensed or certified.

Home Health Aide Training

For every CNA employee, an HH agency must have on file a copy of the person's Florida CNA certificate.[11] For every HH aide, the HH agency must maintain documentation of successful completion of at least 40 hours of training in the following subjects or the successful passage of the AHCA HH aide competency test:

- Communication skills;
- Observation, reporting, and documentation of patient status and the care provided;
- Reading and recording temperature, pulse, and respiration;
- Basic infection control procedures;
- Basic elements of body functions that must be reported to the RN supervisor;
- Maintenance of a clean and safe environment;
- Recognition of emergencies and applicable follow-up within the HH aide's scope of performance;
- Physical, emotional, and developmental characteristics of the populations served by the HH agency, including respect of the patient's privacy and property;
- Appropriate and safe techniques in personal hygiene and grooming;
- Safe transfer techniques, including use of appropriate equipment, and ambulation;
- Normal range of motion and positioning;
- Nutrition and fluid intake;

[8] Section 20.42, F.S.
[9] Sections 400.464 and 400.506, F.S.
[10] If the only service the home health agency provides, is physical, speech, or occupational therapy, in additional to the home health aide or CNA services, the licensed therapist may provide supervision.
[11] Fla. Admin. Code R. 59A-8.0095(5)(c). A copy of the DOH website CNA information that shows the person's name, address, certificate number, original issue date, expire date, and status meet this requirement.

- Cultural differences in families;
- Food preparation and household chores; and
- Assistance with self-administered medication.

Home Health Aide Competency Test

The AHCA is required to create the HH aide competency test and establish the curriculum and instructor qualifications for HH aide training. Licensed HH agencies may provide this training and must furnish documentation of this training to other licensed HH agencies upon request.[12] HH agencies that teach the HH aide course, but who are not an approved nonpublic post-secondary career school, cannot charge a fee for the training and cannot issue a document of completion with the words “diploma,” “certificate,” “certification of completion,” or “transcript.” The HH agency is limited to advertising in the “Help Wanted” section of newspapers. The HH agency cannot lawfully advertise that it is offering “training for HH aides.” The HH agency can indicate that it is hiring HH aides and will train.[13]

Successful passage of the competency test by HH aides may be substituted for the training required under s. 400.497, F.S.[14]

However, the AHCA licenses HH agencies and establishes training requirements for HH aides employed by an agency. HH aides must complete at least 75 hours of training and/or successfully pass a competency evaluation by the employing agency.[15] HH aides who work for a HH agency that is not certified by Medicare or Medicaid, or who work for a nurse registry, must complete 40 hours of training or pass an AHCA-developed competency examination.[16]

The AHCA establishes the scope of practice for HH aides performing services under a licensed HH agency. A HH aide performs services delegated by and under the supervision of a RN, which include:[17]

- Assisting the patient or client with personal hygiene, ambulation, eating, dressing, shaving, physical transfer, and other personal care activities;
- Maintaining a clean, safe, and healthy environment, including light housekeeping;
- Activities taught by a licensed health professional for a specific patient or client and restricted to:
  - Toileting;
  - Assisting with tasks related to elimination;
  - Assisting with the use of devices to aid daily living, such as a wheelchair;
  - Assisting with prescribed range of motion exercises;
  - Assisting with prescribed ice cap or collar;
  - Doing simple urine tests for sugar, acetone, or albumin;

[12] Section 400.497, F.S.
[13] Fla. Admin. Code R. 59A-8.0095(5)(h).
[14] Section 400.497, F.S.
[15] Agency for Health Care Administration, *Home Health Aides,* available at https://ahca.myflorida.com/MCHQ/Health_Facility_Regulation/Lab_HomeServ/HHA/Home_health_aides.shtml (last visited Feb. 2, 2022).
[16] Fla. Admin. Code R. 59A-8.0095(5).
[17] *Id.,* and Fla. Admin. Code R. 64B9-15.002.

- Measuring and preparing special diets; and
- Assisting with self-administration of medication.

A HH aide may not change sterile dressings, irrigate body cavities, irrigate a colostomy or wound, perform gastric irrigation or enteral feeding, catheterize a patient, administer medication, apply heat by any method, care for a tracheotomy tube, or any other services that has not been included in the patient's plan of care.[18]

Home Health Agencies

A HH agency is defined as a person that provides one or more HH services.[19] HH services include health and medical services and medical supplies furnished to an individual in the individual's home or place of residence. The term includes the following:[20]

- Nursing care;
- Physical, occupational, respiratory, or speech therapy;
- HH aide services;
- Medical social services;
- Dietetics and nutrition practice and nutrition counseling;
- Medical equipment and supplies, including drugs and biologicals prescribed by a physician; and
- Homemaker and companion services.

Home Health Agency Licensure

The licensure process for a HH agency is based upon the applicant's compliance with Part III of ch. 400, F.S.; Part II of ch. 408, F.S.; Florida Administrative Code Rules 59A-8 and 59A-35b; and an inspection by the AHCA.[21] To be a licensed HH agency a person must submit to the AHCA, an application for one or more counties within a geographic service area,[22] an appropriate fee for the application, background checks, and inspection. An application is considered complete upon the AHCA's receipt of proof of the following:[23]

- Financial ability to operate, prepared in accordance with generally accepted accounting principles and signed by a certified public accountant,[24] which must include:
  - A pro forma balance sheet, pro forma cash flow statement, and a pro forma income and expense statement for the first two years of operation which provide evidence of sufficient assets, credit, and projected revenues to cover liabilities and expenses; and

[18] Fla. Admin. Code R. 59A-8.0095(5)(p).
[19] Section 400.462 (12), F.S.
[20] Section 400.462 (15), F.S. *See also* FloridaHealthFinder.gov, a service of the Agency for Health Care Administration, Consumer Guides, *Home Health Care in Florida*, available at https://www.floridahealthfinder.gov/reports-guides/home-health.aspx (last visited Feb. 8, 2022).
[21] Fla. Admin. Code R. 59A-8.003(1), *See also* ss. 400.471(2) and 408.806(7), F.S.
[22] Fla. Admin. Code R. 59A-8.003 and 59A-8.002 (12).
[23] Fla. Admin. Code R. 59A-35.060.
[24] see Section 408.8065,(2), F.S. Applicants and controlling interests who are nonimmigrant aliens, as described in 8 U.S.C. s. 1101, must file a surety bond of at least $500,000, payable to the agency, which guarantees that the home health agency, home medical equipment provider, or health care clinic will act in full conformity with all legal requirements for operation.

  - A prospective income and expense statement for the next two years of operation which provide evidence of sufficient assets, credit, and projected revenues to cover liabilities and expenses;[25]
- All required Level II background screening results for the licensee, administrator, financial officer, any person with controlling interest, and all persons providing personal care to clients;[26]
- Liability and malpractice insurance with limits of not less than $250,000 per claim;[27]
- A certificate of occupancy;[28]
- List of all satellite offices and staff at those locations;
- A business plan signed by the applicant, including a plan to obtain patients and to maintain staff; and
- Completion of a satisfactory inspection, if required.[29]

A HH agency's license is only valid for the licensee, provider, and the location for which the license is issued.[30]

Home Health Agencies Responsibilities to Patients

A licensed HH agency has the following responsibility to its patients during hours of operation:[31]
- The HH agency's administrator and director of nursing, or their alternates, must be available to the public[32] for eight consecutive hours between 7:00 a.m. and 6:00 p.m., Monday through Friday, every week, excluding legal and religious holidays;
- When the administrator and the director of nursing are not on the premises during designated business hours, a staff member must be available to answer the phone and the door and must be able to contact the administrator and the director of nursing by telecommunications;
- If an AHCA surveyor[33] arrives on the HH agency premises to conduct an unannounced survey and the administrator, the director of nursing, or a person authorized to give access to patient records are not on the premises, they, or the designated alternate, must be available on the premises within an hour of the arrival of the surveyor;
- A list of current patients must be provided to the surveyor within two hours of arrival if requested; and
- The HH agency must have written policies and procedures governing 24-hour availability to licensed professional nursing staff by active patients receiving skilled care. A HH agency that

[25] Fla. Admin. Code R. 59A-35.062.
[26] Section 408.809, F.S.
[27] Section 400.471(3), F.S.
[28] A Certificate of occupancy is a document indicating that a building complies with zoning and building laws. This document is often required before title can be transferred and the building occupied. Certificates of occupancy are required for new construction, for a building built for one use is to be used for another and when occupancy of a commercial or industrial building changes, or ownership of a commercial, industrial, or multiple-family residential building changes. Certificate of occupancy are issued by a local governments and certify the building is in a livable condition for intended purpose. USLegal.com, Legal Definitions, *Certificate of Occupancy*, available at https://definitions.uslegal.com/c/certificate-of-occupancy/ (last viewed Feb. 7, 2022).
[29] Fla. Admin. Code Chapters 59A-35 and 59A-8.
[30] Fla. Admin. Code R. 59A-35.040(1).
[31] Fla. Admin. Code R. 59A-8.003(9).
[32] *Available to the public* means being readily available on the premises or by telecommunications.
[33] Fla. Admin. Code R. 59A-8.003(2).

does not provide skilled care must have written policies and procedures which address the availability of a RN supervisor during hours of patient service.

The failure of the HH agency to be available or to respond during a survey or inspection is grounds for denial or revocation of the HH agency license.[34]

Home Health Agency Personnel

A HH agency must have an administrator and a director of nursing. An administrator of a HH agency may be a Florida-licensed physician, physician assistant, or RN, and may also be the director of nursing for the agency. A director of nursing may be the director of nursing for up to two licensed HH agencies if the HH agencies have identical controlling interests[35] that are located within one geographic service area or within an immediately contiguous county. The director of nursing may be the director of nursing for up to five licensed HH agencies if the HH agency also has a RN who meets the qualifications of a director of nursing and who has a written delegation from the director of nursing to serve as the director of nursing for that HH agency when the director of nursing is not present.[36] All staff must be able to pass a level two criminal background check.[37]

Certified Nursing Assistants and Home Health Aides

A HH agency must ensure that each CNA and HH aide the agency employs is adequately trained to perform the tasks assigned to be performed in the home setting or it could be subject to administrative penalties.[38]

Medication Administration by Home Health Care Agencies

If a licensed HH agency authorizes a RN to delegate tasks, including medication administration, to a CNA pursuant to Part II, ch. 464. F.S., or to a HH aide pursuant to s. 400.490, F.S., the licensed HH agency must ensure that such delegation meets the requirements of chs. 400 and 464, F.S.[39,40]

Patient Assisted Self-Administration of Medications by HH Aides

Successful passage of the AHCA HH aide competency test alone does not authorize a HH aide to assist with self-administration of medication. [41] For HH aides and CNAs to assist with a patient's self-administration of medications, the individual must have had a minimum of two hours of training prior to assuming this responsibility. Training must include:[42]

- State law and rules relating to the assistance with self-administration of medications in the home;
- Procedures for assisting with self-administration of medication;

[34] Section 408.806(7), F.S.
[35] *See* s. 408.803, F.S., for the definition of controlling interests.
[36] Section 400.476(2), F.S.
[37] Section 400.512, F.S.
[38] Section 400.474(3), F.S.
[39] Section 400.464,(5) F.S.
[40] Section 400.490, F.S.
[41] Section 400.488. F.S.; Fla. Admin. Code R. 59A-8.0095(5),(d),15 and 59A-8.0095(5),(j),1.,b.
[42] Fla. Admin. Code R. 59A-8.0095(5),(c),15.

- Common medications;
- Recognizing the side effects and adverse reactions;
- Procedures to follow when patients appear to be experiencing side effects and adverse reactions; and
- Verification that each CNA and HH aide can read the prescription label and instructions.

Medication Administration Delegated to HH Aides

A CNA and HH aide may also administer oral, transdermal, ophthalmic, otic, rectal, inhaled, enteral, or topical prescription medications if the CNA and HH aide have been delegated such task by a licensed RN.[43], The HH aide must have satisfactorily completed an initial six-hour training course approved by the AHCA, and have been found competent to administer medication to a patient in a safe and sanitary manner. The training, determination of competency, and initial and annual validations required must be conducted by a licensed RN or physician licensed under chs. 458 or 459, F.S.[44]

Such HH aide must also annually complete two hours of approved in-service training approved by the AHCA in medication administration and medication error prevention. The in-service training is in addition to the annual in-service training hours required by AHCA rules. The AHCA, in consultation with the BON, must establish standards and procedures that a HH aide must follow when administering medications. Such rules must, at a minimum, address qualification requirements for trainers, requirements for labeling medication, documentation and recordkeeping, the storage and disposal of medication, instructions concerning the safe administration of medication, informed-consent requirements and records, and the training curriculum and validation procedures.[45] HH aides and CNA's must receive in-service training every year. Training must be provided to obtain and maintain a certificate in CPR.[46]

Nurse Registries

A nurse registry is define as any person that procures, offers, promises, or attempts to secure health-care-related contracts for RNs, LPNs, CNAs, HH aides, companions, or homemakers, who are compensated by fees as independent contractors,[47] including, but not limited to, contracts for the provision of services to patients and contracts to provide private duty or staffing services to health care facilities licensed under chs. 395, 400, or 429, F.S., or other business entities.[48] Nurse registries arrange for nurses, CNAs, HH aides, and homemakers or companions to provide services to patients in their own homes or places of residence.[49]

[43] Sections 464.2035 and 400.489, F.S.; Fla. Admin. Code R. 59A-8.0095(5),(d),15 and 59A-8.0095(5)(j)1.b.
[44] Section 400.489, F.S.; Fla. Admin. Code R. 59A-8.0095(5),(d),15 and 59A-8.0095(5)(j)1.b.
[45] *Id.*
[46] Fla. Admin. Code R. 59A-8.0095(5)(k).
[47] Fla. Admin. Code R. 59A-18.002(7). An "independent contractor" is a person who contracts through a referral from a nurse registry. The independent contractor maintains control over the method and means of delivering the services provided, and is responsible for the performance of such services. An independent contractor is not an employee of the nurse registry.
[48] Section 400.462(21), F.S.
[49] Fla. Admin. Code R. 59A-8.0095(5).

Nurse Registry Licensure

A nurse registry must be licensed by the AHCA.[50] Each applicant for licensure as a nurse registry must be 18 years of age and submit the following to the AHCA:[51]

- An application and an appropriate fee;
- Evidence of the financial ability to operate prepared in accordance with generally accepted accounting principles and signed by a certified public accountant, and including the following documents:
  - A pro forma balance sheet, pro forma cash flow statement, and a pro forma income and expense statement for the first two years of operation which provide evidence of having sufficient assets, credit, and projected revenues to cover liabilities and expenses; and
  - Prospective income and expense statement for the next two years of operation which provide evidence of having sufficient assets, credit, and projected revenues to cover liabilities and expenses;[52]
- The locations of all satellite offices that share administration, fiscal management, and services with the main operational site;[53]
- Evidence of compliance with local zoning authorities for the main operational site of the nurse registry and any satellite offices;
- The geographic service area the nurse registry intends to serve which may encompasses one or more of the counties within the health services planning district, in which the main operational site is located.[54]

A licensed nurse registry must ensure that each CNA and HH aide referred for contract have credentials demonstrating that he or she is adequately trained to perform the tasks of a HH aide in the home setting. [55] Each nurse registry must also establish written procedures for the selection, documentation, screening and verification of credentials for each independent contractor referred by the registry which must include:[56]

- Confirmation of a new independent contractor's licensure or certification with the issuing board or the DOH;[57]
- Confirmation of the identity of the independent contractor prior to referral;[58] and
- A statement from the independent contractor, prior to contacting with patients or clients, that the contractor is free from communicable diseases.

[50] Section 400.506, F.S., Part II of ch. 408, F.S.
[51] Section 408.805, F.S.
[52] Fla. Admin. Code R. 59A-35.062 (2021).
[53] Fla. Admin. Code R. 59A-18.004 (2021). A nurse registry that operates a satellite office must: Maintain a system of communication and integration of services between the nurse registry operational site and the satellite office; provide access to patient records at the satellite office; ensure periodic onsite visits to each satellite office by the nurse registry's administrator; and make the satellite office's hours of operation available to the public if different than the hours of operation maintained by the nurse registry operational site.
[54] *See* ss. 408.032(5) and 400.497(9), F.S.
[55] Section 400.506(6)(b) - (e), F.S.
[56] Fla. Admin. Code R. 59A-18.005(2021).
[57] Fla. Admin. Code R. 59A-18.005(3)(2021). A screen print from the DOH website that shows a clear and active license or certification for each nurse and CNA is sufficient for documentation.
[58] Fla. Admin. Code R. 59A-18.005(5),(2021). The independent contractors identity must be verified by using the individual's current driver's license or other photo identification, including the professional license or certificate.

A nurse registry must maintain folders on each independent contractor that must contain the following information:[59]

- The name, address, date of birth, and social security number of the applicant;
- The educational background and employment history of the applicant;
- The number and date of the applicable license or certification;
- Information concerning the renewal of the applicable license, registration, or certification;
- A copy of the licensee's application;
- Proof of completion of continuing educational (CE) courses on modes of transmission, infection control procedures, clinical management, and prevention of human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS) with an emphasis on appropriate behavior and attitude change. Such instruction must include information on current Florida law and its effect on testing, confidentiality of test results, and treatment of patients and any protocols and procedures applicable to HIV counseling and testing, reporting, offering HIV testing to pregnant women, and partner notification issues;[60]
- For HH aides, evidence of completion of a HH aide training course;
- For CNAs, certification from the DOH;
- Evidence of a contract with the nurse registry;
- Evidence of a satisfactory level two background screening;[61] and
- A copy of the certificate or other documentation of successful completion of at least 40 hours of HH aide training.[62]

Each nurse registry must establish a system for the recording complaints involving individuals they refer.[63] However, a nurse registry may not monitor, supervise, manage, or train a RN, LPN, CNA, HH aide, companion or homemaker, referred for contract.[64] In the event of a violation of law by a referred RN, LPN, CNA, HH aide, companion or homemaker, or a deficiency in credentials which comes to the attention of the nurse registry, the nurse registry must advise the patient to terminate the referred person's contract, provide the reason for the suggested termination, cease referring that individual to other patients, and, if practice violations are involved, notify the appropriate licensing board. Records of complaints and actions taken by the nurse registry must be kept in the individual's registration file or retained in the central files of the nurse registry.[65]

A CNA or HH aide may be referred for a contract to provide care to a patient in his or her home only if that patient is under a physician's care. A CNA or HH aid aide referred for contract in a private residence must be limited to assisting a patient with bathing, dressing, toileting, grooming, eating, physical transfer, and those normal daily routines the patient could perform for himself or herself were he or she physically capable. A CNA or HH aide may not provide

[59] Section 400.506(8) and (9), F.S. and Fla. Admin. Code R. 59A-18.005(2) - (7).
[60] *See* ss. 381.004 and 384.25, F.S.
[61] Section 408.809, F.S.
[62] *See* s 400.506(6)(a), F.S. The training must have been from a public vocational technical school or a non-public postsecondary career school licensed by the Commission on Independent Education, Florida Department of Education.
[63] Fla. Admin. Code R. 59A-18.005,(8).
[64] Section 400.506 (19), F.S.
[65] Fla. Admin. Code R. 59A-18.005.

medical or other health care services that require specialized training and that may be performed only by licensed health care professionals.[66]

The nurse registry must obtain the name and address of the attending physician and send written notification to the physician within 48 hours after a contract is concluded that a CNA or HH aide will be providing care for his or her patient.[67]

A RN, LPN, CNA, HH aide, or companion or homemaker, referred for contract by a nurse registry is deemed an independent contractor and not an employee of the nurse registry,[68] and the nurse registry must advise the patient, the patient's family, or any other person acting on behalf of the patient, at the time of contracting, that the caregiver referred by the nurse registry is an independent contractor, not an employee of the nurse registry, and that the nurse registry may not monitor, supervise, manage, or train the caregiver referred for contract.[69]

All persons referred for contract in private residences by a nurse registry, and licensed under Part I of ch. 464, F.S., must deliver patient care according to a plan of treatment under the direction or supervision of a physician.[70] A person who is referred by a nurse registry for a contract in private residence, who is not a nurse licensed under Part I of ch. 464, F.S., may perform only those services or care that the person has been certified or trained to perform as prescribed by law, or rules of the AHCA or the Department of Business and Professional Regulation.[71]

Scope of Practice - Nurse Registry Referral of HH Aides and CNAs

When a CNA or HH aide is referred to a patient's home by a nurse registry, the nurse registry must advise the patient, the patient's family, or any other person acting on behalf of the patient at the time of the contract, that RNs are available to make visits to the patient's home for an additional cost.[72]

Certified Nursing Assistants and Home Health Aides

A CNA or HH aide referred to a patient's home by a nurse registry for a contract to provide care to a patient in his or her home is responsible for:[73]

- Documenting services provided to the patient and for filing said documentation with the nurse registry on a regular basis;
- Observing the appearance and behavioral changes of the patient and reporting these changes to the patient's health care surrogate or other person designated by the patient and the nurse registry or to the responsible facility employee if staffing in a facility;
- Maintaining a clean, safe, and healthy environment;

[66] Section 400.506(6)(a), F.S.
[67] Section 400.506(6)(b), F.S.
[68] Section 400.506(6)(d), F.S.
[69] Section 400.506(6)(e), F.S.
[70] Section 400506(13)((a), F.S.
[71] Section 400.506(7),F.S. Providing services beyond the scope authorized by law constitutes the unauthorized practice of medicine or a violation of the Nurse Practice Act and is punishable as provided under chs. 458, and 459, or Part I of ch. 464.
[72] Section 400.506.(6)(c), F.S.
[73] Fla. Admin. Code R. 59A-18.0081.

- Performing other activities as are taught and documented by a RN, concerning activities for a specific patient and restricted to the following:
  - Assisting with the change of a colostomy bag, and reinforcement of dressings;
  - Assisting with the use of devices for aid to daily living such as a wheelchair or walker;
  - Assisting with prescribed range of motion exercises;
  - Assisting with prescribed ice cap or collar;
  - Doing simple urine tests for sugar, acetone or albumin;
  - Measuring and preparing special diets;
  - Measuring intake and output of fluids; and
  - Measuring temperature, pulse, respiration or blood pressure.

CNAs and HH aides referred by nurse registries must maintain a current CPR certification from an instructor or training provider that is approved to provide training by the American Heart Association, the American Red Cross, or the Health and Safety Institute.[74]

Medication Administration by CNAs and HH Aides - Nurse Registry Referred

CNAs and HH aides referred by nurse registries may assist with self-administration of medication if the individual has received a minimum of two hours of training covering the following:[75]

- State laws and rules with respect to the assistance with self-administration of medications in the home;
- Procedures for assisting a patient with self-administration of medication;
- Common medications;
- Recognition of side effects and adverse reactions; and
- Procedures to follow when patients appear to be experiencing side effects and adverse reactions.

The trained CNAs and HH aides may also provide the following assistance with self-administered medication, as needed by the patient:[76]

- Prepare necessary items such as juice, water, cups, or spoons to assist the patient in the self-administration of medication;
- Open and close the medication container or tear the foil of prepackaged medications,
- Assist the resident in the self-administration process. Examples of such assistance include the steadying of the arm, hand, or other parts of the patient's body so as to allow the self-administration of medication; and
- Assist the patient by placing unused doses of solid medication back into the medication container.

Documentation of the training must be maintained in the file of each CNA and HH aide who assists patients with self-administered medication. In cases where a CNA or HH aide will provide assistance with self-administered medications, a review of the medications with the CNA or HH aide must be conducted by a RN or LPN to ensure the CNA and HH aide are able to

[74] Fla. Admin. Code R. 59A-18.0081(11).
[75] Fla. Admin. Code R. 59A-18.0081(14)(a).
[76] Fla. Admin. Code R. 59A-18.0081(14)(e).

assist in accordance with their training and that the medication is not required to be administered by a nurse. If the patient will not consent to a visit by a nurse, and the additional cost associated, for a medicaion review, then a written list of the mediciations with the dosage, frequency and route of administration must be provided by the patient or the patient's health care surrogate, family member, or person designated by the patient to the CNA or HH aide to have it reviewed by a nurse. The patient or the patient's surrogate, guardian, or attorney in fact must give written consent for a CNA or HH aide to provide assistance with self-administered medications.[77]

A CNA or HH aide referred to a patient's home by a nurse registry is prohibited from performing any of the following:[78]

- Changing sterile dressings;
- Irrigating body cavities such as giving an enema;
- Irrigating a colostomy or wound;
- Performing gastric irrigation or enteral feeding;
- Catheterizing a patient;
- Administering medications;
- Applying heat by any method; or
- Caring for a tracheotomy tube.

County Detention Facilities

Persons convicted of felonies or misdemeanors whose sentences do not exceed one year may be incarcerated in county detention facilities.[79] Section 951.23(1), F.S., defines a county detention facility as a county jail, county stockade, county work camp, county residential probation center,[80] and any other place, except a municipal detention facility,[81] that is used by a county or county officer for the detention of persons charged with, or the convicted of, a felony or misdemeanor. A county detention facility or municipal detention facility incurs expenses in providing medical care, treatment, hospitalization, or transportation to incarcerated persons and may seek reimbursement for those expenses from the incarcerated individual.[82]

III. Effect of Proposed Changes:

CS/SB 700 amends s. 464.0156(2), F.S., to authorize a RN to delegate to a CNA or a HH aide the administration of oral, transdermal, ophthalmic, otic, rectal, inhaled, enteral, or topical prescription medications to a patient of a nurse registry or a county detention facility as defined in s. 951.23(1), F.S., if the CNA or HH aide meets the requirements of ss. 464.2035 or 400.489, F.S., respectively. The bill amends s. 464.2035(1), F.S., to authorize a CNA to administer such

[77] Section 400.488, F.S.; Fla. Admin. Code R. 59A-18.0081(14).
[78] Fla. Admin. Code R. 59A-18.0081(6).
[79] Sections 775.08 and 775.081, F.S.
[80].Section 951.23(1), (b), F.S., defines a "county residential probation center" as a county-operated facility housing offenders serving misdemeanor sentences or first-time felony sentences. Such facilities shall provide or contract for the provision of the programs established under s. 951.231.
[81] Section 951.23(1)(d), F.S. defines a "municipal detention facility" as a city jail, a city stockade, a city prison camp, and any other place except a county detention facility used by a municipality or municipal officer for the detention of persons charged with or convicted of violation of municipal laws or ordinances.
[82] Section 951.032, F.S.

prescription medications to a patient of a nurse registry or in a county detention facility if so delegated by a RN and if the CNA has satisfactorily completed an initial BON-approved six-hour training course and has been found competent to administer medication to a patient in a safe and sanitary manner. The bill also amends s. 400.506(7), F.S., to require a nurse registry that authorizes a RN to delegate tasks, including medication administration, to a CNA or a HH aide, to ensure that such delegation meets the requirements of chs. 400 and 464, F.S., and the rules adopted thereunder.

The bill has an effective date of July 1, 2022.

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:

Indeterminate.

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: 400.506, 464.0156, and 464.2035.

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 10, 2022:
The CS authorizes a RN to delegate to a CNA or a HH aide the administration of oral, transdermal, ophthalmic, otic, rectal, inhaled, enteral, or topical prescription medications to a patient in a county detention facility.

B. Amendments:

None.

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

625372

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/10/2022	.	
	.	
	.	
	.	

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

1 **Senate Amendment (with title amendment)**

2

3 Delete lines 48 - 60

4 and insert:

5 agency or nurse registry or to a patient in a county detention

6 facility as defined in s. 951.23(1), if the certified nursing

7 assistant or home health aide meets the requirements of s.

8 464.2035 or s. 400.489, respectively. A registered nurse may not

9 delegate the administration of any controlled substance listed

10 in Schedule II, Schedule III, or Schedule IV of s. 893.03 or 21

625372

11 U.S.C. s. 812.
12 Section 3. Subsections (1) and (3) of section 464.2035,
13 Florida Statutes, are amended to read:
14 464.2035 Administration of medication.—
15 (1) A certified nursing assistant may administer oral,
16 transdermal, ophthalmic, otic, rectal, inhaled, enteral, or
17 topical prescription medication to a patient of a home health
18 agency or nurse registry or to a patient in a county detention
19 facility as defined in s. 951.23(1) if the certified nursing
20 assistant has
21
22 ================= T I T L E A M E N D M E N T ================
23 And the title is amended as follows:
24 Delete lines 11 - 14
25 and insert:
26 registry patients and patients in county detention
27 facilities under certain circumstances; amending s.
28 464.2035, F.S.; authorizing certified nursing
29 assistants to administer certain medication to nurse
30 registry patients and patients in county detention
31 facilities under certain circumstances;

By Senator Burgess

A bill to be entitled

An act relating to the delegation of medication administration; amending s. 400.506, F.S.; requiring licensed nurse registries to ensure specified requirements are met if they allow registered nurses to delegate certain tasks to certified nursing assistants or home health aides; amending s. 464.0156, F.S.; authorizing registered nurses to delegate to certified nursing assistants and home health aides the administration of certain medications to nurse registry patients under certain circumstances; amending s. 464.2035, F.S.; authorizing certified nursing assistants to administer certain medication to nurse registry patients under certain circumstances; conforming a provision to changes made by the act; providing an effective date.

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

Section 1. Subsection (7) of section 400.506, Florida Statutes, is amended to read:

400.506 Licensure of nurse registries; requirements; penalties.—

(7) A person who is referred by a nurse registry for contract in private residences and who is not a nurse licensed under part I of chapter 464 may perform only those services or care to clients that the person has been certified to perform or trained to perform as required by law or rules of the Agency for Health Care Administration or the Department of Business and

Professional Regulation. Providing services beyond the scope authorized under this subsection constitutes the unauthorized practice of medicine or a violation of the Nurse Practice Act and is punishable as provided under chapter 458, chapter 459, or part I of chapter 464. If a licensed nurse registry authorizes a registered nurse to delegate tasks, including medication administration, to a certified nursing assistant pursuant to chapter 464 or to a home health aide pursuant to s. 400.490, the licensed nurse registry must ensure that such delegation meets the requirements of this chapter and chapter 464 and the rules adopted thereunder.

Section 2. Subsection (2) of section 464.0156, Florida Statutes, is amended to read:

464.0156 Delegation of duties.—

(2) A registered nurse may delegate to a certified nursing assistant or a home health aide the administration of oral, transdermal, ophthalmic, otic, rectal, inhaled, enteral, or topical prescription medications to a patient of a home health agency or nurse registry~~,~~ if the certified nursing assistant or home health aide meets the requirements of s. 464.2035 or s. 400.489, respectively. A registered nurse may not delegate the administration of any controlled substance listed in Schedule II, Schedule III, or Schedule IV of s. 893.03 or 21 U.S.C. s. 812.

Section 3. Subsections (1) and (3) of section 464.2035, Florida Statutes, are amended to read:

464.2035 Administration of medication.—

(1) A certified nursing assistant may administer oral, transdermal, ophthalmic, otic, rectal, inhaled, enteral, or

59 topical prescription medication to a patient of a home health
60 agency <u>or nurse registry</u> if the certified nursing assistant has
61 been delegated such task by a registered nurse licensed under
62 part I of this chapter, has satisfactorily completed an initial
63 6-hour training course approved by the board, and has been found
64 competent to administer medication to a patient in a safe and
65 sanitary manner. The training, determination of competency, and
66 initial and annual validation required under this section must
67 be conducted by a registered nurse licensed under this chapter
68 or a physician licensed under chapter 458 or chapter 459.
69 (3) The board, in consultation with the Agency for Health
70 Care Administration, shall establish by rule standards and
71 procedures that a certified nursing assistant must follow when
72 administering medication to a patient of a home health agency <u>or</u>
73 <u>nurse registry</u>. Such rules must, at a minimum, address
74 qualification requirements for trainers, requirements for
75 labeling medication, documentation and recordkeeping, the
76 storage and disposal of medication, instructions concerning the
77 safe administration of medication, informed-consent requirements
78 and records, and the training curriculum and validation
79 procedures.
80 Section 4. This act shall take effect July 1, 2022.

CODING: Words ~~stricken~~ are deletions; words <u>underlined</u> are additions.

The Florida Senate

Committee Agenda Request

To: Senator Manny Diaz, Jr., Chair
Committee on Health Policy

Subject: Committee Agenda Request

Date: November 19, 2021

I respectfully request that **Senate Bill #700**, relating to Delegation of Medication Administration, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator Danny Burgess
Florida Senate, District 20

File signed original with committee office

S-020 (03/2004)

2/10/22
Meeting Date

Health Policy
Committee

The Florida Senate

APPEARANCE RECORD

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

SB 700
Bill Number or Topic

Amendment Barcode (if applicable)

Name Nick Matthews Phone 813-767-7656

Address 1 E. Brand Blvd. Email
Street

Ft. Lauderdale FL 33315
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
Private Care Assoc.

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

2/10
Meeting Date

Health
Committee

The Florida Senate
APPEARANCE RECORD
Deliver both copies of this form to
Senate professional staff conducting the meeting

700
Bill Number or Topic

Amendment Barcode (if applicable)

Name Ellyn Bogdanoff Phone 954 364 6005

Address 1 E Brd Blvd
Street
Email ebogdanoff@beckerlawyers.com

Ft LAUD 33301
City State Zip

if questions only otherwise waive

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

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing:
PCA

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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 Health Policy Committee

BILL: SB 730

INTRODUCER: Senators Harrell and Polsky

SUBJECT: Step-therapy Protocols

DATE: February 9, 2022 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	**Favorable**
2.	Brown	Brown	HP	**Favorable**
3.			RC	

I. Summary:

SB 730 establishes standards for processing step-therapy protocol exemptions. A step-therapy protocol is a written protocol used by a health insurer (insurer) or a health maintenance organization (HMO) that specifies the order in which certain medical procedures, treatments, or prescription drugs must be used to treat a condition. A protocol exemption is a determination by an insurer or HMO to authorize the use of an alternate procedure, treatment, or prescription drug to treat a condition of an insured or subscriber rather than the procedure, treatment, or drug indicated by the step-therapy protocol.

SB 730 provides that an insurer or HMO must prescribe the manner, form, and timeframe in which an insured or subscriber may request a protocol exemption. Further, SB 730 requires the insurer or HMO to authorize or deny a protocol exemption in a reasonable amount of time. If the insurer or HMO denies the protocol exemption, the insurer or HMO must provide the insured or subscriber with a written response and the procedure for appealing a denial. The bill provides insurers and HMOs with wide discretion in meeting these requirements.

The bill provides an effective date of July 1, 2022.

II. Present Situation:

Insurers use many cost containment and utilization review strategies to manage medical and drug spending and patient safety. For example, health plans may place utilization management requirements on the use of certain medical treatments or drugs. Under a prior authorization requirement, for example, an insured's or subscriber's coverage may require that a health care provider must seek authorization from the insurer or HMO before the insurer or HMO becomes obligated to pay for a specified diagnostic or therapeutic treatment or specified prescription

drugs under the patient's coverage.[1] In some cases, health plans may require an insured or subscriber to use a step-therapy protocol for drugs or a medical treatment, which requires the insured or subscriber to try one drug or medical procedure for treatment first to treat the medical condition before the insurer or HMO will authorize coverage for a different drug, procedure, or treatment for that condition.[2]

Regulation of Insurers and Health Maintenance Organizations

The Office of Insurance Regulation (OIR) licenses and regulates the activities of insurers, HMOs, and other risk-bearing entities.[3] The Florida Insurance Code (code) requires insurers and HMOs to provide cost containment measures. Section 627.4234, F.S., requires a health insurance policy or health care services plan, which provides medical, hospital, or surgical expense coverage delivered or issued for delivery in this state, to include one or more specified procedures or provisions to contain costs or cost increases.

Prior Authorization

Any "health insurer" (health insurer, HMO, Medicaid managed care plan), or pharmacy benefit manager on behalf of the health insurer, that does not use an online prior authorization form must use a standardized form adopted by the Financial Services Commission (FSC) to obtain a prior authorization for a medical procedure, course of treatment, or prescription drug benefit.[4] The form must include all clinical documentation necessary for the health insurer to make a decision.

Step-Therapy Protocols

The code[5] prohibits insurers or HMOs issuing comprehensive major medical health coverage from requiring an insured or subscriber to complete a step-therapy protocol for a certain prescription drug if the following conditions are met:

- The insured or subscriber has previously been approved to receive the drug through a step-therapy protocol imposed by a insurer that issued major medical coverage to the insured; and,
- The insured or subscriber provides documentation that an insurer or HMO made payment for the drug on the insured's behalf within the past 90 days.

However, this provision does not require an insurer or an HMO to add a drug to its drug formulary or cover a drug not currently covered in order to comply with the step-therapy restriction.[6]

[1] JAMA Health Forum. 2021;2(5):e210859.doi.
[2] HEALTH AFFAIRS 40, No. 11 (2021) 1749-1757.
[3] Section 20.121(3), F.S. the Office of Insurance Regulation is an office within the FSC. The FSC is composed of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture. The FSC members serve as the agency head for purposes of rulemaking.
[4] Section 627.42392, F.S.
[5] Sections 627.4293 and 641.31(46), F.S.
[6] *Id.*

Federal Patient Protection and Affordable Care Act

The federal Patient Protection and Affordable Care Act (PPACA)[7] requires insurers and HMOs to make coverage available to all individuals and employers, without exclusions for preexisting conditions and without basing premiums on any health-related factors. The PPACA also mandates essential health benefits[8] and other provisions.

The PPACA requires insurers and HMOs that offer qualified health plans (plans) to provide 10 categories of essential health benefits (EHB), which includes prescription drugs.[9] For purposes of complying with the federal EHB requirements for prescription drugs, plans must include in their formulary drug list the greater of one drug for each U.S. Pharmacopeia (USP) category and class; or the same number of drugs in each USP category and class as the state's EHB benchmark plan.[10]

State and Federal Transparency Provisions Relating to Benefits, Coverage Exceptions, and Appeals for Insureds and Subscribers

Benefits

Insurers and HMOs are required to provide an outline of coverage or other information describing the benefits, coverages, exclusions, and limitations of a policy or contract. [11] Further, each contract, certificate, or member handbook of an HMO must delineate the services for which a subscriber is entitled and any limitations under the contract.[12]

Access to Formulary Drug List and any Restrictions

A plan is required to publish on its website a current and complete list of all covered drugs on its formulary drug list, including any tiered structure and any restrictions on the way a drug can be obtained, in a manner that is easily accessible to insureds or subscribers, prospective insureds or subscribers, the state, and the public.[13]

Request for Prescription Drug Exception[14]

Federal rules establish a uniform exceptions process for insurers and HMOs (plans) that allows an insured or subscriber, or their prescribing physician, to request and gain access to clinically

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[7] The Patient Protection and Affordable Care Act (Pub. L. No. 111–148) was enacted on March 23, 2010. The Health Care and Education Reconciliation Act of 2010 (Pub. L. No. 111–152), which amended and revised several provisions of the Patient Protection and Affordable Care Act, was enacted on March 30, 2010.
[8] 42 U.S.C. s.18022.
[9] See Center for Consumer Information & Insurance Oversight, *Information on Essential Health Benefits (EHB) Benchmark Plans* https://www.cms.gov/cciio/resources/data-resources/ehb.html (last viewed Jan. 28, 2022) for Florida's benchmark plan.
[10] 45 C.F.R. 156.122(a)
[11] Section 627.642, F.S.
[12] Section 641.31(4), F.S.
[13] 45 C.F.R. s. 156.122(d).
[14] 45 C.F.R. s. 156.122(c).

appropriate drugs not otherwise covered by the insurer or HMO (request for exception).[15] If a plan denies a request for a standard exception or an expedited exception request, the plan must have a process for the insured or subscriber to request the original exception request and subsequent denial of such request be reviewed by an independent review organization.

Standard exception request. A plan must have a process for an insured or subscriber or his or her prescribing physician to request a standard review of a decision that a drug is not covered by the plan. A plan must make its determination on a standard exception and notify the insured or subscriber and the prescribing physician of the coverage determination no later than 72 hours following receipt of the request. A plan that grants a standard exception request must provide coverage of the non-formulary drug for the duration of the prescription, including refills.

Expedited exception request. A plan must have a process for an insured or subscriber or his or her prescribing physician to request an expedited review based on exigent circumstances. Exigent circumstances exist when an enrollee is suffering from a health condition that may seriously jeopardize the enrollee's life, health, or ability to regain maximum function or when an enrollee is undergoing a current course of treatment using a non-formulary drug. A plan must make its coverage determination on an expedited review request based on exigent circumstances and notify the enrollee or the prescribing physician of its coverage determination no later than 24 hours following receipt of the request. A plan that grants an exception based on exigent circumstances must provide coverage of the non-formulary drug for the duration of the exigency.

Internal Claim Appeals and External Review Program[16]

Plans must implement an internal appeals and independent external review process for claims that are denied. Generally, an insured or subscriber may file an internal appeal with the plan within 180 days of receipt of the notice of a denied claim. [17] If an insured or subscriber requests an internal appeal of a denied claim, the plan must provide a written determination of the decision within the following time:

- Within 30 days, if it is a request for prior authorization.
- Within 60 days, if the services have already been received.
- Within 72 hours or less for urgent care cases.[18]

An insured or subscriber must file a written request for an external review within four months after the date of receipt of the notice or final determination from the plan.[19]

[15] The exception process applies to drugs that are not included on the formulary drug list of the plan. The internal and external appeals process prescribed in 45 C.F.R. s. 147.136 applies if an enrollee receives an adverse benefit determination for a drug that is included on the plan's formulary drug list.
[16] 45 C.F.R. s. 147.136. The rules apply to non-grandfathered plans, which include health insurance policies that were first sold or significantly modified in certain ways after March 23, 2010.
[17] *See* Healthcare.gov, Appealing a health plan decision-Internal appeals, available at https://www.healthcare.gov/appeal-insurance-company-decision/internal-appeals/ (last visited Jan. 29, 2022). A claim is a request for coverage.
[18] *Id.*
[19] *See* Healthcare.gov, Appealing a health plan decision-External Review, available at https://www.healthcare.gov/appeal-insurance-company-decision/external-review/ (last visited Jan. 28, 2022).

A 2021 report analyzed claims denials and appeals in PPACA marketplace plans.[20] Of all denials with reasons reported for 2019, about 18 percent were denied because the claim was for an excluded service; about nine percent were denied due to prior authorization or lack of referral; and less than one percent were denied based on medical necessity. The remaining plan-reported denials (72 percent) were denied for other reasons.[21]

Florida State Group Insurance Program

Under the authority of s. 110.123, F.S., the Department of Management Services (DMS), through the Division of State Group Insurance, administers the state group insurance program by providing employee benefits such as health, life, dental, and vision insurance products under a cafeteria plan consistent with s. 125, Internal Revenue Code. To administer the state group health insurance program, the DMS contracts with third party administrators, HMOs, and a PBM for the state employees' prescription drug program pursuant to s. 110.12315, F.S. As a group plan, the program must comply with federal regulations of internal appeal and external review programs for drug exceptions and benefit disputes.

III. Effect of Proposed Changes:

Sections 1 and 2 amend ss. 627.42393 and 641.31, F.S., respectively. The bill defines in those sections of statute the terms "protocol exemption" and "step-therapy protocol."

The bill requires an insurer or HMO to publish on its website and provide to an insured or subscriber (or his or her health care provider) written procedures for requesting a protocol exemption or an appeal of an insurer or HMO's denial of a protocol exemption request. At a minimum, the procedure must include:

- The manner in which the insured or subscriber may request a protocol exemption, including a form for making the request.
- The manner and timeframe in which the insurer or HMO must authorize or deny a protocol exemption request, including the requirement that such response must occur within a "reasonable time."
- The manner and the timeframe in which an insured or subscriber may appeal a denial of an insurer or HMO protocol exemption request.

An authorization of a protocol exemption request must specify the approved drug, procedure, or course of treatment. A denial must include a written explanation of the reason for the denial and the procedure for appealing the denial. An insurer or HMO may request relevant medical records in support of a protocol exemption request.

Section 3 provides an effective date of July 1, 2022.

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[20] Kaiser Family Foundation, Claims Denials and Appeals in ACA Marketplace Plans (Jan. 20, 2021) available at https://www.kff.org/private-insurance/issue-brief/claims-denials-and-appeals-in-aca-marketplace-plans/ (last visited Jan. 28, 2022). The federal government requires HealthCare.gov plans or marketplace plans to report reasons for claims denials at the plan level.

[21] *Id.*

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:

Currently, insurers and HMOs must comply with federal regulations that prescribe uniform time, notice, and protocol to process drug exceptions and benefit denials and appeals for insureds and subscribers. The provisions of the bill are not consistent with the provisions of the federal rules. That inconsistency may cause confusion for treating physicians, insureds, and subscribers.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

The bill requires insurers and HMOs to publish and provide a protocol exemption procedure to insureds and subscribers. The bill provides wide discretion for an insurer or HMO in establishing timeframes and the manner to review, deny, and appeal step-therapy exceptions for a procedure, treatments, or prescription drugs. For instance, the bill does not specify:

- The manner in which an insurer must allow the protocol exemption requests to be made, only that the insurer or HMO provide a form for making the request.
- The content of the form used to request a protocol exemption.

- What is “reasonable” in terms of the timeframe in which the insurer must authorize or deny a protocol exemption request.
- The manner and timeframe for appealing the insurer’s or HMO’s denial of a protocol exemption request.

This lack of specificity is in contrast to current federal rules, which establish a uniform exceptions process – including internal and external appeals – for health plans that allow an insured or subscriber, or his or her prescribing physician, to request and gain access to clinically appropriate drugs not otherwise covered by the insurer or HMO (request for exception). Existing federal rules also provide an expedited process for requesting and appealing denied covered benefits and drug exceptions that an insurer or HMOs must use when an insured or subscriber is suffering from a health condition that may seriously jeopardize his or her life, health, or ability to regain maximum function.

The federal regulations also provide the process and specific timelines and manner for an insurer or HMO to authorize or deny benefits, as well as an internal appeal process and external review process for an insured or subscriber.

It is unclear under the bill whether an insurer or HMO must establish an expedited process for the drug exception requests or the internal and external appeals process for covered benefits. Federal regulations may preempt these provisions of the bill if an insurer or HMO prescribes a process that does not comply with the minimum federal protections for drug exceptions and benefit determinations. A state may determine that a plan of an insurer or HMO satisfies the requirements of Title 45 s. 156.122(c), relating to drug exception requests, if the plan has a process to allow an enrollee to request and gain access to clinically appropriate drugs not otherwise covered by the plan that is compliant with the state’s applicable coverage appeals laws and regulations, which must be at least as stringent as the requirements of (c) and include:

- An internal review;
- An external review;
- The ability to expedite the reviews; and
- Timeframes that are the same or shorter than the timeframes under (c).[22]

It is unclear how the OIR would enforce the provisions of the bill since the provisions do not expressly require the Office of Insurance Regulation to ensure plans are complying with minimum federal requirements.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 627.42393 and 641.31 of the Florida Statutes.

[22] 45 CFR 156.22(c)(4)

IX. Additional Information:

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

None.

B. Amendments:

None.

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

By Senator Harrell

25-00777A-22 2022730__

A bill to be entitled

An act relating to step-therapy protocols; amending s. 627.42393, F.S.; revising the circumstances under which step-therapy protocols may not be required; defining terms; requiring health insurers to publish on their websites and provide to their insureds specified information; providing requirements for procedures for requests and appeals of denials of protocol exemptions; providing requirements for authorizations and denials of protocol exemption requests; authorizing health insurers to request specified documentation under certain circumstances; amending s. 641.31, F.S.; revising the circumstances under which step-therapy protocols may not be required; defining terms; requiring health maintenance organizations to publish on their websites and provide to their subscribers specified information; providing requirements for procedures for requests and appeals of denials of protocol exemptions; providing requirements for authorizations and denials of protocol exemption requests; authorizing health maintenance organizations to request specified documentation under certain circumstances; providing an effective date.

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

Section 1. Section 627.42393, Florida Statutes, is amended to read:

25-00777A-22 2022730__

627.42393 Step-therapy protocol.—

(2) ~~(1)~~ In addition to the protocol exemptions granted pursuant to subsection (3), a health insurer issuing a major medical individual or group policy may not require a step-therapy protocol under the policy for a covered prescription drug requested by an insured if:

(a) The insured has previously been approved to receive the prescription drug through the completion of a step-therapy protocol required by a separate health coverage plan; and

(b) The insured provides documentation originating from the health coverage plan that approved the prescription drug as described in paragraph (a) indicating that the health coverage plan paid for the drug on the insured's behalf during the 90 days immediately before the request.

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

(a) "Health coverage plan" means any of the following which is currently or was previously providing major medical or similar comprehensive coverage or benefits to the insured:

1. ~~(a)~~ A health insurer or health maintenance organization.

2. ~~(b)~~ A plan established or maintained by an individual employer as provided by the Employee Retirement Income Security Act of 1974, Pub. L. No. 93-406.

3. ~~(c)~~ A multiple-employer welfare arrangement as defined in s. 624.437.

4. ~~(d)~~ A governmental entity providing a plan of self-insurance.

(b) "Protocol exemption" means a determination by a health insurer to authorize the use of another prescription drug, medical procedure, or course of treatment prescribed or

59 recommended by the treating health care provider for the
60 insured's condition rather than the one specified by the health
61 insurer's step-therapy protocol.
62 (c) "Step-therapy protocol" means a written protocol that
63 specifies the order in which certain prescription drugs, medical
64 procedures, or courses of treatment must be used to treat an
65 insured's condition.
66 (3)(a) A health insurer shall publish on its website and
67 provide to an insured in writing a procedure for the insured and
68 his or her health care provider to request a protocol exemption
69 or an appeal of the health insurer's denial of a protocol
70 exemption request. The procedure must include, at a minimum:
71 1. The manner in which the insured or health care provider
72 may request a protocol exemption, including a form to request
73 the protocol exemption.
74 2. The manner and timeframe in which the health insurer
75 must authorize or deny a protocol exemption request, including
76 the requirement that such response must occur within a
77 reasonable time.
78 3. The manner and timeframe in which the insured or health
79 care provider may appeal the health insurer's denial of a
80 protocol exemption request.
81 (b) An authorization of a protocol exemption request must
82 specify the approved prescription drug, medical procedure, or
83 course of treatment. A denial of a protocol exemption request
84 must include a written explanation of the reason for the denial,
85 the clinical rationale that supports the denial, and the
86 procedure for appealing the health insurer's denial.
87 (c) A health insurer may request relevant medical records

88 in support of a protocol exemption request.
89 (4)~~(3)~~ This section does not require a health insurer to
90 add a drug to its prescription drug formulary or to cover a
91 prescription drug that the insurer does not otherwise cover.
92 Section 2. Subsection (46) of section 641.31, Florida
93 Statutes, is amended to read:
94 641.31 Health maintenance contracts.—
95 (46)(b)~~(46)(a)~~ In addition to the protocol exemptions
96 granted under paragraph (c), a health maintenance organization
97 issuing major medical coverage through an individual or group
98 contract may not require a step-therapy protocol under the
99 contract for a covered prescription drug requested by a
100 subscriber if:
101 1. The subscriber has previously been approved to receive
102 the prescription drug through the completion of a step-therapy
103 protocol required by a separate health coverage plan; and
104 2. The subscriber provides documentation originating from
105 the health coverage plan that approved the prescription drug as
106 described in subparagraph 1. indicating that the health coverage
107 plan paid for the drug on the subscriber's behalf during the 90
108 days immediately before the request.
109 (a)~~(b)~~ As used in this subsection, the term:
110 1. "Health coverage plan" means any of the following which
111 previously provided or is currently providing major medical or
112 similar comprehensive coverage or benefits to the subscriber:
113 a.~~1.~~ A health insurer or health maintenance organization.~~;~~
114 b.~~2.~~ A plan established or maintained by an individual
115 employer as provided by the Employee Retirement Income Security
116 Act of 1974, Pub. L. No. 93-406.~~;~~

c.~~3.~~ A multiple-employer welfare arrangement as defined in s. 624.437.~~; or~~

d.~~4.~~ A governmental entity providing a plan of self-insurance.

2. “Protocol exemption” means a determination by a health maintenance organization to authorize the use of another prescription drug, medical procedure, or course of treatment prescribed or recommended by the treating health care provider for the subscriber’s condition rather than the one specified by the health maintenance organization’s step-therapy protocol.

3. “Step-therapy protocol” means a written protocol that specifies the order in which certain prescription drugs, medical procedures, or courses of treatment must be used to treat a subscriber’s condition.

(c)1. A health maintenance organization shall publish on its website and provide to a subscriber in writing a procedure for the subscriber and his or her health care provider to request a protocol exemption or an appeal of the health maintenance organization’s denial of a protocol exemption request. The procedure must include, at a minimum:

a. The manner in which the subscriber or health care provider may request a protocol exemption, including a form to request the protocol exemption.

b. The manner and timeframe in which the health maintenance organization must authorize or deny a protocol exemption request, including the requirement that such response must occur within a reasonable time.

c. The manner and timeframe in which the subscriber or health care provider may appeal the health maintenance

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

organization’s denial of a protocol exemption request.

2. An authorization of a protocol exemption request must specify the approved prescription drug, medical procedure, or course of treatment. A denial of a protocol exemption request must include a written explanation of the reason for the denial, the clinical rationale that supports the denial, and the procedure for appealing the health maintenance organization’s denial.

3. A health maintenance organization may request relevant medical records in support of a protocol exemption request.

(d)~~(c)~~ This subsection does not require a health maintenance organization to add a drug to its prescription drug formulary or to cover a prescription drug that the health maintenance organization does not otherwise cover.

Section 3. This act shall take effect July 1, 2022.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR GAYLE HARRELL
25th District

COMMITTEES:
Transportation, *Chair*
Military and Veterans Affairs, Space, and Domestic Security, *Vice Chair*
Appropriations Subcommittee on Health and Human Services
Children, Families, and Elder Affairs
Finance and Tax

SELECT COMMITTEE:
Select Committee on Pandemic Preparedness and Response

February 2, 2022

Senator Manny Diaz
306 Senate Building
404 South Monroe Street
Tallahassee, FL 32399

Chair Diaz,

I respectfully request that **SB 730 – Step Therapy Protocols** be placed on the next available agenda for the Health Policy Committee Meeting.

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

Thank you,

Gayle

Senator Gayle Harrell
Senate District 25

Cc: Allen Brown, Staff Director
Tori Denson, Committee Administrative Assistant

REPLY TO:
❒ 215 SW Federal Highway, Suite 203, Stuart, Florida 34994 (772) 221-4019 FAX: (888) 263-7895
❒ 310 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

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

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

The Florida Senate

APPEARANCE RECORD

2/10/22
Meeting Date

Health Policy
Committee

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730
Bill Number or Topic

Amendment Barcode (if applicable)

Name Amanda Fraser

Phone

Address 119 E Park Ave
Street

Email afraser@colodnyfass.com

City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:
American Diabetes Assoc.

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

2/10/22

Meeting Date

The Florida Senate

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730

Bill Number or Topic

Health Policy

Committee

Amendment Barcode (if applicable)

Name: Chris Lyon

Phone: 850-222-5702

Address: 315 S. Calhoun St., Suite 830
Street

Email: clyon@llw-law.com

Tallahassee | FL | 32301
City | State | Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
Florida Osteopathic Medical Association

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

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2/10/22
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730
Bill Number or Topic

Health Policy
Committee

Amendment Barcode (if applicable)

Name: Mary Thomas

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Street

Email: MThomas@flmedical.org

TLH | FL | 32308
City | State | Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:

Florida Medical Association

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Feb 10, 22
Meeting Date

Healthy Policy
Committee

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730
Bill Number or Topic

Amendment Barcode (if applicable)

Name Toni Large

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Tallahassee FL 32308
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:

Florida Society of Rheumatology

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

2/10/22
Meeting Date

Health Policy
Committee

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730
Bill Number or Topic

Amendment Barcode (if applicable)

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City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:

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

Florida Chapter, American College of Physicians

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

2/10/2022
Meeting Date

Health Poliucy
Committee

The Florida Senate
APPEARANCE RECORD

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730
Bill Number or Topic

Amendment Barcode (if applicable)

Name Ivonne Fernandez
Phone 786-804-4508

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Tallahassee FL 32301
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
AARP

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

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 804

INTRODUCER: Health Policy Committee and Senator Albritton

SUBJECT: Modernization of Nursing Home Facility Staffing

DATE: February 11, 2021 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Brown	HP	**Fav/CS**
2.			CA	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 804 makes several changes to Florida statutes related to nursing home staffing and changes of ownership.

Nursing Home Staffing

CS/SB 804 amends multiple sections of the Florida Statutes to modify nursing home staffing requirements. The bill modifies the definition of "resident care plan" and defines the terms "direct care staff" and "facility assessment." The bill allows the currently required 3.6 hours of direct care to be met with direct care staff rather than requiring it be met by certified nursing assistant (CNA) and nurse staffing. The bill also reduces the requirement that a nursing home provide a minimum of 2.5 hours of CNA staffing per resident per day to 2.0 hours of staffing per resident per day.

The bill specifies that staffing requirements in the section are minimum requirements and that complying with the minimum requirements is not admissible as evidence of compliance with certain federal regulations. The bill also specifies that the required 3.6 weekly average of direct care staffing hours (but not the 2.0 hours of daily CNA staffing or the 1.0 hours of daily nurse staffing) includes hours provided by paid feeding assistants who have completed a feeding assistant training program, that staffing hours do not include time spent on certain administrative tasks, and that nursing assistants employed under CNA training and personal care attendant

programs[1] may count toward providing such hours of care. The bill requires nursing homes to document compliance with staffing standards and to maintain records for five years and report staffing in accordance with specified federal law.

The bill repeals a $1,000 fine for a nursing home that has failed to comply with minimum staffing requirements.

The bill reworks a provision in law that prevents a nursing home from accepting new residents if the nursing home is not compliant with state minimum staffing requirements.

The bill establishes a Nursing Home Sustainability Task Force that is required to review, analyze, and make recommendations specific to the sustainability of the state's nursing home model to the Agency for Health Care Administration (AHCA), the Governor, and the Legislature by January 1, 2025.

Changes of Ownership and Other Provisions

CS/SB 804 also revises provisions in s. 400.024, F.S., related to changes of ownership in nursing homes. The bill specifies that any unsatisfied or undischarged adverse final judgment of a nursing home that is changing ownership becomes the responsibility and liability of the new owner. Additionally, the bill requires a nursing home to provide notice to any claimant[2] after the licensee or controlling interest files a change of ownership application and to allow such claimant 30 days to file an objection to the change of ownership. The AHCA must consider any objection when making its decision to approve or deny the change of ownership application.

Additionally, the bill specifies that annual financial reports filed by nursing homes with the AHCA are not exempt from public records requirements and may be discoverable and admissible in a civil or administrative action.

The bill provides an effective date of July 1, 2022.

II. Present Situation:

Nursing Homes

Nursing homes in Florida are licensed under Part II of ch. 400, F.S., and provide 24 hour a day nursing care, case management, health monitoring, personal care, nutritional meals and special diets, physical, occupational, and speech therapy, social activities and respite care for those who

[1] These include CNAs in training and those who have preliminarily passed the certification exam; CNAs certified or registered in other states who have no findings of abuse, neglect, or exploitation; and personal care attendants. *See* s. 400.211(2), F.S.

[2] The bill defines a claimant as a resident, the resident's family, or the resident's personal representative who has notified the licensee or facility of a potential claim by notice of intent letter or who has initiated an action, claim, or arbitration proceeding against the licensee or facility.

are ill or physically infirm.[3] Currently there are 705 nursing homes licensed in Florida.[4] Of the 705 licensed nursing homes, 669 are certified to accept Medicare or Medicaid and consequently must follow federal Centers for Medicare & Medicaid Services (CMS) requirements for nursing homes.[5]

Direct Care Staff

Federal law defines "direct care staff" as those individuals who, through interpersonal contact with nursing home residents or resident care management, provide care and services to allow residents to attain or maintain the highest practicable physical, mental, and psychosocial well-being. Direct care staff does not include individuals whose primary duty is maintaining the physical environment of the long-term care facility (for example, housekeeping).[6]

Direct care staff are the primary providers of paid, hands-on care for more than 13 million elderly and disabled Americans. They assist individuals with a broad range of support, including preparing meals, helping with medications, bathing, dressing, getting about (mobility), and getting to planned activities on a daily basis.[7]

Direct care staff fall into three main categories tracked by the U.S. Bureau of Labor Statistics: Nursing Assistants (usually known as Certified Nursing Assistants or CNAs), Home Health Aides, and Personal Care Aides:

- Nursing Assistants or Nursing Aides generally work in nursing homes, although some work in assisted living facilities, other community-based settings, or hospitals. They assist residents with activities of daily living (ADLs) such as eating, dressing, bathing, and toileting. They also perform clinical tasks such as range-of motion exercises and blood pressure readings.
- Home Health Aides provide essentially the same care and services as nursing assistants, but they assist people in their homes or in community settings under the supervision of a nurse or therapist. They may also perform light housekeeping tasks such as preparing food or changing linens.
- Personal Care Aides work in either private or group homes. They have many titles, including personal care attendant, home care worker, homemaker, and direct support professional. (The latter work with people with intellectual and developmental disabilities.) In addition to providing assistance with ADLs, these aides often help with housekeeping chores, meal preparation, and medication management. They also help individuals go to work and remain

[3] AHCA webpage, nursing homes, available at https://ahca.myflorida.com/MCHQ/Health_Facility_Regulation/Long_Term_Care/Nursing_Homes.shtml (last visited Feb. 11, 2022).
[4] Florida Health Finder Report, available at https://www.floridahealthfinder.gov/facilitylocator/ListFacilities.aspx (last visited Feb. 11, 2022).
[5] *Id.*
[6] 42 CFR s. 483.70(q)(1)
[7] Khatutsky, et al., *Understanding Direct Care Workers: a Snapshot of Two of America's Most Important Jobs, Certified Nursing Assistants and Home Health Aides*, (March 2011), *available at* https://aspe.hhs.gov/basic-report/understanding-direct-care-workers-snapshot-two-americas-most-important-jobs-certified-nursing-assistants-and-home-health-aides#intro (last visited on Feb. 4, 2022).

engaged in their communities. A growing number of these workers are employed and supervised directly by consumers.[8]

The federal government requires training only for nursing assistants and home health aides who work in Medicare-certified and Medicaid-certified nursing homes and home health agencies. Such training includes training on residents' rights; abuse, neglect, and exploitation; quality assurance; infection control; and compliance and ethics; and specifies that direct care staff must be trained in effective communications.[9]

Federal Requirement for a Nursing Home Facility Assessment

Federal law in 42 CFR s. 483.70(e) requires that a nursing home conduct and document a facility-wide assessment to determine what resources are necessary to care for its residents competently during both day-to-day operations and emergencies. Facilities must review and update this assessment at least annually or whenever there is an actual or planned change that would require a substantial modification of any part of the assessment. The assessment must include:

- The facility's resident population, including, but not limited to:
  - Both the number of residents and the facility's resident capacity;
  - The care required by the resident population considering the types of diseases, conditions, physical and cognitive disabilities, overall acuity, and other pertinent facts that are present within that population;
  - The staff competencies that are necessary to provide the level and types of care needed for the resident population;
  - The physical environment, equipment, services, and other physical plant considerations that are necessary to care for this population; and
  - Any ethnic, cultural, or religious factors that may potentially affect the care provided by the facility, including, but not limited to, activities and food and nutrition services.
- The facility's resources, including but not limited to:
  - All buildings and/or other physical structures and vehicles;
  - Equipment (medical and non-medical);
  - Services provided, such as physical therapy, pharmacy, and specific rehabilitation therapies;
  - All personnel, including managers, staff (both employees and those who provide services under contract), and volunteers, as well as their education and/or training and any competencies related to resident care;
  - Contracts, memoranda of understanding, or other agreements with third parties to provide services or equipment to the facility during both normal operations and emergencies; and
  - Health information technology resources, such as systems for electronically managing patient records and electronically sharing information with other organizations.
- A facility-based and community-based risk assessment, utilizing an all-hazards approach.

---

[8] Paraprofessional Healthcare Institute, *Who are Direct Care Workers?,* Feb. 2011, *available at:* https://phinational.org/wp-content/uploads/legacy/clearinghouse/NCDCW%20Fact%20Sheet-1.pdf (last visited on Feb. 4, 2022).
[9] 42 CFR s. 483.95

Florida Nursing Home Staffing Standards

Section 400.23(3), F.S., requires the Agency for Health Care Administration to adopt rules providing minimum staffing requirements for nursing home facilities.[10] The requirements must include:

- A minimum weekly average of 3.6 hours of direct care per resident per day provided by a combination of certified nursing assistants and licensed nursing staff. A week is defined as Sunday through Saturday.
- A minimum of 2.5 hours of direct care per resident per day provided by certified nursing assistant staff. A facility may not staff at a ratio of less than one certified nursing assistant per 20 residents.
- A minimum of 1.0 hour of direct care per resident per day provided by licensed nursing staff. A facility may not staff at a ratio of less than one licensed nurse per 40 residents.
- Nursing assistants employed under s. 400.211(2), F.S.,[11] may be included in computing the staffing ratio for certified nursing assistants if their job responsibilities include only nursing-assistant-related duties.
- Each nursing home facility must document compliance with staffing standards and post daily the names of staff on duty for the benefit of facility residents and the public.
- Licensed nurses may be used to meet staffing requirements for CNAs if the licensed nurses are performing the duties of a CNA and the facility otherwise meets minimum staffing requirements for licensed nurses.
- Paid feeding assistants and non-nursing staff providing eating assistance to residents do not count toward compliance with minimum staffing standards.

Nursing Homes with Unsatisfied Judgments or Settlement Agreements

Section 400.024, F.S., establishes restrictions on nursing homes that have had an adverse final judgment against a licensee which arises from an award pursuant to s. 400.023, F.S.,[12] including an arbitration award, for a claim of negligence or a violation of residents' rights, in contract or tort, or from noncompliance with the terms of a settlement agreement as determined by a court or arbitration panel, which arises from a claim pursuant to s. 400.023, F.S.

Section 400.024, F.S., requires that the nursing home must pay the judgment creditor the entire amount of the judgment, award, or settlement and all accrued interest within 60 days after the date such judgment, award, or settlement becomes final and subject to execution unless otherwise mutually agreed to in writing by the parties. If the nursing home does not pay the judgment, then the statute establishes that such failure is additional grounds that may be used by the AHCA for revoking a license or for denying a renewal application or a related party change of ownership application. The section deems that the AHCA is notified of an unsatisfied judgment or settlement when a certified copy of the judgment and a certified copy of a valid

[10] These requirements apply to all nursing homes, s. 400.23(5), F.S., provides additional requirements specific to nursing homes that treat persons under the age of 21.
[11] *Supra* n. 1.
[12] Establishing requirements for civil lawsuits against nursing homes.

judgment lien certificate, filed in accordance with ss. 55.202[13] and 55.203[14], F.S., are served to the AHCA by a process server or received by certified mail, return receipt requested.

Within 60 days after receiving such documents, the AHCA must notify the nursing home by certified mail, return receipt requested, that it is subject to disciplinary action unless, within 30 days after the date of mailing the notice, the nursing home:

- Shows proof that the unsatisfied judgment or settlement has been paid in the amount specified;
- Shows proof of the existence of a payment plan mutually agreed upon by the parties in writing;
- Furnishes the AHCA with a copy of a timely filed notice of appeal;
- Furnishes the AHCA with a copy of a court order staying execution of the final judgment; or
- Shows proof by submitting an order from a court or arbitration panel that is overseeing any action seeking indemnification from an insurance carrier or other party, that the licensee believes is required to pay the award.

If the AHCA is placed on notice and such proof is not provided by the nursing home, the AHCA must issue an emergency order pursuant to s. 120.60, F.S., declaring that the facility lacks financial ability to operate and a notice of intent to revoke or deny a license. Additionally, if the AHCA is put on notice and:

- The license is subject to renewal, the AHCA may deny the license renewal unless compliance with s. 400.024, F.S. is achieved; and
- A change of ownership application for the facility at issue is submitted by the licensee, by a person or entity identified as having a controlling interest in the licensee, or by a related party, the AHCA must deny the change of ownership application unless compliance with s. 400.024, F.S. is achieved.

Nursing Home Financial Reports

Currently, nursing homes are required to submit financial data to the AHCA pursuant to s. 408.061(5)-(6), F.S. These provisions were added in 2021 by SB 2518 (ch. 2021-41, L.O.F.) and mirror provisions in current law that require other health care facilities to submit such data.[15] Prior to July 1, 2021, nursing homes were exempt from this reporting requirement.

A nursing home must report, within 120 days after the end of its fiscal year, its actual financial experience for that fiscal year, including expenditures, revenues, and statistical measures. Such data may be based on internal financial reports that are certified to be complete and accurate by the chief financial officer of the nursing home. This actual experience must include the fiscal year-end balance sheet, income statement, statement of cash flow, and statement of retained earnings and must be submitted to the AHCA in addition to the information filed in the uniform system of financial reporting. However, unlike other health care facilities, data submitted by nursing homes is not required to be audited.

[13] Related to judgments, orders, and decrees; lien on personal property.
[14] Related to judgment lien certificates; content, filing, and indexing.
[15] *See* s. 408.061(4), F.S.

III. Effect of Proposed Changes:

CS/SB 804 amends ss. 400.021, 400.23 and 400.141, F.S., to modify nursing home staffing requirements. The bill amends the definition of "resident care plan" to specify that the plan must be comprehensive and person-centered and developed in accordance with 42 CFR s. 483.21(b). The bill also defines the terms:

- "Direct care staff" to mean individuals who, through interpersonal contact with residents or resident care management, provide care and services to allow residents to attain or maintain the highest practicable physical, mental, and psychosocial well-being. The term does not include individuals whose primary duty is maintaining the physical environment of the facility, including, but not limited to, food preparation, laundry, and housekeeping. The term includes, but is not limited to, disciplines and professions that must be reported in accordance with 42 C.F.R. s. 483.70(q) and all of the following:
  - Licensed nurses.
  - Certified nursing assistants.
  - Physical therapy staff.
  - Occupational therapy staff.
  - Speech therapy staff.
  - Respiratory therapy staff.
  - Activities staff.
  - Social services staff.
  - Mental health service workers.
- "Facility assessment" to mean a process to determine the staff competencies that are necessary to provide the level and types of care needed for the facility's resident population considering the types of diseases, conditions, physical and cognitive disabilities, overall acuity, and other pertinent factors that are present within that resident population. The definition also specifies that additional requirements for conducting a facility assessment must be performed in accordance with 42 CFR s. 483.70(e).

The bill makes the following changes regarding minimum staffing requirements for nursing homes:

- Reduces from 2.5 to 2.0 the number of hours of direct care that must be provided by a CNA per resident per day. Hours provided by nursing assistants who are employed under s. 400.211(2), F.S.,[16] still qualifies under the bill.
- Repeals the requirement that 3.6 hours of direct care per resident per day must be provided by a CNA or a licensed nurse and instead may be provided by any direct care staff.
- Allows hours of eating assistance provided by paid feeding assistants or direct care staff, other than CNAs, who have completed the feeding assistant training program established under s. 400.141(1)(v), F.S., to qualify towards fulfilling the 3.6 hour requirement detailed above.
- Repeals a $1,000 fine for a nursing home that has failed to comply with minimum staffing requirements
- Specifies that time spent on nursing administration, staff development, staffing coordination, and the administrative portion of the minimum data set and care plan coordination for Medicaid, does not qualify as direct care.

[16] *Id.*

- Specifies that the staffing requirements in s. 400.23(3)(b), F.S., are minimum nurse staffing requirements for nursing home facilities and that evidence that a facility complied with the minimum direct care staffing requirements is not admissible as evidence of compliance with the nursing services requirements under 42 CFR s. 483.35[17] or 42 CFR s. 483.70.[18]

The bill reworks a provision in law that prevents a nursing home from accepting new residents if the nursing home is not compliant with state minimum staffing requirements. Current law in s. 400.141(1)(n)1., F.S., provides that a nursing home may not accept new residents if the facility has failed to meet minimum state staffing requirements for two consecutive days until such time as the facility has met state minimum-staffing requirements for six consecutive days. The current law provision does not require any action by the AHCA to trigger the moratorium, meaning the nursing home must execute the moratorium on its own, and a moratorium can be triggered by failures to comply with either the state minimum-required hours of direct care, CNA care, and nursing care per resident per day; or the requirement that the a nursing home meet specified state minimum ratios of CNAs to residents and nurses to residents.[19] If a nursing home fails to execute the moratorium it is subject to a $1,000 fine.

The bill, instead of automatically establishing a moratorium preventing a nursing home from accepting new residents if it is not compliant with minimum staffing requirements, amends this provision to authorize the AHCA to impose the moratorium on a nursing home accepting new residents if the nursing home is not compliant with direct care hours required per resident per day for 48 consecutive hours. Additionally, by specifying that the moratorium may be imposed for failure to comply with "minimum hours of direct care" requirements, the bill prevents the AHCA from imposing a moratorium for any failure of a nursing home to meet minimum staff ratio requirements.[20] The bill specifies that the moratorium remains in place until the nursing home is able to document compliance with minimum direct care hours required per resident per day.

The bill specifies that each nursing home must determine its direct care staffing needs based on its facility assessment and the individual needs of each resident based on the resident's care plan. Additionally each nursing home must maintain records of staffing for five years and report staffing in accordance with 42 C.F.R. s. 483.70(q). The bill amends current posting requirements to require that a nursing home post only the names of CNAs and licensed nurses, rather than all staff, who are on duty for the benefit of facility residents and the public.

The bill establishes the Nursing Home Sustainability Task Force, which must review, analyze, and make recommendations specific to the sustainability of the state's model of providing quality nursing home care. The task force must consist of representatives of nursing home providers and other interested stakeholders. The task force must review all areas of the provision of health care services to residents, regulation, liability, licensing, quality initiatives, and the availability of quality, affordable, and accessible health care. The task force must make any recommendations to the AHCA, the Governor, and the Legislature by January 1, 2025.

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[17] Relating to the provision of nursing services and establishing staff requirements for nursing homes.
[18] Relating to the administration of nursing homes.
[19] *See* 400.23(3)(b)1.a.-c., F.S. Current law requires that a nursing may not staff below one CNA per 20 residents and one licensed nurse per 40 residents.
[20] *Id.*

Change of Ownership

CS/SB 804 amends s. 400.024, F.S., relating to nursing homes that fail to satisfy judgments against them in order to specify that, should a nursing home with an unsatisfied or undischarged adverse final judgment against it be allowed by the AHCA to change ownership, the adverse final judgement becomes the responsibility and liability of the new owner. Additionally, when a change of ownership application is filed for a facility that has an unsatisfied judgment by a person or entity identified as having a controlling interest in the licensee, or by a related party, the bill provides that:

- The licensee or transferor must provide written notice of the filing of the application to each pending claimant[21] or the claimant's attorney of record, if applicable, within 14 days after the date the application is filed with the AHCA. The written notice must be provided by certified mail, return receipt requested, or other method that provides verification of receipt.
- A claimant has 30 days after the date of receipt of the written notice to object to the application if the claimant has reason to believe that the approval of the application would facilitate a fraudulent transfer or allow the transferor to avoid financial responsibility for the claimant's pending claim.
- The AHCA must consider any objection brought under this provision of the bill in its decision to approve or deny an application for change of ownership under this part and part II of ch. 408, F.S.
- If a claim is pending in arbitration at the time that the application for change of ownership is filed, the claimant may file a petition to enjoin the transfer in circuit court.

Financial Filings

CS/SB 804 also amends s. 400.0234, F.S., to specify that forms filed with the AHCA pursuant to s. 408.061(5)-(6), F.S., which requires a nursing home to report its actual financial experience for that fiscal year, are not confidential or exempt from the public records requirements of s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution and may be discoverable and admissible in a civil action under part II of ch. 400, F.S., or an administrative action under part II of ch. 400, F.S., or part II of chapter 408, F.S.

The bill makes other conforming and cross-reference changes.

The bill provides an effective date of July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

[21] The bill defines a "claimant" as a resident or the resident's family or personal representative who has notified the licensee or facility of a potential claim by notice of intent letter or who has initiated an action, claim, or arbitration proceeding against the licensee or facility.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Article III, Section 6, of the State Constitution requires that "every law shall embrace but one subject and matter properly connected therewith, and the subject shall be briefly expressed in the title." CS/SB 804 is entitled "An act relating to the modernization of nursing home facility staffing."

However, sections 3 and 4 the bill amend provisions relating to financial forms filed by nursing homes and nursing homes that have failed to satisfy a judgment or settlement, respectively. Neither of these sections directly relate to nursing home facility staffing and, as such, may be found to be outside of the scope of the bill as established in the bill's title.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

SB 804 may have an indeterminate positive fiscal impact on nursing homes that are authorized to use staff other than CNAs to fulfill staffing requirements and due to the reduction of CNA hours that are required to be provided.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

CS/SB 804 creates a new definition for "direct care staff" in section 2 of the bill and limits the application of this definition to s. 400.23(3), F.S. However, the bill uses the defined term when amending s. 400.141, F.S., in section 5 of the bill. The bill should be amended to apply the definitions to the instance where the defined term is used in section 5 of the bill.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 400.23 and 400.141.

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, 2022:

The CS:

- Modifies the definition of "resident care plan" in s. 400.021, F.S., to tie it to federal requirements in 42 CFR s. 483.21(b);
- Eliminates definitions for "average monthly hours of direct care per resident per day" and "non-nursing direct care staff" and adds a definition for "facility assessment;"
- Requires each facility to determine its direct care staffing needs based on the facility assessment and the individual needs of each resident;
- Reduces required hours of direct care provided by CNAs from 2.5 to 2.0 per resident per day, but reverts to current law the requirement that such direct care be provided by CNAs;
- Requires staffing data to be maintained for five years, rather than 18 months as required by the underlying bill (by a reference to 42 CFR s. 483.35(g));
- Specifies that the bill's staffing requirements are minimum requirements and that compliance with the requirements is not admissible as evidence of compliance with specified federal requirements;
- Specifies that feeding assistance provided by CNAs does not count toward the 2.0 required hours of CNA direct care;
- Specifies that annual nursing home financial reports submitted to the AHCA are not exempt from public records requirements;
- Provides certain additional requirements for unpaid judgment or settlement agreements related changes of ownership of nursing homes;
- Allows the AHCA to impose a moratorium on a nursing home which has failed to comply with specified staffing requirements for 48 consecutive hours until such time as the nursing home is able to document compliance and strikes a $1,000 fine for such noncompliance; and
- Establishes a Nursing Home Sustainability Task Force.

B. Amendments:

None.

667406

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/10/2022	.	
	.	
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	.	

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

1 **Senate Amendment (with title amendment)**
2
3 Delete everything after the enacting clause
4 and insert:
5 Section 1. Subsection (18) of section 400.021, Florida
6 Statutes, is amended to read:
7 400.021 Definitions.—When used in this part, unless the
8 context otherwise requires, the term:
9 (18) "Resident care plan" means a written, comprehensive
10 person-centered care plan developed in accordance with 42 C.F.R.

667406

11 s. 483.21(b) which is~~, maintained, and~~ reviewed at least ~~not~~
12 ~~less than~~ quarterly by a registered nurse, with participation
13 from other facility staff and the resident or his or her
14 designee or legal representative. The resident care plan must
15 include~~, which includes~~ a comprehensive assessment of the needs
16 of an individual resident; the type and frequency of services
17 required to provide the necessary care for the resident to
18 attain or maintain the highest practicable physical, mental, and
19 psychosocial well-being; a listing of services provided within
20 or outside the facility to meet those needs; and an explanation
21 of service goals.
22 Section 2. Subsection (3) of section 400.23, Florida
23 Statutes, is amended to read:
24 400.23 Rules; evaluation and deficiencies; licensure
25 status.—
26 (3)(a)1. As used in this subsection, the term:
27 a. “Direct care staff” means individuals who, through
28 interpersonal contact with residents or resident care
29 management, provide care and services to allow residents to
30 attain or maintain the highest practicable physical, mental, and
31 psychosocial well-being. The term includes, but is not limited
32 to, disciplines and professions that must be reported in
33 accordance with 42 C.F.R. s. 483.70(q) in the following
34 categories of direct care services:
35 (I) Physician.
36 (II) Nursing.
37 (III) Pharmacy.
38 (IV) Dietary.
39 (V) Therapeutic.

667406

(VI) Dental.

(VII) Podiatry.

(VIII) Mental health.

The term does not include individuals whose primary duty is maintaining the physical environment of the facility, including, but not limited to, food preparation, laundry, and housekeeping.

b. “Facility assessment” means a process to determine the staff competencies that are necessary to provide the level and types of care needed for the facility’s resident population considering the types of diseases, conditions, physical and cognitive disabilities, overall acuity, and other pertinent factors that are present within that resident population. Additional requirements for conducting a facility assessment must be performed in accordance with 42 C.F.R. s. 483.70(e).

2. For purposes of this subsection, direct care staffing hours do not include time spent on nursing administration, staff development, staffing coordination, and the administrative portion of the minimum data set and care plan coordination for Medicaid.

(b)1. Each facility must determine its direct care staffing needs based on the facility assessment and the individual needs of each resident based on the resident’s care plan. At a minimum, staffing ~~The agency shall adopt rules providing minimum staffing requirements for nursing home facilities. These~~ requirements must include~~,~~ for each facility:

a. A minimum weekly average of ~~certified nursing assistant and licensed nursing staffing combined of~~ 3.6 hours of direct care per resident per day. As used in this subparagraph ~~sub-~~

667406

69 ~~subparagraph~~, a week is defined as Sunday through Saturday.
70 b. A minimum ~~certified nursing assistant staffing~~ of 2.0
71 ~~2.5~~ hours of direct care by a certified nursing assistant per
72 resident per day. A facility may not staff below a ratio of one
73 certified nursing assistant per 20 residents.
74 c. A minimum ~~licensed nursing staffing~~ of 1.0 hour of
75 direct care by a licensed nurse per resident per day. A facility
76 may not staff below a ratio of one licensed nurse per 40
77 residents.
78 2. Nursing assistants employed under s. 400.211(2) may be
79 included in computing the hours of direct care provided by
80 certified nursing assistants and may be included in computing
81 the staffing ratio for certified nursing assistants if their job
82 responsibilities include only nursing-assistant-related duties.
83 3. Each nursing home facility must document compliance with
84 staffing standards as required under this paragraph and post
85 daily the names of licensed nurses and certified nursing
86 assistants ~~staff~~ on duty for the benefit of facility residents
87 and the public. Facilities must maintain the records documenting
88 compliance with minimum staffing standards for a period of 5
89 years and must report staffing in accordance with 42 C.F.R. s.
90 483.70(q).
91 4. The agency must ~~shall~~ recognize the use of licensed
92 nurses for compliance with minimum staffing requirements for
93 certified nursing assistants if the nursing home facility
94 otherwise meets the minimum staffing requirements for licensed
95 nurses and the licensed nurses are performing the duties of a
96 certified nursing assistant. Unless otherwise approved by the
97 agency, licensed nurses counted toward the minimum staffing

667406

98 requirements for certified nursing assistants must exclusively
99 perform the duties of a certified nursing assistant for the
100 entire shift and not also be counted toward the minimum staffing
101 requirements for licensed nurses. If the agency approved a
102 facility’s request to use a licensed nurse to perform both
103 licensed nursing and certified nursing assistant duties, the
104 facility must allocate the amount of staff time specifically
105 spent on certified nursing assistant duties for the purpose of
106 documenting compliance with minimum staffing requirements for
107 certified and licensed nursing staff. The hours of a licensed
108 nurse with dual job responsibilities may not be counted twice.
109 5. The nurse staffing requirements imposed in this
110 paragraph are minimum nurse staffing requirements for nursing
111 home facilities. Evidence that a facility complied with the
112 minimum direct care staffing requirements under subparagraph 1.
113 is not admissible as evidence of compliance with the nursing
114 services requirements under 42 C.F.R. s. 483.35 or 42 C.F.R. s.
115 483.70.
116 (c) ~~(b)~~ Paid feeding assistants and direct care, other than
117 certified nursing assistants, ~~nonnursing~~ staff who have
118 successfully completed the feeding assistant training program
119 under s. 400.141(1)(v) and who provide ~~providing~~ eating
120 assistance to residents shall ~~not~~ count toward compliance with
121 overall direct care minimum staffing hours but not the hours of
122 direct care required for certified nursing assistants or
123 licensed nurses ~~standards~~.
124 (d) ~~(c)~~ Licensed practical nurses licensed under chapter 464
125 who provide ~~are providing~~ nursing services in nursing home
126 facilities under this part may supervise the activities of other

667406

127 licensed practical nurses, certified nursing assistants, and
128 other unlicensed personnel providing services in such facilities
129 in accordance with rules adopted by the Board of Nursing.
130 (e) The agency may adopt rules to implement this
131 subsection.
132 Section 3. Present subsection (2) of section 400.0234,
133 Florida Statutes, is redesignated as subsection (3), and a new
134 subsection (2) is added to that section, to read:
135 400.0234 Availability of facility records for investigation
136 of resident's rights violations and defenses; penalty.—
137 (2) Forms filed with the agency pursuant to s. 408.061(5)
138 and (6) are not confidential or exempt from the provisions of s.
139 119.07(1) and s. 24(a), Art. I of the State Constitution and may
140 be discoverable and admissible in a civil action under this part
141 or an administrative action under this part or part II of
142 chapter 408.
143 Section 4. Subsection (4) of section 400.024, Florida
144 Statutes, is amended to read:
145 400.024 Failure to satisfy a judgment or settlement
146 agreement.—
147 (4) ~~If,~~ After the agency is placed on notice pursuant to
148 subsection (2), the following applies ~~and~~:
149 (a) If the license is subject to renewal, the agency may
150 deny the license renewal unless compliance with this section is
151 achieved.~~; and~~
152 (b) If a change of ownership application for the facility
153 at issue is filed ~~submitted~~ by the licensee, by a person or
154 entity identified as having a controlling interest in the
155 licensee, or by a related party, the unsatisfied or undischarged

667406

156 adverse final judgment under subsection (1) becomes the
157 responsibility and liability of the transferee, and the agency
158 shall deny the change of ownership application unless compliance
159 with this section is achieved.
160 (c) If a change of ownership application for the facility
161 at issue is filed by the licensee, by a person or entity
162 identified as having a controlling interest in the licensee, or
163 by a related party, then:
164 1. The licensee or transferor must provide written notice
165 of the filing of the application to each pending claimant or the
166 claimant's attorney of record, if applicable, within 14 days
167 after the date the application is filed with the agency.
168 2. The written notice must be provided by certified mail,
169 return receipt requested, or other method that provides
170 verification of receipt.
171 3. A claimant has 30 days after the date of receipt of the
172 written notice to object to the application if the claimant has
173 reason to believe that the approval of the application would
174 facilitate a fraudulent transfer or allow the transferor to
175 avoid financial responsibility for the claimant's pending claim.
176 4. The agency must consider any objection brought pursuant
177 to this subsection in its decision to approve or deny an
178 application for change of ownership under this part and part II
179 of chapter 408.
180 5. If a claim is pending in arbitration at the time that
181 the application for change of ownership is filed, the claimant
182 may file a petition to enjoin the transfer in circuit court.
183 6. As used in this paragraph, "claimant" means a resident
184 or the resident's family or personal representative who has

667406

185 notified the licensee or facility of a potential claim by notice
186 of intent letter or who has initiated an action, claim, or
187 arbitration proceeding against the licensee or facility.
188 Section 5. Paragraphs (g), (n), and (r) of subsection (1)
189 of section 400.141, Florida Statutes, are amended to read:
190 400.141 Administration and management of nursing home
191 facilities.—
192 (1) Every licensed facility shall comply with all
193 applicable standards and rules of the agency and shall:
194 (g) If the facility has a standard license, exceeds the
195 minimum required hours of direct care provided by licensed
196 nurses ~~nursing~~ and certified nursing assistants ~~assistant direct~~
197 ~~care~~ per resident per day, and is part of a continuing care
198 facility licensed under chapter 651 or is a retirement community
199 that offers other services pursuant to part III of this chapter
200 or part I or part III of chapter 429 on a single campus, be
201 allowed to share programming and staff. At the time of
202 inspection, a continuing care facility or retirement community
203 that uses this option must demonstrate through staffing records
204 that minimum staffing requirements for the facility were met.
205 Licensed nurses and certified nursing assistants who work in the
206 facility may be used to provide services elsewhere on campus if
207 the facility exceeds the minimum number of direct care hours
208 required per resident per day and the total number of residents
209 receiving direct care services from a licensed nurse or a
210 certified nursing assistant does not cause the facility to
211 violate the staffing ratios required under s. 400.23(3)(b) ~~s.~~
212 ~~400.23(3)(a)~~. Compliance with the minimum staffing ratios must
213 be based on the total number of residents receiving direct care

667406

214 services, regardless of where they reside on campus. If the
215 facility receives a conditional license, it may not share staff
216 until the conditional license status ends. This paragraph does
217 not restrict the agency's authority under federal or state law
218 to require additional staff if a facility is cited for
219 deficiencies in care which are caused by an insufficient number
220 of certified nursing assistants or licensed nurses. The agency
221 may adopt rules for the documentation necessary to determine
222 compliance with this provision.
223 (n) Comply with state minimum-staffing requirements:
224 1. The agency may impose a moratorium on new admissions for
225 a facility that has failed for 48 consecutive hours to comply
226 with the minimum hours of direct care required to be provided by
227 a licensed nurse or certified nursing assistant. The moratorium
228 may be imposed until the facility is able to document compliance
229 with the minimum direct care hours required per resident per day
230 for licensed nurses and certified nursing assistants ~~state~~
231 ~~minimum-staffing requirements for 2 consecutive days is~~
232 ~~prohibited from accepting new admissions until the facility has~~
233 ~~achieved the minimum-staffing requirements for 6 consecutive~~
234 ~~days~~. For the purposes of this subparagraph, any person who was
235 a resident of the facility and was absent from the facility for
236 the purpose of receiving medical care at a separate location or
237 was on a leave of absence is not considered a new admission.
238 ~~Failure by the facility to impose such an admissions moratorium~~
239 ~~is subject to a $1,000 fine.~~
240 2. A facility that has a standard ~~does not have a~~
241 ~~conditional~~ license may be cited for failure to comply with the
242 standards in s. 400.23(3)(b)1.b. and c. ~~s. 400.23(3)(a)1.b. and~~

667406

243 ~~c.~~ only if it has failed to meet those standards on 2
244 consecutive days ~~or if it has failed to meet at least 97 percent~~
245 ~~of those standards on any one day~~.
246 3. A facility that has a conditional license must be in
247 compliance with the standards in s. 400.23(3)(b) ~~s. 400.23(3)(a)~~
248 at all times.
249 (r) Maintain in the medical record for each resident a
250 daily chart of direct care ~~certified nursing assistant~~ services
251 provided to the resident. The direct care staff ~~certified~~
252 ~~nursing assistant who is~~ caring for the resident must complete
253 this record by the end of his or her shift. This record must
254 indicate assistance with activities of daily living, assistance
255 with eating, and assistance with drinking, and must record each
256 offering of nutrition and hydration for those residents whose
257 plan of care or assessment indicates a risk for malnutrition or
258 dehydration.
259 Section 6. Nursing Home Sustainability Task Force.—There is
260 created the Nursing Home Sustainability Task Force. The task
261 force shall review, analyze, and make recommendations specific
262 to the sustainability of the state's model of providing quality
263 nursing home care. The task force shall consist of
264 representatives of nursing home providers and other interested
265 stakeholders. The task force shall review all areas of the
266 provision of health care services to residents, regulation,
267 liability, licensing, quality initiatives, and the availability
268 of quality, affordable, and accessible health care. The task
269 force shall make any recommendations to the Agency for Health
270 Care Administration, the Governor, the President of the Senate,
271 and the Speaker of the House by January 1, 2025.

667406

272 Section 7. Subsection (6) of section 651.118, Florida
273 Statutes, is amended to read:
274 651.118 Agency for Health Care Administration; certificates
275 of need; sheltered beds; community beds.—
276 (6) Unless the provider already has a component that is to
277 be a part of the continuing care facility and that is licensed
278 under chapter 395, part II of chapter 400, or part I of chapter
279 429 at the time of construction of the continuing care facility,
280 the provider must construct the non-nursing ~~nonnursing~~ home
281 portion of the facility and the nursing home portion of the
282 facility at the same time. If a provider constructs less than
283 the number of residential units approved in the certificate of
284 authority, the number of licensed sheltered nursing home beds
285 shall be reduced by a proportionate share.
286 Section 8. This act shall take effect upon becoming a law.
287
288 ================= T I T L E A M E N D M E N T ================
289 And the title is amended as follows:
290 Delete everything before the enacting clause
291 and insert:
292 A bill to be entitled
293 An act relating to modernization of nursing home
294 facility staffing; amending s. 400.021, F.S.; revising
295 the definition of the term "resident care plan";
296 amending s. 400.23, F.S.; defining the terms "direct
297 care staff" and "facility assessment"; specifying
298 functions that do not constitute direct care staffing
299 hours for purposes of required nursing home staffing
300 ratios; revising nursing home staffing requirements;

667406

301 requiring nursing home facilities to maintain staffing
302 records for a specified time and report staffing
303 information consistent with federal law; providing
304 construction; providing that evidence of compliance
305 with state minimum staffing requirements is not
306 admissible as evidence for compliance with specified
307 provisions of federal law; providing that eating
308 assistance to residents provided by certain direct
309 care staff counts toward certain minimum direct care
310 staffing requirements; authorizing the Agency for
311 Health Care Administration to adopt rules; amending s.
312 400.0234, F.S.; providing that certain forms filed
313 with the agency are not confidential or exempt and may
314 be discoverable and admissible in civil or
315 administrative proceedings; amending s. 400.024, F.S.;
316 providing that an unsatisfied or undischarged adverse
317 final judgment in connection with a nursing home
318 facility becomes the responsibility and liability of a
319 new owner if ownership of the facility is transferred;
320 requiring a licensee to provide written notice to any
321 pending claimants or their attorneys of record within
322 a specified timeframe after filing a change of
323 ownership application with the agency; providing
324 requirements for the notice; providing that claimants
325 may object to the application within a specified
326 timeframe under certain circumstances; requiring the
327 agency to consider any such objections in its
328 decision; providing for the filing of such objections
329 in circuit court under certain circumstances; defining

667406

330 the term “claimant”; amending s. 400.141, F.S.;
331 conforming cross-references and provisions to changes
332 made by the act; revising provisions related to
333 moratoriums on new admissions for facilities that fail
334 to comply with minimum staffing requirements; deleting
335 a certain fine; creating the Nursing Home
336 Sustainability Task Force; providing duties and
337 membership of the task force; requiring the task force
338 to submit its recommendations to the agency, the
339 Governor, and the Legislature by a specified date;
340 amending s. 651.118, F.S.; making a technical change;
341 providing an effective date.

By Senator Albritton

1 A bill to be entitled
2 An act relating to modernization of nursing home
3 facility staffing; amending s. 400.23, F.S.; defining
4 terms; specifying functions that do not constitute
5 direct care staffing hours for purposes of required
6 nursing home staffing ratios; revising nursing home
7 staffing requirements; requiring nursing home
8 facilities to maintain and report staffing information
9 consistent with federal law; amending s. 400.141,
10 F.S.; conforming cross-references and provisions to
11 changes made by the act; providing an effective date.
12
13 Be It Enacted by the Legislature of the State of Florida:
14
15 Section 1. Subsection (3) of section 400.23, Florida
16 Statutes, is amended to read:
17 400.23 Rules; evaluation and deficiencies; licensure
18 status.—
19 (3)(a)1. As used in this subsection, the term:
20 a. "Average monthly hours of direct care per resident per
21 day" means the total number of direct care service hours
22 provided by direct care staff in a month at the facility divided
23 by the sum of each daily resident census for that month.
24 b. "Direct care staff" means individuals who, through
25 interpersonal contact with residents or resident care
26 management, provide care and services to allow residents to
27 attain or maintain the highest practicable physical, mental, and
28 psychosocial well-being. The term includes, but is not limited
29 to, disciplines and professions that must be reported in

30 accordance with 42 C.F.R. s. 483.70(q) and all of the following:
31 (I) Licensed nurses.
32 (II) Certified nursing assistants.
33 (III) Physical therapy staff.
34 (IV) Occupational therapy staff.
35 (V) Speech therapy staff.
36 (VI) Respiratory therapy staff.
37 (VII) Activities staff.
38 (VIII) Social services staff.
39 (IX) Mental health service workers.
40
41 The term does not include individuals whose primary duty is
42 maintaining the physical environment of the facility, including,
43 but not limited to, food preparation, laundry, and housekeeping.
44 c. "Non-nursing direct care staff" means direct care staff
45 who are not licensed to practice nursing under part I of chapter
46 464.
47 2. For purposes of this subsection, direct care staffing
48 hours do not include time spent on nursing administration, staff
49 development, staffing coordination, and the administrative
50 portion of the minimum data set and care plan coordination for
51 Medicaid.
52 (b)1. The agency shall adopt rules providing minimum
53 staffing requirements for nursing home facilities. These
54 requirements must include, for each facility:
55 a. A minimum monthly ~~weekly~~ average of ~~certified nursing~~
56 ~~assistant and licensed nursing staffing combined of~~ 3.6 hours of
57 direct care per resident per day, as determined by the facility
58 assessment staffing needs in accordance with 42 C.F.R. s.

59 483.70(e). ~~As used in this sub-subparagraph, a week is defined~~
60 ~~as Sunday through Saturday.~~
61 b. A minimum ~~certified nursing assistant staffing~~ of 2.5
62 hours of direct care by non-nursing direct care staff per
63 resident per day. A facility may not staff below a ratio of one
64 certified nursing assistant per 20 residents.
65 c. A minimum ~~licensed nursing staffing~~ of 1.0 hour of
66 direct care by licensed nurses per resident per day. A facility
67 may not staff below a ratio of one licensed nurse per 40
68 residents.
69 2. Nursing assistants employed under s. 400.211(2) may be
70 included in computing the hours of non-nursing direct care
71 provided to residents and may be included in computing the
72 staffing ratio for certified nursing assistants if their job
73 responsibilities include only nursing-assistant-related duties.
74 3. Each nursing home facility must document compliance with
75 staffing standards as required under this paragraph and post
76 daily the names of licensed nurses and certified nursing
77 assistants ~~staff~~ on duty for the benefit of facility residents
78 and the public. Facilities must maintain records of staffing in
79 accordance with 42 C.F.R. s. 483.35(g) and must report staffing
80 in accordance with 42 C.F.R. s. 483.70(q).
81 4. The agency must ~~shall~~ recognize the use of licensed
82 nurses for compliance with minimum staffing requirements for
83 non-nursing direct care staff ~~certified nursing assistants~~ if
84 the nursing home facility otherwise meets the minimum staffing
85 requirements for licensed nurses and the licensed nurses are
86 performing the duties of a certified nursing assistant. Unless
87 otherwise approved by the agency, licensed nurses counted toward

88 the minimum staffing requirements for non-nursing direct care
89 staff ~~certified nursing assistants~~ must exclusively perform the
90 duties of a certified nursing assistant for the entire shift and
91 not also be counted toward the minimum staffing requirements for
92 licensed nurses. If the agency approved a facility's request to
93 use a licensed nurse to perform both licensed nursing and
94 certified nursing assistant duties, the facility must allocate
95 the amount of staff time specifically spent on certified nursing
96 assistant duties for the purpose of documenting compliance with
97 minimum staffing requirements for non-nursing direct care staff
98 ~~certified~~ and licensed nursing staff. The hours of a licensed
99 nurse with dual job responsibilities may not be counted twice.
100 (c) ~~(b)~~ Paid feeding assistants and non-nursing direct care
101 ~~nonnursing~~ staff who have successfully completed the feeding
102 assistant training program under s. 400.141(1)(v) and who
103 provide ~~providing~~ eating assistance to residents ~~shall not~~ count
104 toward compliance with minimum staffing standards.
105 (d) ~~(c)~~ Licensed practical nurses licensed under chapter 464
106 who provide ~~are providing~~ nursing services in nursing home
107 facilities under this part may supervise the activities of other
108 licensed practical nurses, certified nursing assistants, and
109 other unlicensed personnel providing services in such facilities
110 in accordance with rules adopted by the Board of Nursing.
111 Section 2. Paragraphs (g), (n), and (r) of subsection (1)
112 of section 400.141, Florida Statutes, are amended to read:
113 400.141 Administration and management of nursing home
114 facilities.—
115 (1) Every licensed facility shall comply with all
116 applicable standards and rules of the agency and shall:

(g) If the facility has a standard license, exceeds the minimum required hours of direct care provided by licensed nurses ~~nursing~~ and non-nursing ~~certified nursing assistant~~ direct care staff per resident per day, and is part of a continuing care facility licensed under chapter 651 or a retirement community that offers other services pursuant to part III of this chapter or part I or part III of chapter 429 on a single campus, be allowed to share programming and staff. At the time of inspection, a continuing care facility or retirement community that uses this option must demonstrate through staffing records that minimum staffing requirements for the facility were met. Licensed nurses and non-nursing direct care staff ~~certified nursing assistants~~ who work in the facility may be used to provide services elsewhere on campus if the facility exceeds the minimum number of direct care hours required per resident per day and the total number of residents receiving direct care services from a licensed nurse or non-nursing direct care staff ~~a certified nursing assistant~~ does not cause the facility to violate the staffing ratios required under s. 400.23(3)(b) ~~s. 400.23(3)(a)~~. Compliance with the minimum staffing ratios must be based on the total number of residents receiving direct care services, regardless of where they reside on campus. If the facility receives a conditional license, it may not share staff until the conditional license status ends. This paragraph does not restrict the agency's authority under federal or state law to require additional staff if a facility is cited for deficiencies in care which are caused by an insufficient number of certified nursing assistants or licensed nurses. The agency may adopt rules for the documentation

necessary to determine compliance with this provision.

(n) Comply with state minimum-staffing requirements:

1. A facility that has failed to comply with state minimum-staffing requirements for 2 consecutive days is ~~prohibited from accepting new admissions until the facility has achieved the minimum-staffing requirements for 6 consecutive days. For the purposes of this subparagraph, any person who was a resident of the facility and was absent from the facility for the purpose of receiving medical care at a separate location or was on a leave of absence is not considered a new admission. Failure by the facility to impose such an admissions moratorium is~~ subject to a $1,000 fine.

2. A facility that does not have a conditional license may be cited for failure to comply with the standards in s. 400.23(3)(b)1.b. and c. ~~s. 400.23(3)(a)1.b. and c.~~ only if it has failed to meet those standards on 2 consecutive days or if it has failed to meet at least 97 percent of those standards on any one day.

3. A facility that has a conditional license must be in compliance with the standards in s. 400.23(3)(b) ~~s. 400.23(3)(a)~~ at all times.

(r) Maintain in the medical record for each resident a daily chart of direct care ~~certified nursing assistant~~ services provided to the resident. The direct care staff ~~certified nursing assistant who is~~ caring for the resident must complete this record by the end of his or her shift. This record must indicate assistance with activities of daily living, assistance with eating, ~~and~~ assistance with drinking, and any other direct care provided and must record each offering of nutrition and

26-00753A-22 2022804__

175 hydration for those residents whose plan of care or assessment
176 indicates a risk for malnutrition or dehydration.
177 Section 3. This act shall take effect July 1, 2022.

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

The Florida Senate

Committee Agenda Request

To: Senator Manny Diaz, Jr., Chair
Committee on Health Policy

Subject: Committee Agenda Request

Date: January 28, 2022

I respectfully request that **Senate Bill #804**, relating to Modernization of Nursing Home Facility Staffing, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Ben Albritton
Florida Senate, District 26

File signed original with committee office

S-020 (03/2004)

2/18/2022
Meeting Date

Health Policy
Committee

The Florida Senate

APPEARANCE RECORD

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

SB 804
Bill Number or Topic

667406
Amendment Barcode (if applicable)

Name Tanya C. Jackson

Phone 850-445-0107

Address 110 E. College Ave
Street

Tallahassee, FL 32301
City State Zip

Email Tanya@PinPointResults.com

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:
SEIU 1199 Health care Workers

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

2/16/22
Meeting Date

Health Policy
Committee

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
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804
Bill Number or Topic

667406
Amendment Barcode (if applicable)

Name Brecht Heuchan   Phone 850.345.2937

Address POB 10549   Email
Street

Tallahassee FL 32302
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing:
Florida Justice Assn.

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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The Florida Senate

APPEARANCE RECORD

February 10, 2022
Meeting Date

Health Policy
Committee

Deliver both copies of this form to
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SB 804
Bill Number or Topic

667406
Amendment Barcode (if applicable)

Name: Mauri Mizrahi

Phone: (904) 260-1818

Address: 11401 Old St. Augustine Rd
Street

Email: mmizrahi@rivergarden.org

Jacksonville | FL | 32258
City | State | Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

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

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S-001 (08/10/2021)

February 10, 2022
Meeting Date

Health Policy
Committee

The Florida Senate

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SB 804
Bill Number or Topic

667406
Amendment Barcode (if applicable)

Name Jim Polaski

Phone (941) 746-9425

Address 1603 3rd Ave West
Street

Email jpolaski@wservices.org

Bradenton FL 334205
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

[x] I am appearing without compensation or sponsorship.

[ ] I am a registered lobbyist, representing:

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

February 10, 2022
Meeting Date

Health Policy
Committee

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SB 804
Bill Number or Topic

667406
Amendment Barcode (if applicable)

Name: Steve Bahmer
Phone: (850) 671-3700

Address: 1812 Riggins Road
Street

Email: sbahmer@leadingageflorida.org

Tallahassee | FL | 32308
City | State | Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
LeadingAge Florida

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

2/10/22
Meeting Date

Health Policy
Committee

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

804
Bill Number or Topic

Amendment Barcode (if applicable)

Name Tom Parker

Phone 850-224-3907

Address 307 W. Park Avenue
Street

Email tparker@fhca.org

Tallahassee FL 32301
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:

Florida Health Care Association

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

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2/10/22
Meeting Date

Health Policy
Committee

The Florida Senate
APPEARANCE RECORD

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SB 804
Bill Number or Topic

Amendment Barcode (if applicable)

Name American Senior Alliance, Conwell Hooper Phone 404-475-2566

Address 225 Peachtree St NE, Suite 1430, 8 Tower Atlanta
Street

Atlanta GA 30303
City State Zip

Email Conwell@americanseniୋralliance.com

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

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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2/10/2022

Meeting Date

The Florida Senate

APPEARANCE RECORD

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804

Bill Number or Topic

Health Policy

Committee

Amendment Barcode (if applicable)

Name Zayne Smith - AARP

Phone 850-228-4243

Address 215 South Monroe St

Street

Email zsmith@aarp.org

Tallahassee FL 32301

City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:

AARP

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

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S-001 (08/10/2021)

2/10/22
Meeting Date

Health Policy
Committee

The Florida Senate

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804
Bill Number or Topic

Amendment Barcode (if applicable)

Name William Stander

Phone 850 212-3250

Address P.O. Box 1042
Street

Email william@williamstander.com

Tallahassee FL 32302
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:

FL Life Care Residents Association

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

February 10, 2022
Meeting Date

SB 804
Bill Number or Topic

Deliver both copies of this form to
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Health Policy
Committee

Amendment Barcode (if applicable)

Name: Jim Polaski

Phone: (941) 746-9425

Address: 1603 3rd Ave West
Street

Email: jpolaski@wservices.org

Bradenton | FL | 34205
City | State | Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

[x] I am appearing without compensation or sponsorship.

[ ] I am a registered lobbyist, representing:

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

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S-001 (08/10/2021)

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Health Policy
Committee

The Florida Senate

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SB 804
Bill Number or Topic

Amendment Barcode (if applicable)

Name Steve Bahmer

Phone (850) 671-3700

Address 1812 Riggins Road
Street

Email sbahmer@leadingageflorida.org

Tallahassee FL 32308
City *State* *Zip*

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

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[✓] I am a registered lobbyist, representing:
LeadingAge Florida

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

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S-001 (08/10/2021)

February 10, 2022
Meeting Date

The Florida Senate
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SB 804
Bill Number or Topic

Health Policy
Committee

Amendment Barcode (if applicable)

Name Mauri Mizrahi

Phone (904) 260-1818

Address 11401 Old St. Augustine Rd
Street

Email mmizrahi@rivergarden.org

Jacksonville FL 32258
City *State* *Zip*

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

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

2/10/22
Meeting Date

804
Bill Number or Topic

Health Policy
Committee

Deliver both copies of this form to
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Amendment Barcode (if applicable)

Name Tricia Thacker

Phone 954-987-7180

Address 5900 Lake Ellenor Drive
Street

Email tthacker@avantegroup.com

Orlando | FL | 32809
City | State | Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

2/10/22
Meeting Date

804
Bill Number or Topic

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Health Policy
Committee

Amendment Barcode (if applicable)

Name: Sean Robinson

Phone: 718-850-7000

Address: 12751 W. Colonial Drive
Street

Email: seanr@citadel.com

Winter Garden | FL | 34787
City | State | Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

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

Florida Health Care Association

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S-001 (08/10/2021)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1026

INTRODUCER: Banking and Insurance Committee and Senator Cruz

SUBJECT: Living Organ Donors in Insurance Policies

DATE: February 9, 2022 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Schrader	Knudson	BI	**FAV/CS**
2.	Rossitto-Van Winkle	Brown	HP	**Favorable**
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1026 creates s. 626.97075, F.S., which revises Florida's Unfair Insurance Trade Practices law[1] and several parts of Florida's Insurance Rates and Contracts law.[2] The bill makes it unlawful to discriminate against living organ donors in specific types of insurance coverage. The insurance types impacted by the bill are: life insurance, including industrial life insurance[3] and group life insurance;[4] credit life insurance and credit disability insurance;[5] and long-term care insurance.[6]

[1] Part IX, ch. 626, F.S.

[2] Chapter 627, F.S.

[3] Section 627.502, F.S. defines industrial life insurance as that form of life insurance written under policies under which premiums are payable monthly or more often, bearing the words "industrial policy" or "weekly premium policy" or words of similar import imprinted upon the policies as part of the descriptive matter, and issued by an insurer that, as to such industrial life insurance, is operating under a system of collecting a debit by its agent.

[4] Group life insurance is a type of life insurance policy insuring the lives of more than one individual. Pursuant to s. 627.551, F.S., groups eligible for such coverage include employee, debtor, labor union, and trustee groups, among others.

[5] Section 627.677, F.S., defines "credit life insurance" as insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction and defines "credit disability insurance as: insurance under which a borrower of money or a purchaser or a lessee of goods is insured in connection with a specific loan or credit transaction against loss of time resulting from accident or sickness.

[6] Section 627.9404, F.S., defines a "long-term care insurance policy" as an insurance policy or rider advertised, marketed, offered, or designed to provide coverage on an expense-incurred, indemnity, prepaid, or other basis for one or more necessary or medically necessary diagnostic, preventive, therapeutic, curing, treating, mitigating, rehabilitative, maintenance, or personal care services provided in a setting other than an acute care unit of a hospital.

The bill provides an effective date of July 1, 2022.

II. Present Situation:

The Florida Office of Insurance Regulation

The Office of Insurance Regulation (OIR) licenses and regulates the activities of life, health, property, and casualty insurers, health maintenance organizations (HMOs), and other risk-bearing entities. The OIR is an office within the Financial Services Commission (FSC). The FSC is composed of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture. The FSC members serve as the agency head for purposes of rulemaking under ss. 120.536-120.565, F.S.[7]

Organ Donation

Organ and tissue donation is the process of surgically removing an organ or tissue from one person (the donor) and transplanting it into another person (the recipient) to save the life of, or enhance the life of, the organ recipient. Transplantation is generally necessary because the recipient's organ has failed or has been damaged by disease or injury. Transplantable organs include the kidneys, liver, heart, lungs, pancreas and intestine.[8] Certain tissue is also transplantable and includes skin used as a temporary dressing for burns, serious abrasions and other exposed areas; heart valves used to replace defective valves; tendons used to repair torn ligaments on knees or other joints; veins used in cardiac bypass surgery; corneas used to restore sight; and bone used in orthopedic surgery to facilitate healing of fractures or prevent amputation.[9]

A single person can save up to eight lives through organ donation, and dozens more lives may be improved through tissue donation. Nearly 120,000 children and adults are presently awaiting potentially life-saving organ transplants and every day 22 people die awaiting organ transplant.[10] While most organ and tissue donations occur after the donor has died, some organs and tissues can be donated while the donor is alive, such as a kidney or part of a liver or lung.[11] There are approximately as many living donors every year as there are deceased donors and only about three in every 1,000 people actually become donors—despite 169 million in the United States being registered.[12] According to United Network for Organ Sharing (UNOS), between 2017 and 2021, there were an average of 6,539 living donor transplants per year in the United States.[13]

---

[7] Section 20.121(3), F.S.
[8] Donate Life Florida, *Frequently Asked Questions, available at* https://www.donatelifeflorida.org/categories/donation/ (last visited Feb. 2, 2022).
[9] *Id.*
[10] *Id.*
[11] U.S. Government Information on Organ Donation and Transplantation, U.S. Department of Health & Human Services, *How Donation Works, available at* https://organdonor.gov/about/process.html (last visited Feb. 2, 2022).
[12] *Id.*
[13] UNOS, *Living Donation, available at* https://unos.org/transplant/living-donation/ (last visited Feb. 2, 2022).

Organ Donation, Procurement, and Transplant Process

Established by the National Organ Transplant Act (NOTA) of 1984, the Organ Procurement and Transplantation Network (OPTN) is a public-private partnership that links all professionals involved in the nation's donation and transplant system.[14] The UNOS, a private, non-profit organization serves as the OPTN under contract with the U.S. Department of Health and Human Services.[15] UNOS coordinates how donor organs are matched and allocated to patients on the waiting list.[16] Non-profit, federally designated organ procurement organizations (OPOs) work closely with UNOS, hospitals, and transplant centers to facilitate the organ donation and transplantation process.[17]

Potential Financial Impacts Relating to Organ Donation

The buying and selling of organs is unlawful under the National Organ Transplant Act of 1984.[18] However, certain organ donor expenses relating to transplant may be paid for by the recipient (or their insurer). Generally, an organ donor and their family are not charged for the medical care required to donate an organ.[19] Costs related to living or deceased donation are paid by the recipient, usually through insurance.[20] Typically, any cost that falls outside of the transplant center's donor evaluation or actual surgery, such as travel, lodging, lost wages, and other non-medical expenses, is borne by the living donor or recipient.[21] In addition, treatment for conditions discovered during the evaluation portion of the donation process and some post-donation follow-up expenses are not covered. UNOS also warns potential donors that "living donation may have a negative impact on the ability to obtain, maintain, or afford health, disability and life insurance."[22]

Obtaining and Affording Insurance

In 2014, the *American Journal of Transplantation* published a study of 1,046 donors who underwent living kidney donation at Johns Hopkins Hospital. Of these donors, 25 percent of those who reporting attempting to obtain new or revise life insurance policies post-procedure reported difficulty in doing so. The difficulties reported included outright denials in obtaining coverage, higher premiums, and the notation of a pre-existing condition relating to the kidney donation. The same survey also noted that of the surveyed donors who reported attempting to

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[14] U.S. Department of Health and Human Services, *Organ Procurement and Transplantation Network – About the OPTN, available at* https://optn.transplant.hrsa.gov/governance/about-the-optn/ (last visited Feb. 2, 2022).
[15] *Id.* and About UNOS, *Who we are*, *available at* https://unos.org/about/ (last visited Feb. 2, 2022).
[16] U.S. Government Information on Organ Donation and Transplantation, U.S. Department of Health & Human Services, *The Organ Transplant Process*, *available at* https://organdonor.gov/about/process/transplant-process.html (last visited Feb. 2, 2022).
[17] Donate Life Florida, *Organ Procurement Organizations and Transplant Centers*, *available at* https://www.donatelifeflorida.org/local-resources/transplant-centers/ (last visited Feb. 2, 2022).
[18] National Organ Transplant Act, 42 U.S.C. s. 274.
[19] Health Resources Services Administration, *Organ Donation Frequently Asked Questions, available at* https://www.organdonor.gov/learn/faq (last visited Jan. 13, 2022).
[20] *Id.*
[21] UNOS, *Living Donation Costs, available at* https://transplantliving.org/financing-a-transplant/living-donation-costs/ (last visited Feb. 2, 2022).
[22] *Id.*

obtain new or revise health insurance policies post-procedure, 7 percent reported difficulties in doing so.[23]

Another study, also published in the *American Journal of Transplantation* (in 2007), which reviewed 23 different studies over a 35-year period, concluded that a significant number of living kidney donors do encounter difficulties in obtaining or maintaining insurance (with anywhere between 3 to 11 percent of those surveyed reporting difficulties). That same study also found that insurability issues caused significant stress for between 11 and 13 percent of kidney donors and that "insurability may negatively influence one's decision to become a living organ donor."[24] This same study also found that these insurability issues are not isolated to kidney donors.[25] The National Kidney Foundation also advises potential donors, in accessing the risk of donation, that "some donors have reported difficulty in getting, affording, or keeping disability or life insurance."

There is some evidence that these increased difficulties and costs in obtaining life insurance is not always based on the actual additional loss risk that organ donation presents. A 2015 study of living kidney donors found that such donation "does not appear to increase long-term mortality compared with controls;" however, the study did advise that it was limited in scope and more research was needed.[26] A study of living kidney donors in Korea, published in 2019, found that, "the risk of all-cause mortality was comparable between live kidney donors and matched non-donor healthy controls with similar health status."[27] A 2012 study of live liver donors found that while 90-day mortality rates were elevated for such donors, the rates of long-term mortality were essentially the same for live liver donors, for live kidney donors, and for healthy controls.[28]

III. Effect of Proposed Changes:

CS/SB 1026 creates s. 626.97075, F.S., within Florida's Unfair Trade Practices law (part IX of ch. 626). The section creates a definition of "policy" as a life insurance policy, including those for industrial life insurance and group life insurance; a credit life insurance and credit disability insurance policy; and a long-term care insurance policy. The section specifies that an insurer may not, in a policy, as defined by the section:

- Decline or limit coverage of a person solely due to that person's status as a living organ donor;

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[23] B.J. Boyarsky, et al, *Experiences Obtaining Insurance After Live Kidney Donation*, 14(9) AM J TRANSPLANT. 2168-72 (2014), *available at* https://www.researchgate.net/publication/263969706_Experiences_Obtaining_Insurance_After_Live_Kidney_Donation, (last visited Feb. 2, 2022).

[24] R.C. Yang, et al, *Insurability of Living Organ Donors: A Systematic Review*, 7(6) AM J TRANSPLANT. 1547-48 (2007), *available at* https://onlinelibrary.wiley.com/doi/full/10.1111/j.1600-6143.2007.01793.x (last visited Feb. 2, 2022).

[25] *Id.* and Nissing MH & Hayashi PH, *Right hepatic lobe donation adversely affects donor life insurability up to one year after donation*, 11 LIVER TRANSPL 843–847 (2005), *available at https://aasldpubs.onlinelibrary.wiley.com/doi/pdfdirect/10.1002/lt.20411* (last visited Feb. 2, 2022).

[26] K.L. Lentine & A. Patel, *Risks and outcomes of living donation*, 19(4) ADV CHRONIC KIDNEY DIS. 220-8 (2012), *available at* https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4447489/ (last visited Feb. 2, 2022).

[27] Y. Kim, et al, *Long-term Mortality Risks Among Living Kidney Donors in Korea*. 75(6) Am J Kidney Dis. 925 (2019), *available at* https://www.ajkd.org/article/S0272-6386(19)31104-7/fulltext (last visited Feb. 2, 2022).

[28] A.D. Muzaale, et al, *Estimates of early death, acute liver failure, and long-term mortality among live liver donors*, 142(2) Gastroenterology 273-80 (2012), *available at* https://www.gastrojournal.org/article/S0016-5085(11)01576-9/pdf (last visited Feb. 2, 2022).

- Preclude an insured person from donating all, or part of, an organ as a condition to continuing to receive coverage under that person's insurance policy; or
- Otherwise discriminate in the offering, issuance, cancellation, coverage, premium, or any other condition of a person's policy without any additional actuarial risk, and based solely on that person's status as a living organ donor.

The bill also grants the FSC the authority to adopt rules and enforce these prohibitions.

Section 626.9521, F.S., specifies penalties for violations of part IX of ch. 626, F.S. A violation of s. 626.97075, F.S., as created by the bill, would subject a person to a fine of up to $5,000 for each nonwillful violation and up to $40,000 for each willful violation. Insurers violating the proposed section may be fined an aggregate amount of up to $20,000 for all nonwillful violations arising out of the same action or an aggregate amount of up to $200,000 for all willful violations arising out of the same action. These specified fines may be imposed in addition to any specified penalty elsewhere in law.

The bill provides an effective date of July 1, 2022.

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:

Passage of this bill should have minimal fiscal impact on insurers. Given the apparent minimal to no impact on long term mortality for the living donation of organs, the passage of this bill should have little impact on risk carried by insurers.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 626.97075 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 18, 2022:
The CS deletes all provisions in SB 1026 relating to health insurance; group, blanket, and franchise health insurance; health maintenance contracts provided by health maintenance organizations; and prepaid health contracts. The CS also deletes redundant portions of the underlying bill which placed into individual insurance chapters the prohibitions specified in Section 1 of the bill (which creates a new section under Florida's Unfair Insurance Trade Practices law).

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 Banking and Insurance; and Senator Cruz

597-02089-22 20221026c1

1 A bill to be entitled
2 An act relating to living organ donors in insurance
3 policies; creating s. 626.97075, F.S.; defining the
4 term "policy"; prohibiting insurers under specified
5 policies from declining or limiting coverages and
6 discriminating against persons based solely on their
7 status as living organ donors, and from precluding
8 insureds from donating organs; authorizing the
9 Financial Services Commission to adopt rules and take
10 actions to enforce specified laws; providing an
11 effective date.
12
13 Be It Enacted by the Legislature of the State of Florida:
14
15 Section 1. Section 626.97075, Florida Statutes, is created
16 to read:
17 626.97075 Life insurance, disability insurance, and long-
18 term care insurance; discrimination against living organ donors
19 prohibited.—
20 (1) As used in this section, the term "policy" means any of
21 the following:
22 (a) An individual or group life insurance policy.
23 (b) An industrial life insurance policy, as the term
24 "industrial life insurance" is defined in s. 627.502(1).
25 (c) A credit life insurance or credit disability insurance
26 policy, as defined in s. 627.677(1) and (2), respectively.
27 (d) A long-term care insurance policy as defined in s.
28 627.9404(1).
29 (2) Notwithstanding any other law, an insurer may not,

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

597-02089-22 20221026c1

30 under a policy:
31 (a) Decline or limit coverage of a person solely due to his
32 or her status as a living organ donor;
33 (b) Preclude an insured from donating all or part of an
34 organ as a condition to continuing to receive coverage under the
35 policy; or
36 (c) Otherwise discriminate in the offering, issuance,
37 cancellation, coverage, premium, or any other condition of the
38 policy for a person without any additional actuarial risk and
39 based solely on his or her status as a living organ donor.
40 (3) The commission may adopt rules and take actions
41 necessary to enforce this section.
42 Section 2. This act shall take effect July 1, 2022.

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

The Florida Senate

Committee Agenda Request

To: Senator Manny Diaz, Jr., Chair
Committee on Health Policy

Subject: Committee Agenda Request

Date: January 20, 2022

I respectfully request that **Senate Bill # 1026**, relating to Living Organ Donors in Insurance Policies, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Janet Cruz
Florida Senate, District 18

File signed original with committee office

S-020 (03/2004)

The Florida Senate

APPEARANCE RECORD

2/10/22
Meeting Date

Health Policy
Committee

Deliver both copies of this form to
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SB 1026
Bill Number or Topic

Amendment Barcode (if applicable)

Name TASHA CARTER

Phone 850-413-2868

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Street

Email TASHA.Carter@myfloridacfo.com

Tallahassee FL 32399
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
Office of the Insurance Consumer Advocate

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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

S-001 (08/10/2021)

The Florida Senate

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2/10/2022
Meeting Date

1026
Bill Number or Topic

Amendment Barcode (if applicable)

Health Poliucy
Committee

Name: Ivonne Fernandez

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Tallahassee — FL — 32301
City — State — Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:

AARP

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

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2/10/22
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Health Policy
Committee

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SB 1026
Bill Number or Topic

Amendment Barcode (if applicable)

Name: Bob Reynolds

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:

Fresenius Medical Care

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

The Florida Senate

APPEARANCE RECORD

2/10/22
Meeting Date

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1026
Bill Number or Topic

Amendment Barcode (if applicable)

Health Policy
Committee

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Tallahassee FL 32317
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:

Flordia Renal Association

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

S-001 (08/10/2021)

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The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 296

INTRODUCER: Senator Garcia

SUBJECT: Health Care Expenses

DATE: February 9, 2021 REVISED: ______ ______ ______ ______

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Brown	HP	**Pre-meeting**
2.			AHS	
3.			AP	

I. Summary:

SB 296 requires each Florida-licensed hospital and ambulatory surgical center (ASC) to, consistent with federal requirements on hospital price transparency in 45 C.F.R. part 180, establish, update, and make public a list of its standard charges for all items and services provided by the facility. The Agency for Health Care Administration (AHCA) is required to impose a fine of $500 per day, per instance of noncompliance on the facility if the facility is required to comply with 45 C.F.R. part 180 and violates the above requirement.

The bill creates s. 501.181, F.S., and amends s. 559.72, F.S., to provide requirements for consumer reporting agencies (CRA) related to medical debt. The bill prohibits a CRA from publishing a consumer report containing credit impairments resulting from medical debt under certain circumstances and requires a CRA to remove, without charging the patient a fee, any such credit impairment from the patient's credit report within 30 days after certain notification that the debt has been fully paid or settled or that the patient is in compliance with a payment plan.

To enforce these CRA-related provisions, the bill establishes a private right of action for an aggrieved patient. The bill provides that the patient may bring suit, within two years of the violation, to enjoin the prohibited action and to recover the greater of any actual damages or $1,500, as well as attorney fees and court costs. The Department of Agriculture and Consumer Services (DACS) is required to adopt rules to implement these requirements.

The bill provides an effective date of July 1, 2022.

II. Present Situation:

Hospital and ASC Price Transparency

Florida Law

Section 395.301, F.S., requires hospitals and ASCs to provide information to current, former, and prospective patients regarding the pricing of services and procedures at that facility. The section requires each facility to post the following on its website:

- Information on payments made to that facility for defined bundles of services and procedures including, at a minimum, the estimated average payment received from all payors, excluding Medicaid and Medicare, for the descriptive service bundles available at that facility and the estimated payment range for such bundles.
- Information to prospective patients on the facility's financial assistance policy, including the application process, payment plans, and discounts, and the facility's charity care policy and collection procedures.
- A notification that services may be provided in the health care facility by the facility as well as by other health care providers who may separately bill the patient and that such health care providers may or may not participate with the same health insurers or health maintenance organizations (HMO) as the facility, if applicable.
- A notification that patients may request from the facility and other health care providers a more personalized estimate of charges and other information, and that patients should contact each health care practitioner who will provide services in the hospital to determine the health insurers and HMOs with which the health care practitioner participates as a network provider or preferred provider.
- The names, mailing addresses, and telephone numbers of the health care practitioners and medical practice groups with which it contracts to provide services in the facility and instructions on how to contact the practitioners and groups to determine the health insurers and HMOs with which they participate as network providers or preferred providers.
- A hyperlink to the health-related data, including quality measures and statistics that are disseminated by the AHCA pursuant to s. 408.05, F.S.

The section requires a hospital to post additional information to its website, including:

- The names and hyperlinks for direct access to the websites of all health insurers and HMOs for which the hospital contracts as a network provider or participating provider;
- A statement that:
  - Services may be provided in the hospital by the facility as well as by other health care practitioners who may separately bill the patient;
  - Health care practitioners who provide services in the hospital may or may not participate with the same health insurers or HMOs as the hospital; and
  - Prospective patients should contact the health care practitioner who will provide services in the hospital to determine the health insurers and HMOs with which the practitioner participates as a network provider or preferred provider; and
- As applicable, the names, mailing addresses, and telephone numbers of the health care practitioners and medical practice groups with which it contracts to provide services in the hospital, and instructions on how to contact the practitioners and groups to determine the

health insurers and HMOs with which they participate as network providers or preferred providers.

In addition, when requested and:

- Before providing any non-emergency medical services, each facility is required to provide a good faith estimate of reasonably anticipated charges by the facility for the treatment of the patient's or prospective patient's specific condition. The estimate:
  - Must include information on the facility's financial assistance policy, including the application process, payment plans, and discounts and the facility's charity care policy and collection procedures.
  - Must clearly identify any facility fees and, if applicable, include a statement notifying the patient or prospective patient that a facility fee is included in the estimate, the purpose of the fee, and that the patient may pay less for the procedure or service at another facility or in another health care setting.
  - Must notify the patient or prospective patient that services may be provided in the health care facility by the facility as well as by other health care providers that may separately bill the patient, if applicable.
- After the patient's discharge or release from a facility, the facility must provide to the patient or to the patient's survivor or legal guardian, as appropriate, an itemized statement or a bill detailing in plain language, comprehensible to an ordinary layperson, the specific nature of charges or expenses incurred by the patient. The statement:
  - Must include notice of hospital-based physicians and other health care providers who bill separately.
  - May not include any generalized category of expenses such as "other" or "miscellaneous" or similar categories.
  - Must list drugs by brand or generic name and not refer to drug code numbers when referring to drugs of any sort.
  - Must specifically identify physical, occupational, or speech therapy treatment by date, type, and length of treatment when such treatment is a part of the statement or bill.

Federal Law

In addition to the state requirements detailed above, 42 C.F.R. part 180 requires hospitals to make public:

- A machine-readable file containing a list of all standard charges for all items and services; and
- A consumer-friendly list of standard charges for a limited set of shoppable services.[1]

To make its list of standard charges and shoppable services public, a hospital must select a publicly available website to publish the standard charge information and the hospital must make the information available free of charge and without having to create a username and password or submit any personal identifying information.

The publication of a hospital's standard charges must include:

- A description of each item or service provided by the hospital.

[1] A shoppable service is defined as a service that can be scheduled by a healthcare consumer in advance.

- A gross charge that applies to each individual item or service when provided in, as applicable, the hospital inpatient setting and outpatient department setting.
- A payer-specific negotiated charge that applies to each item or service when provided in, as applicable, the hospital inpatient setting and outpatient department setting. Each payer-specific negotiated charge must be clearly associated with the name of the third party payer and plan.
- A de-identified minimum negotiated charge that applies to each item or service when provided in, as applicable, the hospital inpatient setting and outpatient department setting.
- A de-identified maximum negotiated charge that applies to each item or service when provided in, as applicable, the hospital inpatient setting and outpatient department setting.
- Discounted cash price that applies to each item or service when provided in, as applicable, the hospital inpatient setting and outpatient department setting.
- Any code used by the hospital for purposes of accounting or billing for the item or service, including, but not limited to, the Current Procedural Terminology code, the Healthcare Common Procedure Coding System code, the Diagnosis Related Group, the National Drug Code, or other common payer identifier.

The publication of a hospital's shoppable services must include:

- A plain-language description of each shoppable service.
- An indicator when one or more of the federal Centers for Medicare & Medicaid Services (CMS)-specified shoppable services are not offered by the hospital.
- The payer-specific negotiated charge that applies to each shoppable service (and to each ancillary service, as applicable). Each list of payer-specific negotiated charges must be clearly associated with the name of the third party payer and plan.
- The discounted cash price that applies to each shoppable service (and corresponding ancillary services, as applicable). If the hospital does not offer a discounted cash price for one or more shoppable services (or corresponding ancillary services), the hospital must list its undiscounted gross charge for the shoppable service (and corresponding ancillary services, as applicable).
- The de-identified minimum negotiated charge that applies to each shoppable service (and to each corresponding ancillary service, as applicable).
- The de-identified maximum negotiated charge that applies to each shoppable service (and to each corresponding ancillary service, as applicable).
- The location at which the shoppable service is provided.
- Any primary code used by the hospital for purposes of accounting or billing for the shoppable service, including, as applicable, the Current Procedural Terminology code, the Healthcare Common Procedure Coding System code, the Diagnosis Related Group, or other common service billing code.

The CMS is charged with monitoring and enforcing hospital compliance with the above transparency provisions. If a hospital is found to be noncompliant, the CMS may take the following actions, in order:

- Provide a written warning notice to the hospital of the specific violation(s).
- Request a corrective action plan from the hospital if its noncompliance constitutes a material violation of one or more requirements, according to 42 C.F.R. s. 180.80.

- Impose a civil monetary penalty on the hospital and publicize the penalty on a CMS website according to 42 C.F.R. s. 180.90 if the hospital fails to respond to CMS' request to submit a corrective action plan or comply with the requirements of a corrective action plan. The maximum daily amount of a penalty for violation is $300 even if the hospital is in violation of multiple discrete requirements of 42 C.F.R. part 180.

Compliance with Federal Requirements

A report published by Patient Rights Advocate.org[2] looked at a random sample of 500 of the 6,002 hospitals subject to the requirements above for compliance with the requirements.[3] The report estimated that only 5.6 percent (or 28) of the hospitals sampled were fully compliant with the rule.[4] The report found a hospital to be noncompliant with the rule "if it omitted any of the five standard charge criteria required by the rule, if it posted blanks or zeros in the data fields, if it did not post all negotiated payer rates associated with specific plans, or if the price estimator tool did not show both the negotiated rates and discounted cash prices to provide pricing for all healthcare consumers, including the uninsured and those desiring to pay cash directly."[5]

Of the hospitals surveyed, 49 were in Florida and only two of the 49 were found to be fully compliant with the transparency requirements.[6]

Credit Reports

A credit report is a record of a consumer's credit history and other information about the consumer, including his or her name, address, social security number, employment information, date of birth, and court judgments.[7] Three major credit bureaus—Equifax, Experian, and TransUnion—compile and sell consumer credit reports. Lenders, insurers, utility and cell phone companies, employers, and others may obtain a consumer's credit report for their use in determining (i.e., whether to extend credit), set insurance rates, or employ the consumer.[8] A consumer may also review his or her credit report at no charge once every 12 months from each of the credit bureaus.

Generally, the federal Fair Credit Reporting Act (FCRA)[9] regulates the activities of CRAs, the users of consumer reports, and those who furnish information to CRAs. In 2003, the FCRA was amended by the Fair and Accurate Credit Transactions Act (FACTA) to address identity theft,

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[2] Semi-Annual Hospital Price Transparency Compliance Report, July 2021, Patient Rights Advocate.org, available at https://static1.squarespace.com/static/60065b8fc8cd610112ab89a7/t/60f1c225e1a54c0e42272fbf/1626456614723/PatientRightsAdvocate.org+Semi-Annual+Hospital+Compliance+Report.pdf (last visited Oct. 26, 2021).
[3] *Id.* at p. 1
[4] *Id.* at p. 2
[5] *Id.*
[6] *Id.* at pp. 9-11
[7] 15 U.S. Code s. 1681 defines a "credit report" as any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, … general reputation, [or] personal characteristics… which is used…for the purpose of…establishing the consumer's eligibility for credit or employment purposes…. The Florida KIDS Act adopts this definition of a "credit report" in s. 501.0051(1)(a), F.S.
[8] Board of Governors of the Federal Reserve System, *Credit Reports and Credit Scores: Consumer's Guide*, *available at* https://www.federalreserve.gov/creditreports/pdf/credit_reports_scores_2.pdf (last visited Oct. 26, 2021).
[9] Fair Credit Reporting Act, Pub. L. No. 91-508, codified as amended at 15 U.S.C. s. 1681-1681x.

improve the accuracy of consumer records, and to increase consumer access to credit information.[10]

In general, the FCRA does not preempt state law with respect to consumer reports. However, the FCRA in section 625[11] lists several areas that are specifically preempted to federal law. Included in the list is section 605[12] of the FCRA, which establishes requirements relating to information contained in consumer reports, and section 611[13] of the FCRA, relating to the time by which a CRA must take any action in any procedure related to the disputed accuracy of information in a consumer's file.

III. Effect of Proposed Changes:

SB 296 amends s. 395.301, F.S., to require each licensed ASC and hospital to establish, update, and make public a list of the facility's standard charges for all items and services provided by the facility, consistent with federal requirements for price transparency in 45 C.F.R. part 180. The bill requires the AHCA to impose a fine of $500 per day, per instance of noncompliance, on a facility that is required to comply with 45 C.F.R. part 180 and that violates this provision.

The bill also creates s. 501.181, F.S., to establish requirements for patient credit protection. The bill defines the following terms:
- "Consumer report" has the same meaning as in 15 U.S.C. s. 1681a(d).
- "Consumer reporting agency" has the same meaning as in 15 U.S.C. s. 1681a(f).
- "Health benefit plan" means any individual, blanket, or group plan, policy, or contract for health care services issued in this state by an authorized health care insurer, HMO, hospital medical service corporation, or self-insured plan in this state. The term does not include supplemental plans.
- "Health care provider" means a person or an entity that is licensed, certified, or otherwise authorized by the laws of this state to provide health care services.
- "Medical debt" means the outstanding balance a patient-consumer owes to a health care provider for health care services.
- "Patient-consumer" means an individual who receives health care services from a health care provider.

The bill prohibits a CRA from publishing a consumer report containing a credit impairment resulting from a patient-consumer's medical debt if the patient-consumer was covered by a health benefit plan when the health care services giving rise to the medical debt were provided and such services were covered by the health benefit plan and the patient-consumer's medical debt is an outstanding balance after the patient-consumer's copayments, deductibles, and coinsurance amounts owed for health care services were fully paid or settled or are being paid as part of a payment plan. The bill also prohibits a CRA from publishing a consumer report with a credit impairment resulting from a patient-consumer's medical debt without the express written

[10] Fair and Accurate Credit Transactions Act, Pub. L. No. 108-159 (2003).
[11] 15 U.S.C. s 1681t
[12] 15 U.S.C. s. 1681c
[13] 15 U.S.C. s. 1681b

consent of the patient consumer's health care provider. The bill amends s. 559.72, F.S., with a conforming prohibition.

The bill requires a CRA that receives a notification from a creditor indicating that a patient-consumer's medical debt has been fully paid or settled, or that the patient-consumer is in compliance with a payment plan, to remove any credit impairment resulting from the applicable medical debt within 30 days after receiving such notification. The bill specifies that such notification may include, but is not limited to, documentation showing the status of the patient-consumer's medical debt. The bill also prohibits a CRA from charging the patient-consumer any fee to remove the credit impairment.

The bill provides that a patient-consumer who is aggrieved by a violation of these provisions may bring an action to:

- Enjoin the violation.
- Recover actual damages or $1,500, whichever is greater.

In addition to any damages awarded under the bill, a patient-consumer will also be awarded reasonable attorney fees and court costs. The action must be commenced within two years after the violation occurs and all parties to the action may agree to arbitration to resolve the medical debt reporting dispute.

The bill requires the DACS to adopt rules to implement s. 501.181, F.S., as created by the bill.

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:

Sections 2 and 3 of the bill create s. 501.181, F.S., and amend s. 559.72, F.S., respectively, to establish new prohibitions on CRAs publishing certain types of debt on credit reports as well as establish time frames for CRAs to address certain consumer disputes of inaccurate information on credit reports. Subsections 625(b)(1)(E) and

625(b)(1)(B) of the FCRA, respectively, state that no requirement or prohibition may be imposed under the laws of any state with the respect to:

- Section 605 of the FCRA relating to information contained in consumer reports; and
- Section 611 of the FCRA relating to the time by which a CRA must take any action in any procedure related to the disputed accuracy of information in a consumer's file.

As such, it is possible that the above provisions in sections 2 and 3 of SB 296 make changes in areas that are statutorily preempted to federal law and those sections of SB 296 may be found to violate the supremacy clause in Article VI, section 2, of the U.S. Constitution.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

SB 296 may have an indeterminate negative fiscal impact on hospitals that are in violation of federal price transparency requirements in 45 C.F.R. part 180.

SB 296 may have an indeterminate negative fiscal impact on CRAs that are required to pay damages and attorney fees in suits brought under the provisions of the bill.

SB 296 may have an indeterminate positive fiscal impact on consumers who bring and win suits against CRAs under the provisions of the bill.

C. Government Sector Impact:

The AHCA may see an indeterminate positive fiscal impact from fees collected from hospitals that are in violation of federal price transparency requirements in 45 C.F.R. part 180.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 1 of the bill requires "each licensed facility" to publish certain information consistent with federal price transparency requirements in 45 C.F.R. part 180. Under ch. 395, F.S., "each licensed facility" would include ASCs. However, 45 C.F.R. part 180 only applies to hospitals. It is unclear whether the bill intends to require ASCs to publish the required information. Additionally, should ASCs be required to do so, it is likely that ASCs would not be subject to the fines imposed by the bill for noncompliance because a requirement of those fines being imposed is that the facility is required to comply with 45 C.F.R. part 180. It may be advisable to clarify whether this portion of the bill is meant to be applied to ASCs.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 395.301 and 559.72.

This bill creates section 501.181 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.

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

536352

LEGISLATIVE ACTION

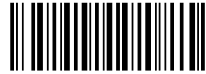
Senate	.	House
	.	
	.	
	.	
	.	
	.	

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

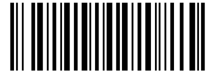
1 **Senate Amendment (with title amendment)**
2
3 Delete line 126
4 and insert:
5 Section 4. Present subsection (7) of section 627.6471,
6 Florida Statutes, is redesignated as subsection (8) and amended,
7 and a new subsection (7) is added to that section, to read:
8 627.6471 Contracts for reduced rates of payment;
9 limitations; coinsurance and deductibles.—
10 <u>(7) Notwithstanding s. 627.64194, an insurer issuing a</u>

536352

11 health insurance policy in this state, upon request by an
12 insured, must apply payments for a service provided by a
13 nonpreferred provider toward an insured’s deductible and out-of-
14 pocket maximum as if the service had been provided by a
15 preferred network provider, if:
16 (a) The service provided to the insured by the nonpreferred
17 provider is within the scope of services covered by the policy;
18 and
19 (b) The nonpreferred provider’s billed amount for the
20 service is equal to or less than the allowed amount for the
21 service for preferred providers under the plan or the statewide
22 average for the service as listed on the Florida Health Price
23 Finder website administered by the Agency for Health Care
24 Administration.
25 (8)~~(7)~~ Any policy issued under this section after January
26 1, 2023 ~~2017~~, must include the following disclosure: “WARNING:
27 LIMITED BENEFITS MAY ~~WILL~~ BE PAID WHEN NONPARTICIPATING
28 PROVIDERS ARE USED. You should be aware that when you elect to
29 utilize the services of a nonparticipating provider for a
30 covered nonemergency service, benefit payments to the provider
31 may ~~are~~ not be based upon the amount the provider charges.
32 Unless you request otherwise, the basis of the payment will be
33 determined according to your policy’s out-of-network
34 reimbursement benefit. Nonparticipating providers may bill
35 insureds for any difference in the amount. YOU MAY BE REQUIRED
36 TO PAY MORE THAN THE COINSURANCE OR COPAYMENT AMOUNT.
37 Participating providers have agreed to accept discounted
38 payments for services with no additional billing to you other
39 than coinsurance, copayment, and deductible amounts. You may


536352

40 obtain further information about the providers who have
41 contracted with your insurance plan by consulting your insurer's
42 website or contacting your insurer or agent directly."
43 Section 5. Section 627.65701, Florida Statutes, is created
44 to read:
45 627.65701 Services provided by nonpreferred providers.—
46 Notwithstanding s. 627.64194, an insurer issuing a group,
47 blanket, or franchise health insurance policy in this state,
48 upon request by an insured, must apply payments for a service
49 provided by a nonpreferred provider toward an insured's
50 deductible and out-of-pocket maximum as if the service had been
51 provided by a preferred network provider, if:
52 (1) The service provided to the insured by the nonpreferred
53 provider is within the scope of services covered by the policy;
54 and
55 (2) The nonpreferred provider's billed amount for the
56 service is equal to or less than the allowed amount for the
57 service for preferred providers under the plan or the statewide
58 average for the service as listed on the Florida Health Price
59 Finder website administered by the Agency for Health Care
60 Administration.
61 Section 6. This act shall take effect January 1, 2023.
62
63 ================= T I T L E A M E N D M E N T ================
64 And the title is amended as follows:
65 Delete line 27
66 and insert:
67 express written consent of the creditor; amending s.
68 627.6471, F.S.; requiring certain health insurers to


536352

69 apply payments for services provided by nonpreferred
70 providers toward insureds’ deductibles and out-of-
71 pocket maximums if certain conditions are met;
72 revising the required disclosure for certain policies;
73 creating s. 627.65701, F.S.; requiring certain group,
74 blanket, or franchise health insurers to apply
75 payments for services provided by nonpreferred
76 providers toward an insureds’ deductibles and out-of-
77 pocket maximums if certain conditions are met;
78 providing an

By Senator Garcia

37-00408A-22 2022296__

1 A bill to be entitled
2 An act relating to health care expenses; amending s.
3 395.301, F.S.; requiring a licensed facility to
4 establish, update, and make public a list of the
5 facility’s charges for services which meets certain
6 federal requirements; requiring the Agency for Health
7 Care Administration to impose fines for violations of
8 the public disclosure requirements; creating s.
9 501.181, F.S.; defining terms; prohibiting consumer
10 reporting agencies from publishing a consumer report
11 containing a medical debt credit impairment under
12 certain circumstances; requiring the consumer
13 reporting agency to remove the credit impairment, free
14 of charge, under certain circumstances; requiring the
15 agency to obtain express written consent from a
16 patient-consumer’s health care provider before
17 publishing a consumer report containing a medical debt
18 credit impairment; authorizing patient-consumers to
19 initiate legal proceedings for violations; providing
20 for damages and the award of attorney fees; requiring
21 such actions to commence within a specified timeframe;
22 authorizing the use of arbitration for disputes;
23 requiring the Department of Agriculture and Consumer
24 Services to adopt rules; amending s. 559.72, F.S.;
25 prohibiting persons from reporting certain consumer
26 debt to a consumer reporting agency without the
27 express written consent of the creditor; providing an
28 effective date.
29

37-00408A-22 2022296__

30 Be It Enacted by the Legislature of the State of Florida:
31
32 Section 1. Present paragraphs (b), (c), and (d) of
33 subsection (1) of section 395.301, Florida Statutes, are
34 redesignated as paragraphs (c), (d), and (e), respectively, and
35 a new paragraph (b) is added to subsection (1) of that section,
36 to read:
37 395.301 Price transparency; itemized patient statement or
38 bill; patient admission status notification.—
39 (1) A facility licensed under this chapter shall provide
40 timely and accurate financial information and quality of service
41 measures to patients and prospective patients of the facility,
42 or to patients’ survivors or legal guardians, as appropriate.
43 Such information shall be provided in accordance with this
44 section and rules adopted by the agency pursuant to this chapter
45 and s. 408.05. Licensed facilities operating exclusively as
46 state facilities are exempt from this subsection.
47 (b) Each licensed facility shall establish, update, and
48 make public a list of the facility’s standard charges for all
49 items and services provided by the facility, consistent with 45
50 C.F.R. part 180. The agency shall impose a fine of $500 per day
51 per instance of noncompliance for a facility that is required to
52 comply with 45 C.F.R. part 180 and that violates this paragraph.
53 Section 2. Section 501.181, Florida Statutes, is created to
54 read:
55 501.181 Patient credit protection.—
56 (1) DEFINITIONS.—As used in this section, the term:
57 (a) “Consumer report” has the same meaning as in 15 U.S.C.
58 s. 1681a(d).

59 (b) “Consumer reporting agency” has the same meaning as in
60 15 U.S.C. s. 1681a(f).
61 (c) “Health benefit plan” means any individual, blanket, or
62 group plan, policy, or contract for health care services issued
63 in this state by an authorized health care insurer, health
64 maintenance organization, hospital medical service corporation,
65 or self-insured plan in this state. The term does not include
66 supplemental plans.
67 (d) “Health care provider” means a person or an entity that
68 is licensed, certified, or otherwise authorized by the laws of
69 this state to provide health care services.
70 (e) “Medical debt” means the outstanding balance a patient-
71 consumer owes to a health care provider for health care
72 services.
73 (f) “Patient-consumer” means an individual who receives
74 health care services from a health care provider.
75 (2) CREDIT PROTECTION FOR PATIENT-CONSUMERS.—A consumer
76 reporting agency may not publish a consumer report containing a
77 credit impairment resulting from a patient-consumer’s medical
78 debt if all of the following conditions apply:
79 (a) The patient-consumer was covered by a health benefit
80 plan when the health care services giving rise to the medical
81 debt were provided and such services were covered by the health
82 benefit plan.
83 (b) The patient-consumer’s medical debt is an outstanding
84 balance after the patient-consumer’s copayments, deductibles,
85 and coinsurance amounts owed for health care services were fully
86 paid or settled or are being paid as part of a payment plan.
87 (3) REMOVAL OF CREDIT IMPAIRMENT.—

88 (a) If a consumer reporting agency receives notification
89 from a creditor indicating that a patient-consumer’s medical
90 debt has been fully paid or settled or that the patient-consumer
91 is in compliance with a payment plan, the consumer reporting
92 agency must remove any credit impairment resulting from the
93 applicable medical debt within 30 days after receiving such
94 notification. Such notification may include, but is not limited
95 to, documentation showing the status of the patient-consumer’s
96 medical debt.
97 (b) A consumer reporting agency may not charge the patient-
98 consumer a fee to remove the credit impairment.
99 (4) EXPRESS CONSENT.—A consumer reporting agency may not
100 publish a consumer report with a credit impairment resulting
101 from a patient-consumer’s medical debt without the express
102 written consent of a patient-consumer’s health care provider.
103 (5) PRIVATE RIGHT OF ACTION.—
104 (a) A patient-consumer who is aggrieved by a violation of
105 this section may bring an action to:
106 1. Enjoin the violation.
107 2. Recover actual damages or $1,500, whichever is greater.
108 (b) In addition to any damages awarded, a patient-consumer
109 shall also be awarded reasonable attorney fees and court costs.
110 (c) A civil action pursuant to this section must be
111 commenced within 2 years after the violation occurs.
112 (d) All parties to the action may agree to arbitration to
113 resolve the medical debt reporting dispute.
114 (6) RULEMAKING.—The Department of Agriculture and Consumer
115 Services shall adopt rules to implement this section.
116 Section 3. Subsection (20) is added to section 559.72,

37-00408A-22 2022296__

117 Florida Statutes, to read:
118 559.72 Prohibited practices generally.—In collecting
119 consumer debts, no person shall:
120 (20) Report a credit impairment resulting from a patient-
121 consumer’s medical debt to a consumer reporting agency, as
122 defined in 15 U.S.C. s. 1681a(f), without the express written
123 consent of the creditor, if the creditor is a health care
124 provider who provided the patient-consumer with health care
125 services.
126 Section 4. This act shall take effect July 1, 2022.

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

The Florida Senate

Committee Agenda Request

To: Senator Manny Diaz, Jr., Chair
Committee on Health Policy

Subject: Committee Agenda Request

Date: January 19, 2022

I respectfully request that **Senate Bill 296**, relating to Health Care Expenses, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Ileana Garcia
Florida Senate, District 37

File signed original with committee office

S-020 (03/2004)

From: Felder, Jake
To: Diaz, Manny
Cc: Garcia, Ileana; Denson, Tori; Brown, Allen
Subject: Committee Agenda for February 10th
Date: Wednesday, February 9, 2022 1:04:53 PM

Good afternoon Chair Diaz,

Please accept this email as a request from Senator Garcia to Temporarily Postpone SB 296 Health Care Expenses for tomorrow's agenda.

Thank you,

Jake Felder
Legislative Advisor
Senator Ileana Garcia – District 37

2-10-2022
Meeting Date

Health Policy
Committee

The Florida Senate

APPEARANCE RECORD

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

SB296
Bill Number or Topic

536352
Amendment Barcode (if applicable)

Name Joy Ryan

Phone (850) 425-4000

Address 300 S. Bronough, #410
Street

Email joy@meenanlawfirm.com

Tallahassee, FL 32301
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:
Florida Insurance Council

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

2/10/2022
Meeting Date

Health Poliucy
Committee

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

296
Bill Number or Topic

Amendment Barcode (if applicable)

Name Ivonne Fernandez Phone 786-804-4508

Address 215 South Monroe St
Street
Email ifernandez@aarp.org

Tallahassee FL 32301
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
AARP

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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

S-001 (08/10/2021)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1442

INTRODUCER: Senator Jones

SUBJECT: Medical Education Reimbursement and Loan Repayment Program

DATE: February 9, 2022 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Smith	Brown	HP	**Favorable**
2.			ED	
3.			RC	

I. Summary:

SB 1442 expands the eligibility criteria for health care practitioners to participate in the Medical Education Reimbursement and Loan Repayment Program. Specifically, the bill provides for the reimbursement of loans and educational expenses of a physician, physician assistant, or nurse who provides proof that at least 50 percent of his or her primary care patient population consists of racial or ethnic minorities in Florida, regardless of whether he or she practices in an underserved geographic location or service area.

The bill provides an effective date of July 1, 2022.

II. Present Situation:

Section 1009.65, F.S., establishes the Medical Education Reimbursement and Loan Program to encourage qualified medical professionals to practice in underserved locations. The program provides payments that offset loans and educational expenses incurred by students for studies leading to a medical or nursing degree, medical or nursing licensure, or advanced practice registered nurse (APRN) licensure or physician assistant (PA) licensure.

The following health care practitioners may participate in the program[1]:

- Medical doctors with primary care specialties;
- Doctors of osteopathic medicine with primary care specialties;
- PAs;
- Licensed practical nurses and registered nurses;
- APRNs with primary care specialties, such as certified nurse midwives;

[1] Section 1009.65(1), F.S.

- APRNs registered to engage in autonomous practice under s. 464.0123, F.S., and practicing in the primary care specialties of family medicine, general pediatrics, general internal medicine, or midwifery.[2]

From the funds available for the program, the Department of Health (DOH) is required to make payments of up to $4,000 per year for licensed practical nurses and registered nurses, up to $10,000 per year for APRNs and PAs, and up to $20,000 per year for physicians.[3] To receive payment, the practitioner must prove that he or she is practicing primary care in a rural hospital[4] or an underserved area designated by the DOH, including all correctional facilities, state hospitals, and other state institutions that employ medical personnel; and including locations with high incidences of infant mortality, high morbidity, or low Medicaid participation by health care professionals as designated.[5] The practitioner must accept Medicaid reimbursement if eligible.[6]

For these practitioners, educational expenses include costs for: tuition, matriculation, registration, books, laboratory and other fees, other educational costs, and reasonable living expenses as determined by the DOH.[7]

Specific to APRNs registered to engage in autonomous practice, from the funds available, the DOH is required to make payments of up to $15,000 per year to such an APRN who demonstrates active employment providing primary care services in a public health program,[8] an independent practice, or a group practice that serves Medicaid recipients and other low-income patients and that is located in a primary care health professional shortage area.[9] For these APRNs, only loans to pay the costs of tuition, books, medical equipment and supplies, uniforms, and living expenses may be covered.[10]

The DOH may use funds appropriated for the program as matching funds for federal loan repayment programs such as the National Health Service Corps State Loan Repayment Program.[11]

The DOH may adopt rules necessary to administer the program.[12] It may solicit technical advice regarding conduct of the program from the Department of Education and Florida universities and

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[2] Section 1009.65(1)(a)1., F.S.
[3] Section 1009.65(1), F.S.
[4] As defined in s. 395.602(2)(b), F.S.
[5] Section 1009.65(1)(a)2., F.S.
[6] *Id.*
[7] *Id.*
[8] Section 1009.65(1)(b)2., F.S. “Public health program” means a county health department, the Children’s Medical Services program, a federally funded community health center, a federally funded migrant health center, or any other publicly funded or nonprofit health care program designated by the department.
[9] Section 1009.65(1)(b)1., F.S. “Primary care health professional shortage area” means a geographic area, an area having a special population, or a facility with a score of at least 18, as designated and calculated by the Federal Health Resources and Services Administration or a rural area as defined by the Federal Office of Rural Health Policy.
[10] Section 1009.65(1)(b), F.S.
[11] Section 1009.65(2), F.S.
[12] Section 1009.65(3), F.S.

Florida College System institutions.[13] It must submit a budget request for an amount sufficient to fund medical education reimbursement, loan repayments, and program administration.[14] At this time, the program is unfunded. See "Fiscal Impact Statement" section of this analysis.

III. Effect of Proposed Changes:

SB 1442 bill adds to the statutory purpose of the Medical Education Reimbursement and Loan Repayment Program to include the provision of primary care to racial and ethnic minority populations that experience health disparities due to limited access to quality health care.

The bill expands eligibility criteria for health care practitioners to participate in the program. Specifically, the bill provides for the reimbursement of loans and educational expenses of a physician, PA, or nurse who provides proof that at least 50 percent of his or her primary care patient population consists of racial or ethnic minorities in Florida, regardless of whether he or she practices in an underserved geographic location or service area.

The DOH may adopt rules necessary to administer the program and the changes made to the program by this bill.

The bill provides an effective date of July 1, 2022.

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.

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[13] *Id.*

[14] *Id.*

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The DOH is required to submit a budget request for an amount sufficient to fund medical education reimbursement, loan repayments, and program administration.[15] The DOH is directed in s. 1009.65, F.S., to make payments under the program from available funds. If additional health care practitioners qualify for and receive payments through the loan repayment program under the bill, it is possible that the DOH will need to increase its budgetary requests.

At this time, the program is unfunded. For the 2020-2021 fiscal year, the sum of $5 million in recurring funds was appropriated from the General Revenue Fund to fund the program exclusively for APRNs registered to engage in autonomous practice.[16] The $5 million was not spent as the DOH did not have infrastructure in place to administer the program, such as an administrative position or a database for fund distribution. The program's funding was cut in the 2021-22 General Appropriations Act.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following section 1009.65 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.

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[15] Section 1009.65(3), F.S.
[16] Chapter 2020-9, Laws of Fla.

B. Amendments:

None.

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

By Senator Jones

A bill to be entitled

An act relating to the Medical Education Reimbursement and Loan Repayment Program; amending s. 1009.65, F.S.; revising the purpose of the program; expanding eligibility criteria for the program to include certain practice areas; requiring practitioners to provide specified proof of eligibility to receive payments under the program; providing an effective date.

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

Section 1. Subsection (1) of section 1009.65, Florida Statutes, is amended to read:

1009.65 Medical Education Reimbursement and Loan Repayment Program.—

(1) To encourage qualified medical professionals to practice in underserved locations where there are shortages of such personnel and to provide primary care to racial and ethnic minority populations that experience health disparities due to limited access to quality health care, there is established the Medical Education Reimbursement and Loan Repayment Program. The function of the program is to make payments that offset loans and educational expenses incurred by students for studies leading to a medical or nursing degree, medical or nursing licensure, or advanced practice registered nurse licensure or physician assistant licensure. The following licensed or certified health care professionals are eligible to participate in this program:

(a) Medical doctors with primary care specialties, doctors of osteopathic medicine with primary care specialties, physician assistants, licensed practical nurses and registered nurses, and advanced practice registered nurses with primary care specialties such as certified nurse midwives. Primary care medical specialties for physicians include obstetrics, gynecology, general and family practice, internal medicine, pediatrics, and other specialties which may be identified by the Department of Health. From the funds available, the Department of Health shall make payments as follows:

1. Up to $4,000 per year for licensed practical nurses and registered nurses, up to $10,000 per year for advanced practice registered nurses and physician assistants, and up to $20,000 per year for physicians. Penalties for noncompliance shall be the same as those in the National Health Services Corps Loan Repayment Program. Educational expenses include costs for tuition, matriculation, registration, books, laboratory and other fees, other educational costs, and reasonable living expenses as determined by the Department of Health.

2. All payments are contingent on continued proof of primary care practice in an area defined in s. 395.602(2)(b)~~,~~ or an underserved area designated by the Department of Health or continued proof of serving racial or ethnic minority populations, provided the practitioner accepts Medicaid reimbursement if eligible for such reimbursement. Correctional facilities, state hospitals, and other state institutions that employ medical personnel shall be designated by the Department of Health as underserved locations. Locations with high incidences of infant mortality, high morbidity, or low Medicaid

59 participation by health care professionals may be designated as
60 underserved. To receive payments under the program for serving
61 racial and ethnic minority populations, the practitioner must
62 provide proof that at least 50 percent of his or her primary
63 care patient population consists of racial or ethnic minorities
64 in this state.
65 (b) Advanced practice registered nurses registered to
66 engage in autonomous practice under s. 464.0123 and practicing
67 in the primary care specialties of family medicine, general
68 pediatrics, general internal medicine, or midwifery. From the
69 funds available, the Department of Health shall make payments of
70 up to $15,000 per year to advanced practice registered nurses
71 registered under s. 464.0123 who demonstrate, as required by
72 department rule, active employment providing primary care
73 services to racial or ethnic minority populations or in a public
74 health program, an independent practice, or a group practice
75 that serves Medicaid recipients and other low-income patients
76 and that is located in a primary care health professional
77 shortage area. Only loans to pay the costs of tuition, books,
78 medical equipment and supplies, uniforms, and living expenses
79 may be covered. To receive payments under the program for
80 serving racial and ethnic minority populations, the advanced
81 practice registered nurse must provide proof that at least 50
82 percent of his or her primary care patient population consists
83 of racial or ethnic minorities in this state. For the purposes
84 of this paragraph:
85 1. “Primary care health professional shortage area” means a
86 geographic area, an area having a special population, or a
87 facility with a score of at least 18, as designated and

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

Florida Senate - 2022 SB 1442

35-00022A-22 20221442__

88 calculated by the Federal Health Resources and Services
89 Administration or a rural area as defined by the Federal Office
90 of Rural Health Policy.
91 2. “Public health program” means a county health
92 department, the Children’s Medical Services program, a federally
93 funded community health center, a federally funded migrant
94 health center, or any other publicly funded or nonprofit health
95 care program designated by the department.
96 Section 2. This act shall take effect July 1, 2022.

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

The Florida Senate

Committee Agenda Request

Senator Shevrin D. "Shev" Jones
214 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

To: Chair Manny Diaz, Jr.
Committee on Health Policy

Subject: Committee Agenda Request

Date: February 3, 2022

I respectfully request that **SB 1442: Medical Education Reimbursement and Loan Repayment Program**, be placed on the:

☒ Committee agenda at your earliest possible convenience.

☐ Next committee agenda.

Senator Shevrin Jones
Florida Senate, District 35

2/10/22
Meeting Date

Health Policy
Committee

The Florida Senate

APPEARANCE RECORD

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

1442
Bill Number or Topic

Amendment Barcode (if applicable)

Name: Chris Lyon

Phone: 850-222-5702

Address: 315 S. Calhoun St., Suite 830
Street

Email: clyon@llw-law.com

Tallahassee | FL | 32301
City | State | Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
Florida Osteopathic Medical Association

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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

2/10/22
Meeting Date

Health Policy
Committee

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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1442
Bill Number or Topic

Amendment Barcode (if applicable)

Name Mary Thomas Phone 850 224 6496

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:

Florida Medical Association

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

2/10/2022
Meeting Date

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

SB 1442
Bill Number or Topic

Health Policy
Committee

Amendment Barcode (if applicable)

Name Jan Gorrie

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Address 201 E Park Ave, 5th Floor
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Tallahassee FL 32301
City *State* *Zip*

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:

Council of Florida Medical School Deans

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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

S-001 (08/10/2021)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1572

INTRODUCER: Health Policy Committee and Senator Baxley

SUBJECT: Dementia-related Staff Training

DATE: February 10, 2022 REVISED:

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1572 creates the Florida Alzheimer's Disease and Dementia Training and Education Act. The bill requires each covered provider (CP)[1] to:

- Provide each of its employees[2] with basic written information about interacting with patients who have Alzheimer's disease or related dementia (ADRD) upon beginning employment and to provide each employee who provides direct care[3] and who is in regular contact[4] with participants, patients, or residents with one hour of ADRD related training within 30 days of beginning employment.[5]

[1] As defined in the bill a "covered provider" includes nursing homes, home health agencies, nurse registries, companion homemaker services, assisted living facilities, adult family-care homes, and adult day care centers.

[2] As defined in the bill a "employee" includes any staff member, contracted staff, or independent contractor employed or referred by a covered provider who is required to undergo a level 2 background screening as required by s. 408.809, F.S., and ch. 435, F.S. The term includes, but is not limited to, direct care workers; staff responsible for housekeeping, the front desk, and other administrative functions; and companions or homemakers.

[3] Defines as providing, through in-person contact, assistance with the activities of daily living; assistance with the self-administration of medication; homemaker or companion services; nursing services; or other services that promote the physical, mental, and psychosocial well-being of participants, patients, and residents of covered providers. The term does not include administrative functions or maintenance of the physical environment of a licensed facility, including grounds maintenance, building maintenance, housekeeping, laundry, or food preparation.

[4] Defined as the performance of duties other than direct care which may require employees to interact in person on a daily basis with participants, patients, or residents.

[5] The employee is not required to take the one hour of training if he or she has already completed the one hour of training as an employee of a different covered provider.

- Require each of its employees who provides direct care to complete two or three additional hours of ADRD training, depending on the CP's license type, within the first seven months after beginning employment.
- If the CP advertises that it provides special care for persons with ADRD, require each of its employees who provide direct to care or have regular contact with residents or participants to complete an additional three hours of training within the first three months after beginning employment and employees who provide direct care to complete an additional four hours of training within the first six months after beginning employment. Additionally, an employee who provides direct care must participate in a minimum of four contact hours of continuing education each year.

The bill specifies the Department of Elder Affairs (DOEA) may adopt training curriculum guidelines for specified training and approve training providers. The training may be in a variety of formats. The bill specifies what qualifications a training provider must possess in order to be able to provide training without DOEA approval and requires the DOEA to provide the one hour training course at no cost to CPs and must make it available online. The bill allows certified nursing assistants (CNA) and health care practitioners to apply the training taken under the bill to the training requirements for their license types.

The bill adds to the licensure statutes for nursing homes, home health agencies, nurse registries, companion homemaker services, assisted living facilities, adult family-care homes, and adult day care centers a requirement for each facility to meet the training requirements established by the bill as a condition of licensure. Additionally, if the licensure statutes for any CP already includes ADRD-specific training requirements, the bill removes those requirements in favor of the requirements established by the bill.

The bill provides an effective date of July 1, 2022.

II. Present Situation:

Dementia and Alzheimer's Disease

Dementia is the loss of cognitive functioning—thinking, remembering, and reasoning—and behavioral abilities to such an extent that it interferes with a person's daily life and activities. These functions include memory, language skills, visual perception, problem solving, self-management, and the ability to focus and pay attention. Some people with dementia cannot control their emotions, and their personalities may change. Dementia ranges in severity from the mildest stage, when it is just beginning to affect a person's functioning, to the most severe stage, when the person must depend completely on others for basic activities of living.[6]

Alzheimer's disease is the most common type of dementia. It is a progressive disease that begins with mild memory loss and can lead to loss of the ability to carry on a conversation and respond to one's environment. Alzheimer's disease affects parts of the brain that control thought,

[6] National Institute on Aging, *What is Dementia? Symptoms, Types, and Diagnosis*, available at https://www.nia.nih.gov/health/what-dementia-symptoms-types-and-diagnosis, (last visited on Jan. 28, 2022).

memory, and language. It can seriously affect a person's ability to carry out daily activities. Although scientists are studying the disease, what causes Alzheimer's disease is unknown.[7]

There are an estimated 580,000 individuals living with Alzheimer's disease in the state of Florida.[8] By 2025, it is projected that 720,000 Floridians will have Alzheimer's disease.[9] Most individuals with Alzheimer's can live in the community with support, often provided by spouses or other family members. In the late stages of the disease, many patients require care 24 hours per day and are often served in long-term care facilities.

Dementia and Alzheimer's Disease Training

Providers not Currently Required to Provide Specific ADRD Training.

Nurse registries are prohibited from training a registered nurse, licensed practical nurse, certified nursing assistant, companion or homemaker, or home health aide that it refers for contract.[10] However, depending on his or her license type, an individual referred by the nurse registry may have ADRD-specific training required by his or her practice act.

Companion and homemaker service providers are not required to train the companions or homemakers they provide.

Adult family-care home providers are required to undergo 12 hours of training, some of which must be related to identifying and meeting the special needs of disabled adults and frail elders. However, these providers are not currently required to undergo training specific to ADRD.[11]

Overview of ADRD Training Requirements by Facility Type

	All Employees	Employees with Expected or Required Direct Contact	Employees Providing Direct Care	Health Care Practitioner Continuing Education Sufficient?	Training Approved?	Exemptions
Nursing Homes	Provided with basic written information about interacting with persons with ADRD upon beginning employment.	1 hour of training within the first 3 months of employment.	Additional 3 hours of training within the first 9 months of employment.	Yes	By DOEA.	
Home Health Agencies		Not specified.	2 hours of training within the first 9 months of employment.	Yes	By DOEA.	HHA's that serve 90% individuals under age 21 are exempt.

[7] Centers for Disease Control and Prevention, *Alzheimer's Disease and Healthy Aging*, available at https://www.cdc.gov/aging/aginginfo/alzheimers.htm#AlzheimersDisease, (last visited Jan. 28, 2022).
[8] Alzheimer's Association, *Alzheimer's Statistics Florida*, available at https://www.alz.org/media/Documents/florida-alzheimers-facts-figures-2018.pdf, (last visited Jan. 28, 2022).
[9] *Id.*
[10] Section 400.506(19), F.S.
[11] *See* s. 429.75, F.S., and Fla. Admin. Code R. 59A-37.007 (2020).

	All Employees	Employees with Expected or Required Direct Contact	Employees Providing Direct Care	Health Care Practitioner Continuing Education Sufficient?	Training Approved?	Exemptions
ALFs[12]	Employees with incidental contact must be given information within 3 months.	4 hours within 3 months of employment	4 additional hours within 9 months of employment + 4 hours CE annually	Not specified.	By DOEA	
Adult Day Care Centers	Same as nursing homes, home health agencies, and Hospice.	1 hour of training within the first 3 months of employment.	Additional 3 hours of training within the first 9 months of employment.	Yes	By DOEA	

Details for each facility type are below:

Nursing Homes

Section 400.1755, F.S., requires each nursing home to provide the following training:

- Provide each of its employees basic written information about interacting with persons with ADRD upon beginning employment.
- All employees who are expected to, or whose responsibilities require them to, have direct contact with residents with ADRD must also have an initial training of at least one hour completed in the first three months after beginning employment. This training must include, but is not limited to, an overview of dementias and must provide basic skills in communicating with persons with dementia.
- An individual who provides direct care must complete the required initial training and an additional three hours of training within nine months after beginning employment. This training must include, but is not limited to, managing problematic behaviors, promoting the resident's independence in activities of daily living, and skills in working with families and caregivers. Health care practitioners' continuing education can be counted toward the required training hours.
- The DOEA or its designee must approve the initial and continuing training provided in the facilities. The DOEA must approve training offered in a variety of formats, including, but not limited to, Internet-based training, videos, teleconferencing, and classroom instruction. The DOEA must keep a list of current providers who are approved to provide initial and continuing training. The DOEA must adopt rules to establish standards for the trainers and the training required in this section of statute.
- Upon completing any training listed in the section, the employee or direct caregiver must be issued a certificate that includes the name of the training provider, the topic covered, and the date and signature of the training provider. The certificate is evidence of completion of training in the identified topic, and the employee or direct caregiver is not required to repeat training in that topic if the employee or direct caregiver changes employment to a different facility or to an assisted living facility, home health agency, adult day care center, or adult

[12] Training is required if the ALF advertises that it provides special care for persons with Alzheimer's disease or related disorders. Section 429.178, F.S.

family-care home. The direct caregiver must comply with other applicable continuing education requirements.

Home Health Agencies

Section 400.4785, F.S., requires a home health agency to provide the following staff training:

- Upon beginning employment with the agency, each employee must receive basic written information about interacting with participants who have ADRD.
- Newly-hired home health agency personnel who will be providing direct care to patients must complete two hours of training in ADRD within nine months after beginning employment with the agency. This training must include, but is not limited to, an overview of dementia, a demonstration of basic skills in communicating with persons who have dementia, the management of problematic behaviors, information about promoting the client's independence in activities of daily living, and instruction in skills for working with families and caregivers.
- For certified nursing assistants, the required two hours of training are part of the total hours of training required annually.
- For a health care practitioner, as defined in s. 456.001, F.S.,[13] continuing education hours taken as required by that practitioner's licensing board are counted toward the total of two hours.
- For an employee who is a licensed health care practitioner, training that is sanctioned by that practitioner's licensing board must be considered to be approved by the DOEA.
- The DOEA, or its designee, must approve the required training. The DOEA must consider for approval training offered in a variety of formats. The DOEA must keep a list of current providers who are approved to provide the two-hour training. The DOEA must adopt rules to establish standards for the employees who are subject to this training, for the trainers, and for the training required in this section of statute.
- Upon completing the training listed in the section, the employee must be issued a certificate stating that the training mandated under the section has been received. The certificate must be dated and signed by the training provider. The certificate is evidence of completion of this training, and the employee is not required to repeat this training if the employee changes employment to a different home health agency.
- A licensed home health agency whose unduplicated census during the most recent calendar year was composed of at least 90 percent of individuals aged 21 years or younger at the date of admission, is exempt from the training requirements in this section of statute.

Assisted Living Facilities

Section 429.178, F.S., requires an ALF that advertises it provides special care for persons with ADRD to provide the following training:

- An employee who has regular contact with such residents must complete up to four hours of initial dementia-specific training developed or approved by the DOEA. The training must be

[13] Section 456.001(4), F.S., defines "health care practitioner" as any person licensed under ch. 457, F.S.; ch. 458, F.S.; ch. 459, F.S.; ch. 460, F.S.; ch. 461, F.S.; ch. 462, F.S.; ch. 463, F.S.; ch. 464, F.S.; ch. 465, F.S.; ch. 466, F.S.; ch. 467, F.S.; part I, part II, part III, part V, part X, part XII, or part XIV of ch. 468, F.S.; ch. 478, F.S.; ch. 480, F.S.; part I or part II of ch. 483, F.S.; ch. 484, F.S.; ch. 486, F.S.; ch. 490, F.S.; or ch. 491, F.S.

completed within three months after beginning employment and satisfy the core training requirements of s. 429.52(3)(g), F.S.

- A direct caregiver who provides direct care to such residents must complete the required initial training and four additional hours of training developed or approved by the DOEA. The training must be completed within nine months after beginning employment and satisfy the core training requirements of s. 429.52(3)(g), F.S.
- An individual who is employed by a facility that provides special care for residents with ADRD, but who only has incidental contact with such residents, must be given, at a minimum, general information on interacting with individuals with ADRD, within three months after beginning employment.
- A direct caregiver must also participate in a minimum of four contact hours of continuing education each calendar year. The continuing education must include one or more topics included in the dementia-specific training, developed or approved by the DOEA, in which the caregiver has not received previous training.
- Upon completing any specified training, the employee or direct caregiver must be issued a certificate that includes the name of the training provider, the topic covered, and the date and signature of the training provider. The certificate is evidence of completion of training in the identified topic, and the employee or direct caregiver is not required to repeat training in that topic if the employee or direct caregiver changes employment to a different facility. The employee or direct caregiver must comply with other applicable continuing education requirements.
- The DOEA, or its designee, must approve the initial and continuing education courses and providers.
- The DOEA must keep a current list of providers who are approved to provide initial and continuing education for staff of facilities that provide special care for persons with ADRD.

Adult Day Care Centers

Section 429.917, F.S., requires an adult day care center to provide the following staff training:

- Upon beginning employment with the facility, each employee must receive basic written information about interacting with participants who have ADRD.
- In addition to the information provided, newly-hired adult day care center personnel who are expected to, or whose responsibilities require them to, have direct contact with participants who have ADRD must complete initial training of at least one hour within the first three months after beginning employment. The training must include an overview of dementias and must provide instruction in basic skills for communicating with persons who have dementia.
- In addition to the previous requirements, an employee who will be providing direct care to a participant who has ADRD must complete an additional three hours of training within nine months after beginning employment. This training must include, but is not limited to, the management of problem behaviors, information about promoting the participant's independence in activities of daily living, and instruction in skills for working with families and caregivers.
- For certified nursing assistants, the required four hours of training is part of the total hours of training required annually.
- For a health care practitioner as defined in s. 456.001, F.S., continuing education hours taken as required by that practitioner’s licensing board are counted toward the total of four hours.

- For an employee who is a licensed health care practitioner as defined in s. 456.001, F.S., training that is sanctioned by that practitioner's licensing board is considered to be approved by the DOEA.
- The DOEA or its designee must approve the one-hour and three-hour training provided to employees and direct caregivers under this section of statute. The DOEA must consider for approval training offered in a variety of formats. The DOEA must keep a list of current providers who are approved to provide the one-hour and three-hour training. The DOEA must adopt rules to establish standards for the employees who are subject to this training, for the trainers, and for the training required in this section of statute.
- Upon completing any training described in the section, the employee or direct caregiver must be issued a certificate that includes the name of the training provider, the topic covered, and the date and signature of the training provider. The certificate is evidence of completion of training in the identified topic, and the employee or direct caregiver is not required to repeat training in that topic if the employee or direct caregiver changes employment to a different adult day care center or to an assisted living facility, nursing home, home health agency, or hospice. The direct caregiver must comply with other applicable continuing education requirements.

Current Administration of ADRD Training

The DOEA has authority for administering the existing ADRD training[14] and currently does so through a contract with the University of South Florida (USF).[15] USF, through its Training Academy on Aging, reviews and approves ADRD Training Providers and Training Curriculum Programs for the DOEA. The mission of the ADRD training program is to improve the care of individuals with ADRDs who receive services from nursing homes, assisted living facilities, home health agencies, adult day care centers, and hospice care facilities. The ADRD training program is designed to ensure that agency and facility staff members who have regular contact with or provide direct care to, persons with ADRD receive the relevant ADRD training.[16]

III. Effect of Proposed Changes:

CS/SB 1572 creates s. 430.5025, F.S., entitled the Florida Alzheimer's Disease and Dementia Training and Education Act. The bill defines the following terms:

- "Covered provider" means a nursing home facility, a home health agency, a nurse registry, a companion or homemaker service provider, an assisted living facility, an adult family-care home, or an adult day care center licensed or registered under chapter 400, F.S., or ch. 429, F.S.
- "Department" means the Department of Elder Affairs.
- "Direct care" means providing, through in-person contact, assistance with the activities of daily living; assistance with the self-administration of medication; homemaker or companion services; nursing services; or other services that promote the physical, mental, and psychosocial well-being of participants, patients, and residents of covered providers. The term does not include administrative functions or maintenance of the physical environment of

[14] Fla. Admin. Code R. 58A-5.0194 (2020).
[15] Contract XQ092.A3, effective July 1, 2021.
[16] Department of Elder Affairs, *DOEA Bill Analysis of SB 1572* (Jan. 13, 2022) (on file with the Senate Committee on Health Policy).

a licensed facility, including grounds maintenance, building maintenance, housekeeping, laundry, or food preparation.
- "Employee" means any staff member, contracted staff, or independent contractor hired or referred by a CP who is required to undergo a level 2 background screening as required by s. 408.809(1)(e), F.S. The term includes, but is not limited to, direct care workers; staff responsible for housekeeping, the front desk, and other administrative functions; and companions or homemakers.
- "Regular contact" means the performance of duties other than direct care which may require employees to interact in person on a daily basis with participants, patients, or residents.

The bill allows the DOEA or its designee to adopt training curriculum guidelines for training other than continuing education and specifies that the training may be in a variety of in-person or electronic formats. Additionally, the bill requires the DOEA or its designee to offer training to the general public which includes basic information about the most common forms of dementia, how to identify the signs and symptoms of dementia, skills for coping with and responding to changes as a result of the onset of dementia symptoms, planning for the future, and how to access additional resources about dementia. The bill specifies that any training curriculum on ADRD approved by the DOEA or its designee before July 1, 2022, remains in effect until the curriculum's expiration date.

The bill specifies that training providers who have the following qualifications may provide training under the section without being approved by the DOEA:
- An individual approved by a board of the Department of Health to provide training who is registered with the electronic tracking system established in s. 456.025, F.S.;
- An individual with a master's or doctorate degree in health care, social services, or gerontology from an accredited college or university; or
- A training provider approved by the department or its designee before July 1, 2022.

Training providers other than those who were approved by the DOEA before July 1, 2022, must also have:
- At least one year of teaching experience as an educator for caregivers of individuals with ADRD;
- At least one year of practical experience in a program providing care to individuals with ADRD; or
- Completed a specialized training program in the subject matter of ADRD from an accredited health care, human services, or gerontology education provider.

When an employee completes the required training, the training provider must provide a record of completion of the training which includes the name of the employee, the name of the training provider, the topics covered, and the date of completion. The record is evidence of completion of training in the identified topic, and the employee is not required to repeat training in that topic if the employee changes employment to a different covered provider.

Required Training and Information

Basic Information

The bill requires CPs to provide each employee, upon beginning employment, with basic written information about interacting with patients who have Alzheimer's disease or related dementia.

Training for All Employees

The bill requires each employee who provides direct care and who is in regular contact with participants, patients, or residents to complete one hour of dementia-related training within 30 days after employment begins. Covered providers must maintain in its records a copy of the employee's certificate of completion. The bill specifies that an employee who completes the training is not required to retake the training when switching employment. The bill specifies that the DOEA or its designee must provide the one hour ADRD training at no cost and the training must include basic information about the most common forms of dementia and instruction on methods for identifying warning signs and symptoms of dementia and skills for communicating and interacting with individuals who have Alzheimer's disease or related dementia.

The DOEA must also provide certificates of completion for each employee who completes the course which includes the name of the training and training provider, the name of the employee, and the date of completion.

Training for Employees with Direct Contact and/or with Regular Contact

In addition to the one hour of training, the bill requires CPs to require all employees who provide direct care to receive additional training as follows:

- Two hours of additional training if the CP is a home health agency, nurse registry, or a companion or homemaker service provider;
- Three hours of additional training if the CP is a nursing home, ALF, adult-family care home, or adult day care center.

The training must be completed within the first seven months after employment begins and must include, but is not limited to, information related to management of problematic behaviors, promotion of independence in activities of daily living, and instruction on skills for working with family members and caregivers of patients.

If the employee works for a ALF, adult family-care home, or adult day care center that advertises special care for individuals with ADRD, an employee who provides direct care or has regular contact must complete three additional hours of training within three months after beginning employment. In addition, an employee who provides direct care must complete four more hours of training which must include, but need not be limited to, information related to understanding ADRD, the stages of Alzheimer's disease, communication strategies, medical information, and stress management within six months of beginning employment.

Afterwards, each employee who provides direct care must participate in a minimum of four contact hours of continuing education annually. The continuing education must cover at least one of the topics included in the dementia-specific training in which the employee has not received previous training.

The bill specifies that the training required under the bill qualifies as training that a CNA or health care worker may count towards any continuing education required to maintain his or her license or certification.

The bill specifies that individuals employed, contracted, or referred before July 1, 2022, must complete the training by July 1, 2025, or provide proof of equivalent training received before July 1, 2022.

The bill grants the DOEA rulemaking authority to create training curriculum guidelines, to establish requirements for the approval of qualified training providers, and to conduct sampling of training or training curricula as necessary to monitor for compliance with curriculum guidelines.

Additionally, the bill amends and creates ss. 400.511, 400.1755, 400.4785, 429.178, 429.52, 429.75, 429.83, 429.917, and 429.918, F.S., to eliminate existing ADRD training requirements from the licensure statutes for all CPs and to add a requirement that each license type meet the training requirements established by the bill.

The bill provides and effective date of July 1, 2022.

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:

SB 1572 may have an indeterminate fiscal impact on license types that must require employees to receive ADRD training under the bill if those license types are not currently required to provide such training or if the training required by the bill is greater than the training currently required.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

SB 1572 includes nurse registries under the definition of CP and creates s. 400.511, F.S., to require that each individual employed, contracted, or referred by a nurse registry must complete the training established in the bill. The bill requires CPs to "provide" one hour of training to all employees (as defined) and to "require all employees who are direct care workers to receive" additional training as specified in the bill. However, s. 400.506(19), F.S., states that a nurse registry may not "monitor, supervise, manage, or train a registered nurse, licensed practical nurse, certified nursing assistant, companion or homemaker, or home health aide referred for contract under this chapter." Section 400.511, F.S., as created by the bill, does not provide an exemption from this prohibition, and it is unclear whether the training required by the bill would violate this provision. The bill should be amended to provide an exemption from s. 400.506(19), F.S., for the training required related to nurse registries under the bill.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 400.1755, 400.4785, 429.178, 429.52, 429.75, 429.83, 429.917, and 429.918.

This bill creates the following sections of the Florida Statutes: 430.5025 and 400.511.

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 10, 2022:

The CS:

- Replaces the definition of "direct care worker" with definitions for "direct care" and "regular contact;"
- Replaces the requirement that the DOEA or its designee approve or develop all the training required by the bill with provisions that authorize that the DOEA to adopt training curriculum guidelines and approve training providers;

- Allows training providers to provide training under the section without being approved by the DOEA if the training provider meets specified qualifications.
- Narrows who must receive the one hour of training from all employees to employees who provide direct care and who are in regular contact with residents, patients, or participants;
- Requires the additional two or three hours of training for employees providing direct care to be completed within seven months of employment, rather than four months.
- Specifies that if an ALF, adult family-care home, or adult day care center advertises it provides specialized Alzheimer's care certain of the facility's employees must receive additional training. The bill originally required additional training for all of the covered providers who advertise as such.
- Increases the required initial training for employees of the facilities specified above:
  - Requires three additional hours of training for employees who have regular contact or provide direct care within three months of employment; and
  - Requires four additional hours of training for employees who provide direct care within six months of beginning employment.
- Allows training taken under the section to count toward a CNA's or a health care provider's total hours of required continuing education required for licensure or certification.
- Removes provisions that allow a health care provider's training for his or her licensure to count toward the required hours under the bill.
- Specifies that training curricula approved by the DOEA prior to July 1, 2022, remains in effect until such curricula expires.
- Requires employees who are hired prior to July 1, 2022, to receive the necessary training by July 1, 2025, or to provide proof that they have already received equivalent training prior to July 1, 2022.
- Narrows DOEA rulemaking authority to areas related to approving curriculum guidelines, approving training providers, and overseeing compliance with the curriculum guidelines

B. Amendments:

None.

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

683352

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/10/2022	.	
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	.	
	.	

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

1 **Senate Amendment (with title amendment)**

2

3 Delete everything after the enacting clause
4 and insert:
5 Section 1. This act may be cited as the "Florida
6 Alzheimer's Disease and Dementia Education and Training Act."
7 Section 2. Section 430.5025, Florida Statutes, is created
8 to read:
9 430.5025 Education and training to foster awareness of
10 Alzheimer's disease and related forms of dementia.—

683352

11 (1) As used in this section, the term:
12 (a) "Covered provider" means a nursing home facility, a
13 home health agency, a nurse registry, a companion or homemaker
14 service provider, an assisted living facility, an adult family-
15 care home, or an adult day care center licensed or registered
16 under chapter 400 or chapter 429.
17 (b) "Department" means the Department of Elderly Affairs.
18 (c) "Direct care" means providing, through in-person
19 contact, assistance with the activities of daily living;
20 assistance with the self-administration of medication; homemaker
21 or companion services; nursing services; or other services that
22 promote the physical, mental, and psychosocial well-being of
23 participants, patients, and residents of covered providers. The
24 term does not include administrative functions or maintenance of
25 the physical environment of a licensed facility, including
26 grounds maintenance, building maintenance, housekeeping,
27 laundry, or food preparation.
28 (d) "Employee" means an individual, contracted staff, or
29 independent contractor employed or referred by a covered
30 provider who is required to undergo a level 2 background
31 screening as required by s. 408.809 and chapter 435.
32 (e) "Regular contact" means the performance of duties other
33 than direct care which may require employees to interact in
34 person on a daily basis with participants, patients, or
35 residents.
36 (2) The department shall offer education to the general
37 public about Alzheimer's disease and related forms of dementia.
38 The education must provide basic information about the most
39 common forms of dementia, how to identify the signs and symptoms

683352

40 of dementia, skills for coping with and responding to changes as
41 a result of the onset of dementia symptoms, planning for the
42 future, and how to access additional resources about dementia.
43 (3) Employees of covered providers must receive uniform
44 training about Alzheimer's disease and related forms of dementia
45 as follows:
46 (a) Upon beginning employment, each employee must receive
47 basic written information about interacting with individuals who
48 have Alzheimer's disease or a related form of dementia.
49 (b) Within 30 days after the date of beginning employment,
50 each employee who provides direct care and is in regular contact
51 with participants, patients, or residents must complete a 1-hour
52 training provided by the department or its designee.
53 1. The department or its designee shall provide the
54 training required under this paragraph in an online format at no
55 cost. The 1-hour training must include information on
56 understanding the basics about the most common forms of
57 dementia, how to identify the signs and symptoms of dementia,
58 and skills for communicating and interacting with individuals
59 who have Alzheimer's disease or a related form of dementia. A
60 record of completion of the training must be made available
61 which identifies the training course, the name of the employee,
62 and the date of completion.
63 2. A covered provider must maintain a record of the
64 employee's completion of the training.
65 3. An employee who has completed the training is not
66 required to repeat the training after changing employment to a
67 different covered provider.
68 (c) Within 7 months after the date of beginning employment,

683352

69 each employee of a home health agency or nurse registry, or a
70 companion or homemaker service provider who provides direct
71 care, must complete an additional 2 hours of training. The
72 training must cover, but need not be limited to, behavior
73 management, promotion of the individual's independence in
74 activities of daily living, and skills for working with family
75 members and caregivers of patients.
76 (d) Within 7 months after the date of beginning employment,
77 each employee of a nursing home, an assisted living facility, an
78 adult family-care home, or an adult day care center who provides
79 direct care must complete an additional 3 hours of training. The
80 training must cover, but need not be limited to, behavior
81 management, promotion of the individual's independence in
82 activities of daily living, skills for working with family
83 members and caregivers of patients, group and individual
84 activities, maintaining an appropriate environment, and ethical
85 issues.
86 (e) For an assisted living facility, adult family-care
87 home, or adult day care center that advertises and provides, or
88 is designated to provide, specialized care for individuals who
89 have Alzheimer's disease or a related form of dementia, its
90 employees must receive the following training in addition to the
91 training specified in paragraphs (a) and (b):
92 1. Within 3 months after the date of beginning employment,
93 each employee who has regular contact with or provides direct
94 care to residents or participants must complete an additional 3
95 hours of training in the topics specified in paragraph (d).
96 2. Within 6 months after the date of beginning employment,
97 each employee who provides direct care must complete an

683352

98 additional 4 hours of dementia-specific training. The training
99 must include, but need not be limited to, information related to
100 understanding Alzheimer's disease and other related forms of
101 dementia, the stages of Alzheimer's disease, communication
102 strategies, medical information, and stress management.
103 3. Thereafter, each employee who provides direct care must
104 participate in a minimum of 4 contact hours of continuing
105 education each calendar year. The continuing education must
106 cover at least one of the topics included in the dementia-
107 specific training in which the employee has not received
108 previous training.
109 (f) The department may adopt training curriculum guidelines
110 for the training specified in paragraphs (c), (d), and (e). The
111 department or its designee may approve training providers and
112 training curricula and maintain a list of approved providers.
113 Approved training may be offered in a variety of formats,
114 including in-person and electronic formats. However, continuing
115 education required under this section does not need training
116 curriculum guidelines or training provider and curriculum
117 approval by the department or its designee.
118 1. A training provider meeting one of the following
119 qualifications may offer training in accordance with the
120 curriculum guidelines without prior department or designee
121 approval of the provider or the curriculum:
122 a. An individual approved by a board of the Department of
123 Health to provide training who is registered with the electronic
124 tracking system established in s. 456.025;
125 b. An individual with a master's or doctorate degree in
126 health care, social services, or gerontology from an accredited

683352

127 college or university; or
128 c. A training provider approved by the department or its
129 designee before July 1, 2022.
130 2. Training providers qualified under sub-subparagraphs
131 1.a. and b. must also have:
132 a. At least 1 year of teaching experience as an educator
133 for caregivers of individuals with Alzheimer's disease or
134 related forms of dementia;
135 b. At least 1 year of practical experience in a program
136 providing care to individuals with Alzheimer's disease or
137 related forms of dementia; or
138 c. Completed a specialized training program in the subject
139 matter of Alzheimer's disease and related forms of dementia from
140 an accredited health care, human services, or gerontology
141 education provider.
142 3. Upon an employee's completion of the training in
143 paragraphs (c), (d), or (e), the training provider must provide
144 a record of completion of the training which includes the name
145 of the employee, the name of the training provider, the topics
146 covered, and the date of completion. The record is evidence of
147 completion of training in the identified topic, and the employee
148 is not required to repeat training in that topic if the employee
149 changes employment to a different covered provider.
150 4. Any training curriculum on Alzheimer's disease or
151 related forms of dementia approved by the department or its
152 designee before July 1, 2022, remains in effect until the
153 curriculum's expiration date.
154 (g) The department may adopt rules to create training
155 curriculum guidelines, to establish requirements for the

683352

156 approval of qualified training providers, and to conduct
157 sampling of training or training curricula as necessary to
158 monitor for compliance with curriculum guidelines.
159 (4) For a certified nursing assistant as defined in s.
160 464.201, training completed as required by this section may be
161 counted toward the total hours of training required to maintain
162 certification as a certified nursing assistant.
163 (5) For a health care practitioner as defined in s.
164 456.001, training completed as required by this section may be
165 counted toward the total hours of continuing education required
166 by that practitioner’s licensing board.
167 Section 3. Section 400.1755, Florida Statutes, is amended
168 to read:
169 400.1755 Care for persons with Alzheimer’s disease or
170 related disorders; staff training requirements.—
171 ~~(1)~~ As a condition of licensure, the employees of
172 facilities licensed under this part must complete the training
173 as required by the Florida Alzheimer’s Disease and Dementia
174 Education and Training Act in s. 430.5025 ~~provide to each of~~
175 ~~their employees, upon beginning employment, basic written~~
176 ~~information about interacting with persons with Alzheimer’s~~
177 ~~disease or a related disorder~~.
178 ~~(2) All employees who are expected to, or whose~~
179 ~~responsibilities require them to, have direct contact with~~
180 ~~residents with Alzheimer’s disease or a related disorder must,~~
181 ~~in addition to being provided the information required in~~
182 ~~subsection (1), also have an initial training of at least 1 hour~~
183 ~~completed in the first 3 months after beginning employment. This~~
184 ~~training must include, but is not limited to, an overview of~~

683352

185 ~~dementias and must provide basic skills in communicating with~~
186 ~~persons with dementia.~~
187 ~~(3) An individual who provides direct care shall be~~
188 ~~considered a direct caregiver and must complete the required~~
189 ~~initial training and an additional 3 hours of training within 9~~
190 ~~months after beginning employment. This training shall include,~~
191 ~~but is not limited to, managing problem behaviors, promoting the~~
192 ~~resident's independence in activities of daily living, and~~
193 ~~skills in working with families and caregivers.~~
194 ~~(a) The required 4 hours of training for certified nursing~~
195 ~~assistants are part of the total hours of training required~~
196 ~~annually.~~
197 ~~(b) For a health care practitioner as defined in s.~~
198 ~~456.001, continuing education hours taken as required by that~~
199 ~~practitioner's licensing board shall be counted toward this~~
200 ~~total of 4 hours.~~
201 ~~(4) For an employee who is a licensed health care~~
202 ~~practitioner as defined in s. 456.001, training that is~~
203 ~~sanctioned by that practitioner's licensing board shall be~~
204 ~~considered to be approved by the Department of Elderly Affairs.~~
205 ~~(5) The Department of Elderly Affairs or its designee must~~
206 ~~approve the initial and continuing training provided in the~~
207 ~~facilities. The department must approve training offered in a~~
208 ~~variety of formats, including, but not limited to, Internet-~~
209 ~~based training, videos, teleconferencing, and classroom~~
210 ~~instruction. The department shall keep a list of current~~
211 ~~providers who are approved to provide initial and continuing~~
212 ~~training. The department shall adopt rules to establish~~
213 ~~standards for the trainers and the training required in this~~

683352

214 ~~section.~~
215 ~~(6) Upon completing any training listed in this section,~~
216 ~~the employee or direct caregiver shall be issued a certificate~~
217 ~~that includes the name of the training provider, the topic~~
218 ~~covered, and the date and signature of the training provider.~~
219 ~~The certificate is evidence of completion of training in the~~
220 ~~identified topic, and the employee or direct caregiver is not~~
221 ~~required to repeat training in that topic if the employee or~~
222 ~~direct caregiver changes employment to a different facility or~~
223 ~~to an assisted living facility, home health agency, adult day~~
224 ~~care center, or adult family-care home. The direct caregiver~~
225 ~~must comply with other applicable continuing education~~
226 ~~requirements.~~
227 Section 4. Section 400.4785, Florida Statutes, is amended
228 to read:
229 400.4785 Patients with Alzheimer's disease or other related
230 disorders; staff training requirements; certain disclosures.—<u>The</u>
231 <u>employees of a home health agency must complete the training as</u>
232 <u>required by the Florida Alzheimer's Disease and Dementia</u>
233 <u>Education and Training Act in s. 430.5025.</u>
234 (1) ~~A home health agency must provide the following staff~~
235 ~~training:~~
236 ~~(a) Upon beginning employment with the agency, each~~
237 ~~employee must receive basic written information about~~
238 ~~interacting with participants who have Alzheimer's disease or~~
239 ~~dementia-related disorders~~.
240 ~~(b) In addition to the information provided under paragraph~~
241 ~~(a), newly hired home health agency personnel who will be~~
242 ~~providing direct care to patients must complete 2 hours of~~

683352

243 ~~training in Alzheimer's disease and dementia-related disorders~~
244 ~~within 9 months after beginning employment with the agency. This~~
245 ~~training must include, but is not limited to, an overview of~~
246 ~~dementia, a demonstration of basic skills in communicating with~~
247 ~~persons who have dementia, the management of problem behaviors,~~
248 ~~information about promoting the client's independence in~~
249 ~~activities of daily living, and instruction in skills for~~
250 ~~working with families and caregivers.~~
251 ~~(c) For certified nursing assistants, the required 2 hours~~
252 ~~of training shall be part of the total hours of training~~
253 ~~required annually.~~
254 ~~(d) For a health care practitioner as defined in s.~~
255 ~~456.001, continuing education hours taken as required by that~~
256 ~~practitioner's licensing board shall be counted toward the total~~
257 ~~of 2 hours.~~
258 ~~(e) For an employee who is a licensed health care~~
259 ~~practitioner as defined in s. 456.001, training that is~~
260 ~~sanctioned by that practitioner's licensing board shall be~~
261 ~~considered to be approved by the Department of Elderly Affairs.~~
262 ~~(f) The Department of Elderly Affairs, or its designee,~~
263 ~~must approve the required training. The department must consider~~
264 ~~for approval training offered in a variety of formats. The~~
265 ~~department shall keep a list of current providers who are~~
266 ~~approved to provide the 2-hour training. The department shall~~
267 ~~adopt rules to establish standards for the employees who are~~
268 ~~subject to this training, for the trainers, and for the training~~
269 ~~required in this section.~~
270 ~~(g) Upon completing the training listed in this section,~~
271 ~~the employee shall be issued a certificate that states that the~~

683352

272 ~~training mandated under this section has been received. The~~
273 ~~certificate shall be dated and signed by the training provider.~~
274 ~~The certificate is evidence of completion of this training, and~~
275 ~~the employee is not required to repeat this training if the~~
276 ~~employee changes employment to a different home health agency.~~
277 ~~(h)~~ A licensed home health agency whose unduplicated census
278 during the most recent calendar year was composed ~~comprised~~ of
279 at least 90 percent of individuals aged 21 years or younger at
280 the date of admission is exempt from the training requirements
281 in this section.
282 (2) An agency licensed under this part which claims that it
283 provides special care for persons who have Alzheimer's disease
284 or other related disorders must disclose in its advertisements
285 or in a separate document those services that distinguish the
286 care as being especially applicable to, or suitable for, such
287 persons. The agency must give a copy of all such advertisements
288 or a copy of the document to each person who requests
289 information about the agency and must maintain a copy of all
290 such advertisements and documents in its records. The Agency for
291 Health Care Administration shall examine all such advertisements
292 and documents in the agency's records as part of the license
293 renewal procedure.
294 Section 5. Section 400.511, Florida Statutes, is created to
295 read:
296 400.51 Patients with Alzheimer's disease or other related
297 disorders; staff training requirements.—Each individual
298 employed, contracted, or referred by a nurse registry or any
299 individual registered with the agency to provide companion
300 services or homemaker services must complete the training as

683352

301 required by the Florida Alzheimer’s Disease and Dementia
302 Education and Training Act in s. 430.5025.
303 Section 6. Section 429.178, Florida Statutes, is amended to
304 read:
305 429.178 Special care for persons with Alzheimer’s disease
306 or other related disorders.—
307 ~~(1)~~ A facility that ~~which~~ advertises that it provides
308 special care for persons with Alzheimer’s disease or other
309 related disorders must meet the following standards of
310 operation:
311 (1)(a)~~1.~~ If the facility has 17 or more residents, have an
312 awake staff member on duty at all hours of the day and night; or
313 (b)~~2.~~ If the facility has fewer than 17 residents, have an
314 awake staff member on duty at all hours of the day and night or
315 have mechanisms in place to monitor and ensure the safety of the
316 facility’s residents.
317 (2)~~(b)~~ Offer activities specifically designed for persons
318 who are cognitively impaired.
319 (3)~~(c)~~ Have a physical environment that provides for the
320 safety and welfare of the facility’s residents.
321 (4)~~(d)~~ Employees must complete ~~Employ staff who have~~
322 ~~completed~~ the training and continuing education required by the
323 Florida Alzheimer’s Disease and Dementia Education and Training
324 Act in s. 430.5025 ~~subsection (2)~~.
325 ~~(2)(a) An individual who is employed by a facility that~~
326 ~~provides special care for residents who have Alzheimer’s disease~~
327 ~~or other related disorders, and who has regular contact with~~
328 ~~such residents, must complete up to 4 hours of initial dementia-~~
329 ~~specific training developed or approved by the department. The~~

683352

330 training must be completed within 3 months after beginning
331 employment and satisfy the core training requirements of s.
332 429.52(3)(g).
333 (b) A direct caregiver who is employed by a facility that
334 provides special care for residents who have Alzheimer's disease
335 or other related disorders and provides direct care to such
336 residents must complete the required initial training and 4
337 additional hours of training developed or approved by the
338 department. The training must be completed within 9 months after
339 beginning employment and satisfy the core training requirements
340 of s. 429.52(3)(g).
341 (c) An individual who is employed by a facility that
342 provides special care for residents with Alzheimer's disease or
343 other related disorders, but who only has incidental contact
344 with such residents, must be given, at a minimum, general
345 information on interacting with individuals with Alzheimer's
346 disease or other related disorders, within 3 months after
347 beginning employment.
348 (3) In addition to the training required under subsection
349 (2), a direct caregiver must participate in a minimum of 4
350 contact hours of continuing education each calendar year. The
351 continuing education must include one or more topics included in
352 the dementia-specific training developed or approved by the
353 department, in which the caregiver has not received previous
354 training.
355 (4) Upon completing any training listed in subsection (2),
356 the employee or direct caregiver shall be issued a certificate
357 that includes the name of the training provider, the topic
358 covered, and the date and signature of the training provider.

683352

359 ~~The certificate is evidence of completion of training in the~~
360 ~~identified topic, and the employee or direct caregiver is not~~
361 ~~required to repeat training in that topic if the employee or~~
362 ~~direct caregiver changes employment to a different facility. The~~
363 ~~employee or direct caregiver must comply with other applicable~~
364 ~~continuing education requirements.~~
365 ~~(5) The department, or its designee, shall approve the~~
366 ~~initial and continuing education courses and providers.~~
367 ~~(6) The department shall keep a current list of providers~~
368 ~~who are approved to provide initial and continuing education for~~
369 ~~staff of facilities that provide special care for persons with~~
370 ~~Alzheimer's disease or other related disorders.~~
371 ~~(7) Any facility more than 90 percent of whose residents~~
372 ~~receive monthly optional supplementation payments is not~~
373 ~~required to pay for the training and education programs required~~
374 ~~under this section. A facility that has one or more such~~
375 ~~residents shall pay a reduced fee that is proportional to the~~
376 ~~percentage of such residents in the facility. A facility that~~
377 ~~does not have any residents who receive monthly optional~~
378 ~~supplementation payments must pay a reasonable fee, as~~
379 ~~established by the department, for such training and education~~
380 ~~programs.~~
381 ~~(8) The department shall adopt rules to establish standards~~
382 ~~for trainers and training and to implement this section.~~
383 Section 7. Subsection (1) of section 429.52, Florida
384 Statutes, is amended to read:
385 429.52 Staff training and educational requirements.—
386 (1)(a) Each new assisted living facility employee who has
387 not previously completed core training must attend a preservice

683352

388 orientation provided by the facility before interacting with
389 residents. The preservice orientation must be at least 2 hours
390 in duration and cover topics that help the employee provide
391 responsible care and respond to the needs of facility residents.
392 Upon completion, the employee and the administrator of the
393 facility must sign a statement that the employee completed the
394 required preservice orientation. The facility must keep the
395 signed statement in the employee's personnel record.
396 (b) Each employee of an assisted living facility must
397 complete the training as required by the Florida Alzheimer's
398 Disease and Dementia Education and Training Act in s. 430.5025.
399 (c) The 1-hour training required by s. 430.5025(3)(b)
400 relating to information on Alzheimer's disease and related forms
401 of dementia, if completed before interacting with residents, may
402 count toward the total of the 2 hours of required preservice
403 orientation.
404 Section 8. Section 429.83, Florida Statutes, is amended to
405 read:
406 429.83 Residents with Alzheimer's disease or other related
407 disorders; training; certain disclosures.—
408 (1) The employees of an adult family-care home licensed
409 under this part must complete the training as required by the
410 Florida Alzheimer's Disease and Dementia Education and Training
411 Act in s. 430.5025.
412 (2) An adult family-care home licensed under this part
413 which claims that it provides special care for persons who have
414 Alzheimer's disease or other related disorders must Disclose in
415 its advertisements or in a separate document those services that
416 distinguish the care as being especially applicable to, or

683352

417 suitable for, such persons. The home must give a copy of all
418 such advertisements or a copy of the document to each person who
419 requests information about programs and services for persons
420 with Alzheimer’s disease or other related disorders offered by
421 the home and must maintain a copy of all such advertisements and
422 documents in its records. The agency shall examine all such
423 advertisements and documents in the home’s records as part of
424 the license renewal procedure.
425 Section 9. Subsection (1) of section 429.917, Florida
426 Statutes, is amended to read:
427 429.917 Patients with Alzheimer’s disease or other related
428 disorders; staff training requirements; certain disclosures.—
429 (1) The employees of an adult day care center licensed
430 under this part must complete the ~~provide the following staff~~
431 training as required by the Florida Alzheimer’s Disease and
432 Dementia Education and Training Act in s. 430.5025~~:~~
433 ~~(a) Upon beginning employment with the facility, each~~
434 ~~employee must receive basic written information about~~
435 ~~interacting with participants who have Alzheimer’s disease or~~
436 ~~dementia-related disorders.~~
437 ~~(b) In addition to the information provided under paragraph~~
438 ~~(a), newly hired adult day care center personnel who are~~
439 ~~expected to, or whose responsibilities require them to, have~~
440 ~~direct contact with participants who have Alzheimer’s disease or~~
441 ~~dementia-related disorders must complete initial training of at~~
442 ~~least 1 hour within the first 3 months after beginning~~
443 ~~employment. The training must include an overview of dementias~~
444 ~~and must provide instruction in basic skills for communicating~~
445 ~~with persons who have dementia.~~

683352

446 ~~(c) In addition to the requirements of paragraphs (a) and~~
447 ~~(b), an employee who will be providing direct care to a~~
448 ~~participant who has Alzheimer's disease or a dementia-related~~
449 ~~disorder must complete an additional 3 hours of training within~~
450 ~~9 months after beginning employment. This training must include,~~
451 ~~but is not limited to, the management of problem behaviors,~~
452 ~~information about promoting the participant's independence in~~
453 ~~activities of daily living, and instruction in skills for~~
454 ~~working with families and caregivers.~~
455 ~~(d) For certified nursing assistants, the required 4 hours~~
456 ~~of training shall be part of the total hours of training~~
457 ~~required annually.~~
458 ~~(e) For a health care practitioner as defined in s.~~
459 ~~456.001, continuing education hours taken as required by that~~
460 ~~practitioner's licensing board shall be counted toward the total~~
461 ~~of 4 hours.~~
462 ~~(f) For an employee who is a licensed health care~~
463 ~~practitioner as defined in s. 456.001, training that is~~
464 ~~sanctioned by that practitioner's licensing board shall be~~
465 ~~considered to be approved by the Department of Elderly Affairs.~~
466 ~~(g) The Department of Elderly Affairs or its designee must~~
467 ~~approve the 1-hour and 3-hour training provided to employees and~~
468 ~~direct caregivers under this section. The department must~~
469 ~~consider for approval training offered in a variety of formats.~~
470 ~~The department shall keep a list of current providers who are~~
471 ~~approved to provide the 1-hour and 3-hour training. The~~
472 ~~department shall adopt rules to establish standards for the~~
473 ~~employees who are subject to this training, for the trainers,~~
474 ~~and for the training required in this section.~~

683352

475 ~~(h) Upon completing any training described in this section,~~
476 ~~the employee or direct caregiver shall be issued a certificate~~
477 ~~that includes the name of the training provider, the topic~~
478 ~~covered, and the date and signature of the training provider.~~
479 ~~The certificate is evidence of completion of training in the~~
480 ~~identified topic, and the employee or direct caregiver is not~~
481 ~~required to repeat training in that topic if the employee or~~
482 ~~direct caregiver changes employment to a different adult day~~
483 ~~care center or to an assisted living facility, nursing home,~~
484 ~~home health agency, or hospice. The direct caregiver must comply~~
485 ~~with other applicable continuing education requirements.~~
486 ~~(i) An employee who is hired on or after July 1, 2004, must~~
487 ~~complete the training required by this section~~.
488 Section 10. Subsection (6) of section 429.918, Florida
489 Statutes, is amended to read:
490 429.918 Licensure designation as a specialized Alzheimer’s
491 services adult day care center.—
492 (6)~~(a)~~ An adult day care center having a license designated
493 under this section must ~~provide the following staff training and~~
494 ~~supervision:~~
495 (a)~~1.~~ A registered nurse or licensed practical nurse ~~must~~
496 ~~be~~ on site daily for at least 75 percent of the time that the
497 center is open to ADRD participants. Each licensed practical
498 nurse who works at the center must be supervised in accordance
499 with chapter 464.
500 ~~2. Upon beginning employment with the center, each employee~~
501 ~~must receive and review basic written information about~~
502 ~~interacting with ADRD participants.~~
503 ~~3. In addition to the information provided in subparagraph~~

683352

~~2., every employee hired on or after July 1, 2012, who has direct contact with ADRD participants shall complete 4 hours of dementia-specific training within 3 months after employment.~~

~~4. In addition to the requirements of subparagraphs 2. and 3., each employee hired on or after July 1, 2012, who provides direct care to ADRD participants shall complete an additional 4 hours of dementia-specific training within 6 months after employment.~~

(b) Each employee must complete the training and continuing education as required by the Florida Alzheimer’s Disease and Dementia Education and Training Act in s. 430.5025 ~~The Department of Elderly Affairs or its designee shall approve the training required under this section. The department shall adopt rules to establish standards for employees who are subject to this training, for trainers, and for the training required in this section~~.

(c) ~~Upon completing any training described in this section, the employee shall be issued a certificate that includes the name of the training provider, the topics covered, and the date and signature of the training provider. The certificate is evidence of completion of training in the identified topics, and the employee is not required to repeat training in those topics if the employee changes employment to a different adult day care center.~~

~~(d)~~ Each employee hired on or after July 1, 2012, who provides direct care to ADRD participants, must receive and review an orientation plan that includes, at a minimum:

1. Procedures to locate an ADRD participant who has wandered from the center. These procedures must ~~shall~~ be

683352

533 reviewed regularly with all direct care staff.
534 2. Information on the Silver Alert program in this state.
535 3. Information regarding available products or programs
536 used to identify ADRD participants or prevent them from
537 wandering away from the center, their home, or other locations.
538 Section 11. Each individual employed, contracted, or
539 referred to provide services before July 1, 2022, must complete
540 the training required by this act by July 1, 2025. Proof of
541 completion of equivalent training received before July 1, 2022,
542 shall substitute for the required training under this act.
543 Individuals employed, contracted, or referred to provide
544 services on or after July 1, 2022, must complete the required
545 training in the timeframes specified in this act.
546 Section 12. This act shall take effect July 1, 2022.
547
548 ================= T I T L E A M E N D M E N T ================
549 And the title is amended as follows:
550 Delete everything before the enacting clause
551 and insert:
552 A bill to be entitled
553 An act relating to dementia-related staff training;
554 providing a short title; creating s. 430.5025, F.S.;
555 defining terms; requiring the Department of Elderly
556 Affairs to offer certain dementia-related education to
557 the public; specifying uniform dementia-related
558 education and training for employees of covered
559 providers; requiring the department or its designee to
560 provide certain dementia-related employee training in
561 an online format at no cost; providing minimum

683352

562 requirements for the training; requiring the
563 department or its designee to make a record of the
564 completion of the training; providing requirements for
565 the record; requiring covered employers to maintain
566 such records of training completion for their
567 employees; providing that an employee does not have to
568 repeat such training after changing employment to
569 another covered provider; providing training and
570 continuing education requirements for certain
571 employees providing direct care; authorizing the
572 department to adopt training curriculum guidelines;
573 authorizing the department or its designee to approve
574 training providers and curricula and maintain a list
575 of approved providers; authorizing training to be
576 offered in a variety of formats; providing that
577 certain continuing education does not require provider
578 or curriculum approval by the department or its
579 designee; providing qualifications and requirements
580 for approved providers; providing that training
581 curricula approved before the effective date of this
582 act remain in effect until their expiration date;
583 authorizing the department to adopt certain rules;
584 authorizing certified nursing assistants to count the
585 dementia-related training toward their annual
586 certification training requirements; authorizing
587 health care practitioners to count the dementia-
588 related training requirements toward their continuing
589 education requirements for licensure; creating s.
590 400.51, F.S.; requiring individuals employed,

683352

591 contracted, or referred by a nurse registry and
592 individuals registered as companion or homemaker
593 services providers to complete specified dementia-
594 related training; amending ss. 400.1755, 400.4785,
595 429.178, 429.52, 429.83, 429.917, and 429.918, F.S.;
596 revising dementia-related staff training requirements
597 for nursing homes, home health agencies, facilities
598 that provide special care for persons with Alzheimer’s
599 disease or related dementia, assisted living
600 facilities, adult family-care homes, adult day care
601 centers, and specialized Alzheimer’s services adult
602 day care centers, respectively, to conform to changes
603 made by the act; extending the timeframe in which
604 individuals employed, contracted, or referred to
605 provide services before a specified date must complete
606 the dementia-related staff training required by this
607 act; providing that proof of completion of equivalent
608 training substitutes for such training; providing that
609 individuals employed, contracted, or referred to
610 provide services on or after a specified date are
611 subject the timeframes for completion of such training
612 which are specified in the act; providing an effective
613 date.

By Senator Baxley

12-00829C-22 20221572__

1 A bill to be entitled
2 An act relating to dementia-related staff training;
3 providing a short title; creating s. 430.5025, F.S.;
4 defining terms; requiring the Department of Elderly
5 Affairs or its designee to develop or approve certain
6 dementia-related education and training; requiring
7 such education and training to be offered in a variety
8 of formats; authorizing the department or its designee
9 to approve existing training courses and curricula if
10 they meet certain requirements; requiring the
11 department or its designee to offer certain education
12 to the public; providing requirements for such
13 education; requiring the department or its designee to
14 develop or approve certain dementia-related training
15 for covered provider employees; providing requirements
16 for the training; requiring the department or its
17 designee to make such training available at no cost
18 and accessible in online formats; requiring the
19 department or its designee to provide for certificates
20 of completion for such training; providing
21 requirements for such certificates; requiring covered
22 providers to provide specified information and
23 dementia-related training to new employees within a
24 specified timeframe; requiring covered providers to
25 maintain copies of employees' certificates of
26 completion; providing that employees who complete such
27 training do not need to repeat the training upon
28 change of employment to another covered provider;
29 requiring certain employees to receive additional

30 dementia-related training under certain circumstances
31 within a specified timeframe; providing requirements
32 for the training; authorizing certain employees hired
33 before a specified date to count completed training
34 toward such training requirements; extending the
35 timeframe in which certain employees must complete
36 such training; requiring certain employees to complete
37 continuing education in specified topics each year;
38 providing that the dementia-related training counts
39 toward a certified nursing assistant's annual training
40 requirements; authorizing certain health care
41 practitioners to count certain continuing education
42 and training hours toward the dementia-related
43 training requirements under certain circumstances;
44 requiring the department to approve such continuing
45 education hours to satisfy the dementia-related
46 training requirements; authorizing the department to
47 adopt rules; creating s. 400.511, F.S.; requiring
48 individuals employed, contracted, or referred by a
49 nurse registry and individuals registered as companion
50 or homemaker services providers to complete specified
51 dementia-related training; amending ss. 400.1755,
52 400.4785, 429.178, 429.52, 429.75, 429.83, 429.917,
53 and 429.918, F.S.; revising dementia-related staff
54 training requirements for nursing homes, home health
55 agencies, facilities that provide special care for
56 persons with Alzheimer's disease or related dementia,
57 assisted living facilities, adult family-care homes,
58 adult day care centers, and specialized Alzheimer's

59 services adult day care centers, respectively, to
60 conform to changes made by the act; providing an
61 effective date.
62
63 Be It Enacted by the Legislature of the State of Florida:
64
65 Section 1. This act may be cited as the "Florida
66 Alzheimer's Disease and Dementia Training and Education Act."
67 Section 2. Section 430.5025, Florida Statutes, is created
68 to read:
69 430.5025 Florida Alzheimer's Disease and Dementia Training
70 and Education Act.—
71 (1) As used in this section, the term:
72 (a) "Covered provider" means a nursing home facility, home
73 health agency, nurse registry, or companion or homemaker service
74 provider licensed or registered under chapter 400 or an assisted
75 living facility, adult family-care home, or adult day care
76 center licensed under chapter 429.
77 (b) "Department" means the Department of Elderly Affairs.
78 (c) "Direct care worker" means an individual who, as part
79 of his or her employment duties, provides or has access to
80 provide direct contact assistance with personal care or
81 activities of daily living to clients, patients, or residents of
82 any facility licensed under part II, part III, or part IV of
83 chapter 400 or chapter 429.
84 (d) "Employee" means any staff member, contracted staff, or
85 independent contractor hired or referred by a covered provider
86 who is required to undergo a level 2 background screening as
87 required by s. 408.809(1)(e). The term includes, but is not

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88 limited to, direct care workers; staff responsible for
89 housekeeping, the front desk, and other administrative
90 functions; and companions or homemakers.
91 (2) The department or its designee shall develop or approve
92 education and training required under this section, which must
93 be in a variety of formats, including, but not limited to,
94 Internet-based training, videos, teleconferencing, and classroom
95 instruction. The department or its designee may approve any
96 existing training course or curriculum that is being used by a
97 covered provider if it meets the requirements of this section.
98 (3) The department or its designee shall offer education to
99 the general public about Alzheimer's disease and related forms
100 of dementia. Such education must provide basic information about
101 the most common forms of dementia, how to identify the signs and
102 symptoms of dementia, skills for coping with and responding to
103 changes as a result of the onset of dementia symptoms, planning
104 for the future, and how to access additional resources about
105 dementia.
106 (4) The department or its designee shall develop or approve
107 1 hour of dementia-related training for covered provider
108 employees. The training must include basic information about the
109 most common forms of dementia and instruction on methods for
110 identifying warning signs and symptoms of dementia and skills
111 for communicating and interacting with individuals who have
112 Alzheimer's disease or related dementia. The department shall
113 provide the 1-hour training to covered providers and their
114 employees at no cost and shall make the training accessible
115 online through Internet-based formats, videos, and
116 teleconferencing. The department or its designee shall provide

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12-00829C-22 20221572__

117 for certificates of completion for the training which identify
118 the name of the training and training provider, the name of the
119 employee, and the date of completion.
120 (5) A covered provider shall do all of the following:
121 (a) Provide each employee, upon beginning employment, with
122 basic written information about interacting with patients who
123 have Alzheimer's disease or related dementia.
124 (b) Provide each employee with 1 hour of dementia-related
125 training, as developed or approved by the department or its
126 designee under subsection (4).
127 1. A covered provider must require an employee to complete
128 the training within 30 days after employment begins.
129 2. A covered provider must maintain in its records a copy
130 of the employee's certificate of completion of the training.
131 3. An employee who has completed the training under this
132 paragraph is not required to repeat the course upon changing
133 employment to a different covered provider.
134 (6)(a) In addition to the training requirements of
135 subsection (5), covered providers shall require all employees
136 who are direct care workers to receive additional training if
137 they are required to have direct contact with clients, patients,
138 or residents with Alzheimer's disease or related dementia, as
139 follows:
140 1. Covered providers licensed under part III of chapter 400
141 must require their direct care workers to complete 2 additional
142 hours of training developed or approved by the department or its
143 designee.
144 2. Covered providers licensed under part II of chapter 400
145 or chapter 429 must require their direct care workers to

12-00829C-22 20221572__

146 complete 3 additional hours of training developed or approved by
147 the department or its designee.
148 (b) The training must be completed within the first 4
149 months after employment begins and must include, but need not be
150 limited to, information related to management of problem
151 behaviors and promotion of independence in activities of daily
152 living and instruction on skills for working with family members
153 and caregivers of patients.
154 (c) A direct care worker hired before July 1, 2022, who has
155 completed dementia-related training may count those hours toward
156 satisfying the training requirement under this subsection. A
157 direct care worker hired before July 1, 2022, who has not yet
158 completed dementia-related training must complete the training
159 required under this subsection by July 1, 2023.
160 (7)(a) If a covered provider advertises that it provides
161 special care for individuals with Alzheimer's disease or related
162 dementia which includes direct care to such individuals, the
163 covered provider must require its direct care workers to
164 complete an additional 4 hours of training developed or approved
165 by the department. This training is in addition to the training
166 requirements of subsections (5) and (6) and must be completed
167 within 6 months after employment begins.
168 (b) In addition to the training required under paragraph
169 (a), a direct care worker must complete a minimum of 4 contact
170 hours of continuing education each calendar year. Such
171 continuing education must cover at least one of the topics
172 included in the dementia-related training developed or approved
173 by the department in which the direct care worker has not
174 received previous training.

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(8) Completion of the 4 hours of training developed by or approved by the department under subsections (5) and (6) counts toward a certified nursing assistant's annual training requirements.

(9) If a health care practitioner as defined in s. 456.001 completes continuing education hours as required by that practitioner's licensing board, he or she may count those continuing education hours toward satisfaction of the training requirements of subsections (6) and (7) if the course curriculum covers the same topics as the training developed or approved by the department or its designee under those subsections. The department must approve such continuing education hours for purposes of satisfying the training requirements of subsection (6) and paragraph (7)(a) and the continuing education requirements of paragraph (7)(b).

(10) The department may adopt rules to implement this section.

Section 3. Section 400.511, Florida Statutes, is created to read:

400.511 Patients with Alzheimer's disease or related dementia; staff training requirements.—Each individual employed, contracted, or referred by a nurse registry and any individual registered with the agency to provide companion services or homemaker services must complete the approved training as required in s. 430.5025.

Section 4. Section 400.1755, Florida Statutes, is amended to read:

400.1755 Care for persons with Alzheimer's disease or related dementia ~~disorders~~; staff training requirements.—

~~(1)~~ As a condition of licensure, facilities licensed under this part must provide to each of their employees approved training as required in s. 430.5025~~, upon beginning employment, basic written information about interacting with persons with Alzheimer's disease or a related disorder~~.

~~(2) All employees who are expected to, or whose responsibilities require them to, have direct contact with residents with Alzheimer's disease or a related disorder must, in addition to being provided the information required in subsection (1), also have an initial training of at least 1 hour completed in the first 3 months after beginning employment. This training must include, but is not limited to, an overview of dementias and must provide basic skills in communicating with persons with dementia.~~

~~(3) An individual who provides direct care shall be considered a direct caregiver and must complete the required initial training and an additional 3 hours of training within 9 months after beginning employment. This training shall include, but is not limited to, managing problem behaviors, promoting the resident's independence in activities of daily living, and skills in working with families and caregivers.~~

~~(a) The required 4 hours of training for certified nursing assistants are part of the total hours of training required annually.~~

~~(b) For a health care practitioner as defined in s. 456.001, continuing education hours taken as required by that practitioner's licensing board shall be counted toward this total of 4 hours.~~

~~(4) For an employee who is a licensed health care~~

233 ~~practitioner as defined in s. 456.001, training that is~~
234 ~~sanctioned by that practitioner's licensing board shall be~~
235 ~~considered to be approved by the Department of Elderly Affairs.~~
236 ~~(5) The Department of Elderly Affairs or its designee must~~
237 ~~approve the initial and continuing training provided in the~~
238 ~~facilities. The department must approve training offered in a~~
239 ~~variety of formats, including, but not limited to, Internet-~~
240 ~~based training, videos, teleconferencing, and classroom~~
241 ~~instruction. The department shall keep a list of current~~
242 ~~providers who are approved to provide initial and continuing~~
243 ~~training. The department shall adopt rules to establish~~
244 ~~standards for the trainers and the training required in this~~
245 ~~section.~~
246 ~~(6) Upon completing any training listed in this section,~~
247 ~~the employee or direct caregiver shall be issued a certificate~~
248 ~~that includes the name of the training provider, the topic~~
249 ~~covered, and the date and signature of the training provider.~~
250 ~~The certificate is evidence of completion of training in the~~
251 ~~identified topic, and the employee or direct caregiver is not~~
252 ~~required to repeat training in that topic if the employee or~~
253 ~~direct caregiver changes employment to a different facility or~~
254 ~~to an assisted living facility, home health agency, adult day~~
255 ~~care center, or adult family-care home. The direct caregiver~~
256 ~~must comply with other applicable continuing education~~
257 ~~requirements.~~
258 Section 5. Section 400.4785, Florida Statutes, is amended
259 to read:
260 400.4785 Patients with Alzheimer's disease or other related
261 dementia ~~disorders~~; staff training requirements; certain

262 disclosures.—
263 (1) A home health agency must provide ~~the following staff~~
264 to each of its employees approved training as required in s.
265 430.5025~~:~~
266 ~~(a) Upon beginning employment with the agency, each~~
267 ~~employee must receive basic written information about~~
268 ~~interacting with participants who have Alzheimer's disease or~~
269 ~~dementia-related disorders~~.
270 ~~(b) In addition to the information provided under paragraph~~
271 ~~(a), newly hired home health agency personnel who will be~~
272 ~~providing direct care to patients must complete 2 hours of~~
273 ~~training in Alzheimer's disease and dementia-related disorders~~
274 ~~within 9 months after beginning employment with the agency. This~~
275 ~~training must include, but is not limited to, an overview of~~
276 ~~dementia, a demonstration of basic skills in communicating with~~
277 ~~persons who have dementia, the management of problem behaviors,~~
278 ~~information about promoting the client's independence in~~
279 ~~activities of daily living, and instruction in skills for~~
280 ~~working with families and caregivers.~~
281 ~~(c) For certified nursing assistants, the required 2 hours~~
282 ~~of training shall be part of the total hours of training~~
283 ~~required annually.~~
284 ~~(d) For a health care practitioner as defined in s.~~
285 ~~456.001, continuing education hours taken as required by that~~
286 ~~practitioner's licensing board shall be counted toward the total~~
287 ~~of 2 hours.~~
288 ~~(e) For an employee who is a licensed health care~~
289 ~~practitioner as defined in s. 456.001, training that is~~
290 ~~sanctioned by that practitioner's licensing board shall be~~

~~considered to be approved by the Department of Elderly Affairs.~~

~~(f) The Department of Elderly Affairs, or its designee, must approve the required training. The department must consider for approval training offered in a variety of formats. The department shall keep a list of current providers who are approved to provide the 2-hour training. The department shall adopt rules to establish standards for the employees who are subject to this training, for the trainers, and for the training required in this section.~~

~~(g) Upon completing the training listed in this section, the employee shall be issued a certificate that states that the training mandated under this section has been received. The certificate shall be dated and signed by the training provider. The certificate is evidence of completion of this training, and the employee is not required to repeat this training if the employee changes employment to a different home health agency.~~

(2) ~~(h)~~ A licensed home health agency whose unduplicated census during the most recent calendar year was composed ~~comprised~~ of at least 90 percent of individuals aged 21 years or younger at the date of admission is exempt from the training requirements in this section.

(3) ~~(2)~~ An agency licensed under this part which claims that it provides special care for persons who have Alzheimer's disease or other related dementia ~~disorders~~ must disclose in its advertisements or in a separate document those services that distinguish the care as being especially applicable to, or suitable for, such persons. The agency must give a copy of all such advertisements or a copy of the document to each person who requests information about the agency and must maintain a copy

of all such advertisements and documents in its records. The Agency for Health Care Administration shall examine all such advertisements and documents in the agency's records as part of the license renewal procedure.

Section 6. Subsections (2) through (6) of section 429.178, Florida Statutes, are amended to read:

429.178 Special care for persons with Alzheimer's disease or other related dementia ~~disorders~~.—

(2) ~~(a)~~ An individual who is employed by a facility that provides special care for residents who have Alzheimer's disease or other related dementia ~~disorders~~, and who has regular contact with such residents, must complete ~~up to 4 hours of initial~~ dementia-specific approved training as required in s. 430.5025 ~~developed or approved by the department. The training must be completed within 3 months after beginning employment and satisfy the core training requirements of s. 429.52(3)(g)~~.

~~(b) A direct caregiver who is employed by a facility that provides special care for residents who have Alzheimer's disease or other related disorders and provides direct care to such residents must complete the required initial training and 4 additional hours of training developed or approved by the department. The training must be completed within 9 months after beginning employment and satisfy the core training requirements of s. 429.52(3)(g).~~

~~(c) An individual who is employed by a facility that provides special care for residents with Alzheimer's disease or other related disorders, but who only has incidental contact with such residents, must be given, at a minimum, general information on interacting with individuals with Alzheimer's~~

349 ~~disease or other related disorders, within 3 months after~~
350 ~~beginning employment.~~
351 ~~(3) In addition to the training required under subsection~~
352 ~~(2), a direct caregiver must participate in a minimum of 4~~
353 ~~contact hours of continuing education each calendar year. The~~
354 ~~continuing education must include one or more topics included in~~
355 ~~the dementia-specific training developed or approved by the~~
356 ~~department, in which the caregiver has not received previous~~
357 ~~training.~~
358 ~~(4) Upon completing any training listed in subsection (2),~~
359 ~~the employee or direct caregiver shall be issued a certificate~~
360 ~~that includes the name of the training provider, the topic~~
361 ~~covered, and the date and signature of the training provider.~~
362 ~~The certificate is evidence of completion of training in the~~
363 ~~identified topic, and the employee or direct caregiver is not~~
364 ~~required to repeat training in that topic if the employee or~~
365 ~~direct caregiver changes employment to a different facility. The~~
366 ~~employee or direct caregiver must comply with other applicable~~
367 ~~continuing education requirements.~~
368 ~~(5) The department, or its designee, shall approve the~~
369 ~~initial and continuing education courses and providers.~~
370 ~~(6) The department shall keep a current list of providers~~
371 ~~who are approved to provide initial and continuing education for~~
372 ~~staff of facilities that provide special care for persons with~~
373 ~~Alzheimer's disease or other related disorders.~~
374 Section 7. Subsection (1) of section 429.52, Florida
375 Statutes, is amended to read:
376 429.52 Staff training and educational requirements.—
377 (1) Each new assisted living facility employee who has not

378 previously completed core training must attend a preservice
379 orientation provided by the facility before interacting with
380 residents. The preservice orientation must be at least 2 hours
381 in duration and cover topics that help the employee provide
382 responsible care and respond to the needs of facility residents.
383 Upon completion, the employee and the administrator of the
384 facility must sign a statement that the employee completed the
385 required preservice orientation. The facility must keep the
386 signed statement in the employee's personnel record. As a
387 condition of licensure, an assisted living facility licensed
388 under this part must provide to each of its employees approved
389 training as required in s. 430.5025.
390 Section 8. Present subsections (3), (4), and (5) of section
391 429.75, Florida Statutes, are redesignated as subsections (4),
392 (5), and (6), respectively, and a new subsection (3) is added to
393 that section, to read:
394 429.75 Training and education programs.—
395 (3) As a condition of licensure, an adult family-care home
396 licensed under this part must provide to each of its employees
397 approved training as required in s. 430.5025.
398 Section 9. Section 429.83, Florida Statutes, is amended to
399 read:
400 429.83 Residents with Alzheimer's disease or other related
401 dementia ~~disorders~~; training; certain disclosures.—
402 (1) As a condition of licensure, an adult family-care home
403 licensed under this part must provide to each of its employees
404 approved training as required in s. 430.5025.
405 (2) An adult family-care home licensed under this part
406 which claims that it provides special care for persons who have

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Alzheimer's disease or other related dementia ~~disorders~~ must Disclose in its advertisements or in a separate document those services that distinguish the care as being especially applicable to, or suitable for, such persons. The home must give a copy of all such advertisements or a copy of the document to each person who requests information about programs and services for persons with Alzheimer's disease or other related dementia ~~disorders~~ offered by the home and must maintain a copy of all such advertisements and documents in its records. The agency shall examine all such advertisements and documents in the home's records as part of the license renewal procedure.

Section 10. Subsection (1) of section 429.917, Florida Statutes, is amended to read:

429.917 Patients with Alzheimer's disease or other related dementia ~~disorders~~; staff training requirements; certain disclosures.—

(1) An adult day care center licensed under this part must provide to each of its employees approved ~~the following staff~~ training as required in s. 430.5025~~:~~

~~(a) Upon beginning employment with the facility, each employee must receive basic written information about interacting with participants who have Alzheimer's disease or dementia-related disorders~~.

~~(b) In addition to the information provided under paragraph (a), newly hired adult day care center personnel who are expected to, or whose responsibilities require them to, have direct contact with participants who have Alzheimer's disease or dementia-related disorders must complete initial training of at least 1 hour within the first 3 months after beginning~~

~~employment. The training must include an overview of dementias and must provide instruction in basic skills for communicating with persons who have dementia.~~

~~(c) In addition to the requirements of paragraphs (a) and (b), an employee who will be providing direct care to a participant who has Alzheimer's disease or a dementia-related disorder must complete an additional 3 hours of training within 9 months after beginning employment. This training must include, but is not limited to, the management of problem behaviors, information about promoting the participant's independence in activities of daily living, and instruction in skills for working with families and caregivers.~~

~~(d) For certified nursing assistants, the required 4 hours of training shall be part of the total hours of training required annually.~~

~~(e) For a health care practitioner as defined in s. 456.001, continuing education hours taken as required by that practitioner's licensing board shall be counted toward the total of 4 hours.~~

~~(f) For an employee who is a licensed health care practitioner as defined in s. 456.001, training that is sanctioned by that practitioner's licensing board shall be considered to be approved by the Department of Elderly Affairs.~~

~~(g) The Department of Elderly Affairs or its designee must approve the 1-hour and 3-hour training provided to employees and direct caregivers under this section. The department must consider for approval training offered in a variety of formats. The department shall keep a list of current providers who are approved to provide the 1-hour and 3-hour training. The~~

~~department shall adopt rules to establish standards for the employees who are subject to this training, for the trainers, and for the training required in this section.~~

~~(h) Upon completing any training described in this section, the employee or direct caregiver shall be issued a certificate that includes the name of the training provider, the topic covered, and the date and signature of the training provider. The certificate is evidence of completion of training in the identified topic, and the employee or direct caregiver is not required to repeat training in that topic if the employee or direct caregiver changes employment to a different adult day care center or to an assisted living facility, nursing home, home health agency, or hospice. The direct caregiver must comply with other applicable continuing education requirements.~~

~~(i) An employee who is hired on or after July 1, 2004, must complete the training required by this section.~~

Section 11. Subsection (6) of section 429.918, Florida Statutes, is amended to read:

429.918 Licensure designation as a specialized Alzheimer's services adult day care center.—

(6)(a) An adult day care center having a license designated under this section must ~~provide the following staff training and supervision~~:

1. Have a registered nurse or licensed practical nurse ~~must be~~ on site daily for at least 75 percent of the time that the center is open to ADRD participants. Each licensed practical nurse who works at the center must be supervised in accordance with chapter 464.

2. As a condition of licensure, provide approved training

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

as required in s. 430.5025 ~~Upon beginning employment with the center, each employee must receive and review basic written information about interacting with ADRD participants~~.

~~3. In addition to the information provided in subparagraph 2., every employee hired on or after July 1, 2012, who has direct contact with ADRD participants shall complete 4 hours of dementia-specific training within 3 months after employment.~~

~~4. In addition to the requirements of subparagraphs 2. and 3., each employee hired on or after July 1, 2012, who provides direct care to ADRD participants shall complete an additional 4 hours of dementia-specific training within 6 months after employment.~~

~~(b) The Department of Elderly Affairs or its designee shall approve the training required under this section. The department shall adopt rules to establish standards for employees who are subject to this training, for trainers, and for the training required in this section.~~

~~(c) Upon completing any training described in this section, the employee shall be issued a certificate that includes the name of the training provider, the topics covered, and the date and signature of the training provider. The certificate is evidence of completion of training in the identified topics, and the employee is not required to repeat training in those topics if the employee changes employment to a different adult day care center.~~

(b)~~(d)~~ Each employee hired on or after July 1, 2012, who provides direct care to ADRD participants, must receive and review an orientation plan that includes, at a minimum:

1. Procedures to locate an ADRD participant who has

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

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523 wandered from the center. These procedures must ~~shall~~ be
524 reviewed regularly with all direct care staff.
525 2. Information on the Silver Alert program in this state.
526 3. Information regarding available products or programs
527 used to identify ADRD participants or prevent them from
528 wandering away from the center, their home, or other locations.
529 Section 12. This act shall take effect July 1, 2022.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Ethics and Elections, *Chair*
Appropriations
Appropriations Subcommittee on Criminal and Civil Justice
Community Affairs
Criminal Justice
Health Policy
Judiciary
Rules

JOINT COMMITTEE:
Joint Legislative Auditing Committee, *Alternating Chair*

SENATOR DENNIS BAXLEY
12th District

January 13, 2022

The Honorable Senator Manny Diaz
306 Senate Office Building
Tallahassee, FL 32399

Dear Chairman Diaz,

I would like to request SB 1572 Dementia Related Training be heard in the next Health Policy Committee meeting.

This bill will require the Department of Elderly Affairs to develop dementia-related education training for health care workers who work in a nursing home facility, home health agency, nurse registry, or companion or homemaker service provider licensed or registered under chapter 400 or an assisted living facility, adult family-care home, or adult day care center licensed under chapter 429, as well as have a time frame when this training is to be completed.

I appreciate your favorable consideration.

Onward & Upward,

Senator Dennis Baxley
Senate District 12

DKB/dd

cc: Allen Brown, Staff Director

REPLY TO:
❒ 206 South Hwy 27/441, Lady Lake, Florida 32159 (352) 750-3133
❒ 315 SE 25th Avenue, Ocala, Florida 34471 (352) 789-6720
❒ 412 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5012

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

Wilton Simpson
President of the Senate

Aaron Bean
President Pro Tempore

2022 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Department of Elder Affairs

BILL INFORMATION	
BILL NUMBER:	SB 1572
BILL TITLE:	Dementia-related Staff Training - 2022
BILL SPONSOR:	Sen. Baxley
EFFECTIVE DATE:	July 1, 2022

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

CURRENT COMMITTEE
Health Policy

SIMILAR BILLS	
BILL NUMBER:	NA
SPONSOR:	NA

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

IDENTICAL BILLS	
BILL NUMBER:	HB 1507
SPONSOR:	Rep. Byrd

Is this bill part of an agency package?
No

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	1/13/2022
LEAD AGENCY ANALYST:	Derek Miller, Legislative Affairs Director
ADDITIONAL ANALYST(S):	Anne Chansler, Bureau Chief of Elder Rights
LEGAL ANALYST:	Richard Tritschler, General Counsel
FISCAL ANALYST:	Laura Anderson, Chief Financial Officer

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

This bill establishes the "Florida Alzheimer's Disease and Dementia Training Act"; requiring certain entities, as a condition of licensure, to provide specified dementia-related training for new employees within a specified timeframe; requiring annual dementia-related training for certain employees; providing that such additional training counts toward a certified nursing assistant's total annual training and authorizing certain health care practitioners to count certain continuing education hours toward the dementia-related training requirements. This bill creates a new section of Statute defining Alzheimer's Disease and Related Dementias (ADRD) Training for staff in facilities who provide care for persons with Dementia. (Creating a single training requirement to replace requirements as currently defined in sections 400.1755, 400.4785, 429.178, 429.52, 429.75, 429.83, 429.917, and 429.918 Florida Statutes.)

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

The Department of Elder Affairs (DOEA), through Rule 58A-5.0194, Florida Administrative Code (F.A.C.), "Alzheimer's Disease or Related Disorders Training Provider and Curriculum Approval" has authority for administering the existing ADRD and currently does so through a contract with the University of South Florida (USF) [Contract XQ092.A3, effective July 1, 2021, between Department of Elder Affairs, USF Board of Trustees, and the Agency for Health Care Administration (Agency).

For Contract XQ092.A3, USF, through its Training Academy on Aging, reviews and approves ADRD Training Providers and Training Curriculum Programs for the DOEA's ADRD Training Providing and Curriculum Approval Program. The mission of the ADRD training program is to improve the care of individuals with ADRD who receive services from nursing homes, assisted living facilities, home health agencies, adult day care centers, and hospice care facilities. The ADRD training program is designed to ensure that agency/facility staff members who have regular contact with or provide direct care to, persons with ADRD receive the appropriate ADRD-related training.

Rule 58A-5.0194, F.A.C., "Alzheimer's Disease or Related Disorders Training Provider and Curriculum Approval" is related to the following:

- Applicants seeking approval as ADRD training providers.
- Applicants seeking approval of ADRD curricula.
- Approved ADRD training providers must maintain records of each course taught for three years following each training presentation that includes specific information.
- Upon successful completion of training, the trainee must be issued a certificate by the approved training provider.
- Right to attend and monitor ADRD training courses, review records and course materials approved under this rule and revoke approval in certain circumstances.
- Maintain a list of approved ADRD training providers and curricula.

2. EFFECT OF THE BILL:

Sections 1 and 2 of SB 1572 establish the Florida Alzheimer's Disease and Dementia Training and Education Act. The bill creates section 430.5025, F.S., increasing the existing training for staff in Florida's long-term care groups, including:

- Assisted Living Facilities.
- Nurse Registry.
- Companion or Homemaker Service.
- Adult Family-Care Home.
- Nursing Homes.
- Home Health Agencies.
- Adult Day Care Centers.
- Hospices.

The bill defines the following terms:

- "Covered provider" means a nursing home facility, home health agency, nurse registry, or companion or homemaker service provider licensed or registered under chapter 400, or an assisted living facility, adult family-care home, or adult day care center licensed under chapter 429.
- "Department" means the Department of Elderly Affairs.

- “Direct care worker” means an individual who, as part of his or her employment duties, provides or has access to provide direct contact assistance with personal care or activities of daily living to clients, patients, or residents of any facility licensed under part II, part III, or part IV of chapter 400 or chapter 429.
- “Employee” means any staff member, contracted staff, or independent contractor hired or referred by a covered provider who is required to undergo a level 2 background screening as required by s. 408.809(1)(e). The term includes, but is not limited to, direct care workers; staff responsible for housekeeping, the front desk, and other administrative functions; and companions or homemakers.

The bill requires the department to develop or approve education and training regarding Alzheimer’s disease and related forms of dementia (ADRD) in a variety of formats. The training must include methods for interacting with persons with ADRD and for identifying warning signs of dementia.

The bill also requires the department to offer education to the public about Alzheimer’s disease and related forms of dementia. The bill requires the department to develop or approve one-hour of dementia-related training for covered provider employees at no cost to them and on multiple formats. In addition, the bill authorizes the department to provide certificates of completion for the training which identify the name of the training, training provider, name of the employee, and date of completion.

Additionally, the bill lists responsibilities of covered providers such as:

- Provide each employee, upon hire, basic written information about interacting with patients who have Alzheimer’s disease or related dementia.
- Provide each employee with 1-hour of dementia-related training provided by the department. This training must be completed within 30-days of employment.

Moreover, the bill requires covered providers to maintain in its records a copy of the employee’s certificate of completion. Covered providers under part III of chapter 400 an additional two hours of required training provided by the department. The bill requires covered providers, under part II of chapter 400 or chapter 429 an additional three hours of required training provided by the department. The training must be completed in the first four months of employment and must include but is not limited to information related to management of problem behaviors and promotion of independence in activities of daily living and instruction on skills for working with family members and caregivers of patients. A direct care worker who was hired before July 1, 2022, who has completed the dementia-related training may count those hours towards this training requirement. For those direct care workers who were hired before July 1, 2022, who have not completed the required training must complete the training required under this subsection by July 1, 2023.

Furthermore, the bill requires covered providers who advertise special care for individuals with Alzheimer’s disease or related dementia which includes direct care to such individuals, to require its direct care workers to complete an additional four hours of training offered by the department in addition to the requirements above. This additional training must be obtained within the first six months of employment.

In addition to the above the bill requires that direct care workers complete a minimum of 4 contact hours of continuing education each calendar year. Such continuing education must cover at least one of the topics included in the dementia-related training provided by the department in which the worker has not received previous training. The department must approve continuing education hours for purpose of satisfying the training requirements.

The department may adopt rules to implement sections 2 of the bill.

Section 3 creates 400.511, F.S. Under this section, the bill requires everyone employed, contracted, or referred by a nurse registry and any individual registered with the agency to provide companion services or homemaker services must complete the approved training as required in s. 430.5025, F.S.

Sections 4-11 amends sections 400.1755, 400.4785, 429.178, 429.52, 429.75, 429.83, 429.917, and 429.918 F.S., to conform to changes made by the bill.

Finally, section 12 provides an effective date of July 1, 2022

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

If yes, explain:	The bill requires DOEA to adopt rules to establish standards for trainers and training to implement section 430.5025, F.S.

Is the change consistent with the agency's core mission?	Y☒ N☐
Rule(s) impacted (provide references to F.A.C., etc.):	Rule 58A-5.0194

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

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

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

If yes, provide a description:	The Department finds that this section is not applicable.
Date Due:	The Department finds that this section is not applicable.
Bill Section Number(s):	The Department finds that this section is not applicable.

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

Board:	The Department finds that this section is not applicable.
Board Purpose:	The Department finds that this section is not applicable.
Who Appoints:	The Department finds that this section is not applicable.
Changes:	The Department finds that this section is not applicable.
Bill Section Number(s):	The Department finds that this section is not applicable.

FISCAL ANALYSIS

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

Revenues:	The Department's finds that there are no revenues generated by this bill.
Expenditures:	The Department finds that there are no expenditures generated by this bill.
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?	The Department finds that this section is not applicable.

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

Revenues:	The Department finds that there are no revenues generated by this bill
Expenditures:	The Department finds that there are no expenditures generated by this bill
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	No

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

Revenues:	The Department finds that there are no revenues generated by this bill.
Expenditures:	Unknown
Other:	NA

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

If yes, explain impact.	The Department finds that this section is not applicable.
Bill Section Number:	The Department finds that this section is not applicable.

TECHNOLOGY IMPACT

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

If yes, describe the anticipated impact to the agency including any fiscal impact.	No system changes are anticipated to be needed

FEDERAL IMPACT

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

If yes, describe the anticipated impact including any fiscal impact.	No

ADDITIONAL COMMENTS

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	The Office of General Council has no issues, concerns, comments or recommended action.

2/10/22
Meeting Date

The Florida Senate
APPEARANCE RECORD

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

SB 1572
Bill Number or Topic

683352
Amendment Barcode (if applicable)

Health Policy
Committee

Name Jennifer Braisted

Phone 561 706 2043

Address
Street

City State Zip

Email jbraisted@alz.org

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing: Alzheimer's Association

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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2/10/22
Meeting Date

Health Policy
Committee

The Florida Senate
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SB 1572
Bill Number or Topic

Amendment Barcode (if applicable)

Name Steve Waterhouse

Phone

Address
Street

City State Zip

Email

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

PLEASE CHECK ONE OF THE FOLLOWING:

[X] I am appearing without compensation or sponsorship.

[ ] I am a registered lobbyist, representing:

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

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S-001 (08/10/2021)

2/10/2022
Meeting Date

Health Policy
Committee

The Florida Senate

APPEARANCE RECORD

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1572
Bill Number or Topic

Amendment Barcode (if applicable)

Name Zayne Smith - AARP

Phone 850-228-4243

Address 215 South Monroe St
Street

Email zsmith@aarp.org

Tallahassee FL 32301
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
AARP

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

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2/10/22
Meeting Date

Health Policy
Committee

The Florida Senate

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1572
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jennifer Green

Phone 850-528-8809

Address 113 E College Ave.
Street

Email jennifer@lsetypartners.fl.com

Tallahassee FL 32301
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
Florida Assisted Living Association

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

2/10/22
Meeting Date

Health Policy
Committee

The Florida Senate

APPEARANCE RECORD

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SB 1572
Bill Number or Topic

Amendment Barcode (if applicable)

Name Priscilla-Jean Louis Phone

Address Email
Street

City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

[X] I am appearing without compensation or sponsorship.

[ ] I am a registered lobbyist, representing:

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

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2/10/22
Meeting Date

Senate Health Policy
Committee

The Florida Senate
APPEARANCE RECORD

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SB 1572
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jennifer Brasted

Phone 561 706 2043

Address
Street

City State Zip

Email jbrasted@alz.org

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

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[X] I am a registered lobbyist, representing: Alzheimer's Association

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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

The Florida Senate

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: SM 1108

INTRODUCER: Senator Baxley

SUBJECT: China/Forced Organ Harvesting

DATE: February 9, 2021 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Brown	HP	**Favorable**
2.			RC	

I. Summary:

SM 1108 provides whereas clauses and resolves the Legislature of the State of Florida to urge the U.S. President and Congress to condemn the People's Republic of China for its practice of forcibly removing human organs for transplant and to adopt legislation and policies that:

- Prohibit collaboration between the American medical and pharmaceutical companies and any Chinese counterparts linked to forced organ harvesting;
- Ban individuals who have participated in unethical removal of human tissues and organs from entering the U.S.; and
- Provide for prosecution of such individuals.

The memorial specifies that copies be sent to the U.S. President, the President of the U.S. Senate, the Speaker of the U.S. House of Representatives, and to each member of the Florida delegation of Congress.

II. Present Situation:

The Independent Tribunal into Forced Organ Harvesting from Prisoners of Conscience in China

In December of 2018 the Independent Tribunal into Forced Organ Harvesting from Prisoners of Conscience in China (Tribunal) began the first of two public hearings on forced organ harvesting in China, the second of which was held in April of 2019.[1] In the hearings, which were held in London, England, the Tribunal heard evidence from numerous witnesses and experts detailing the practice in China of harvesting organs from prisoners of conscience without consent.[2] The Tribunal was commissioned by the International Coalition to End Transplant Abuse in China, which is a not-for-profit coalition of lawyers, academics, ethicists, medical professionals,

[1] China Tribunal: Independent Tribunal into Forced Organ Harvesting from Prisoners of Conscience in China, available at https://chinatribunal.com/ (last visited Jan. 20, 2022).

[2] Id.

researchers, and human rights advocates dedicated to ending what they assert to have been, and to be, the practice of forced organ harvesting in China.[3] The Tribunal itself was made up of seven members of the public who were asked to volunteer on the Tribunal due to their diverse backgrounds and expertise.[4]

After the first set of hearings, the Tribunal issued an interim judgement in December of 2018, and then, after the second set of hearings, a short form of the final judgement in June of 2019 and the full final judgement in March of 2020.[5] The Tribunal states that it considered evidence in many forms pointing to:

- That there were extraordinarily short waiting times (promised by Chinese doctors and hospitals) for organs to be available for transplantation;
- That there was torture of Falun Gong and Uyghurs;
- That there was accumulated numerical evidence (excluding spurious Chinese data) which indicated:
  - The number of transplant operations performed; and
  - The impossibility of there being anything like sufficient 'eligible donors' under the recently formed Chinese voluntary donor scheme for that number of transplant operations;
- That there was a massive infrastructure development of facilities and medical personnel for organ transplant operations, often started before any voluntary donor system was even planned; and
- That there was direct and indirect evidence of forced organ harvesting.[6]

The Tribunal also drew the ultimate conclusion that

> Forced organ harvesting has been committed for years throughout China on a significant scale and that Falun Gong practitioners have been one – and probably the main – source of organ supply. The concerted persecution and medical testing of the Uyghurs is more recent and it may be that evidence of forced organ harvesting of this group may emerge in due course. The Tribunal has had no evidence that the significant infrastructure associated with China's transplantation industry has been dismantled and absent a satisfactory explanation as to the source of readily available organs concludes that forced organ harvesting continues till today.[7]

Falun Gong

Falun Gong, also known as Falun Dafa, is an ancient Chinese meditation practice, or gigong, which seeks to nurture the mind and body through the mixture of Buddhist beliefs, slow movements, and martial-art-type exercises, while emphasizing the fundamental principles of

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[3] Judgement, The Independent Tribunal into Forced Organ Harvesting from Prisoners of Conscience in China, 3/1/2020, p. 10, available at https://chinatribunal.com/wp-content/uploads/2020/03/ChinaTribunal_JUDGMENT_1stMarch_2020.pdf (last visited Jan. 20, 2022).

[4] Id. p. 12 at f.n. 19

[5] Supra n. 1

[6] Short Form of the China Tribunal's Judgement, 6/17/19, available at https://chinatribunal.com/wp-content/uploads/2020/02/China-Tribunal-SHORT-FORM-CONCLUSION_Final.pdf (last visited Jan. 20, 2022).

[7] Id.

"truth, benevolence, and forbearance." Literally, "Falun Gong" means "Cultivation of the Wheel of Law," while "Falun Dafa" translates to "Great Wheel of Buddha's Law." Falun Gong was introduced in China in 1992 by Li Hongzhi, one of many gigong masters who sought to gain followers by promoting his own variety of gigong.[8]

Li's quick success resulted in Falun Gong's transformation into an international phenomenon, attracting millions of people in over 40 countries. Such widespread popularity has generated concern within the Chinese government. Fearing the potential influence such a popular movement could have within China, the Chinese government has characterized Falun Gong as an evil cult and has carried out an extensive campaign to eliminate the group's presence from Chinese society.[9]

III. Effect of Proposed Changes:

SM 1108 provides whereas clauses pointing to a number of sources of condemnation of China for forced organ harvesting, as well as indicating that China has systematically persecuted people who follow Falun Gong. Based on the findings indicated by the whereas clauses, SM 1108 resolves the Legislature of the State of Florida to urge the U.S. President and Congress to condemn the People's Republic of China for its practice of forcibly removing human organs for transplant and to adopt legislation and policies that:

- Prohibit collaboration between the American medical and pharmaceutical companies and any Chinese counterparts linked to forced organ harvesting;
- Ban individuals who have participated in unethical removal of human tissues and organs from entering the U.S.; and
- Provide for prosecution of such individuals.

The memorial specifies that copies be sent to the U.S. President, the President of the U.S. Senate, the Speaker of the U.S. House of Representatives, and to each member of the Florida delegation of Congress.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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[8] Human Rights Brief: Volume 9, Issue 1, Erin Chlopak, American University Washington College of Law, 2001, available at https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1435&context=hrbrief (last visited Jan. 20, 2022).

[9] Id.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates one new non-statutory section of Florida law.

IX. Additional Information:

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

None.

B. Amendments:

None.

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

By Senator Baxley

12-01204-22 20221108__

1 Senate Memorial
2 A memorial to the President and Congress of the United
3 States, urging the President and Congress to condemn
4 the People's Republic of China for its practice of
5 forcibly removing human organs for transplant and to
6 adopt certain legislation and policies that hold China
7 accountable for such human rights violations.
8
9 WHEREAS, for nearly two decades, the communist regime of
10 the People's Republic of China has engaged in the vile practice
11 of forcibly removing human organs for transplant, and
12 WHEREAS, on June 17, 2019, the Independent Tribunal Into
13 Forced Organ Harvesting from Prisoners of Conscience in China
14 released its final judgment finding that China's communist
15 regime, for decades, has practiced systematic forced organ
16 removal from prisoners of conscience, including Falun Gong
17 practitioners, Tibetan Buddhists, House Church Christians, and
18 the Uyghurs, and
19 WHEREAS, China has welcomed an influx of transplant tourism
20 whereby individuals critically in need of transplants pay
21 thousands of dollars for one of the 60,000 to 90,000 transplant
22 surgeries conducted each year, with the number of transplants
23 far exceeding the number of voluntary organ donations in the
24 country, and
25 WHEREAS, a transplant patient in the United States is
26 typically placed on the waiting list for an organ that may not
27 be available for months, Chinese hospitals schedule transplants
28 of major organs within 2 weeks, suggesting nefarious
29 foreknowledge regarding the circumstances surrounding the

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

12-01204-22 20221108__

30 donation of these organs, and
31 WHEREAS, in July 1999, the Chinese Communist Party launched
32 an intensive, nationwide persecution of Falun Gong, a spiritual
33 practice centered on the values of truthfulness, compassion, and
34 tolerance, and
35 WHEREAS, in 2015, Freedom House, a nonprofit,
36 nongovernmental organization, reported that Falun Gong
37 practitioners are the primary victims of forced organ removal
38 and face an elevated risk of dying or being killed while
39 imprisoned, and
40 WHEREAS, on July 20, 2020, then-Secretary of State Michael
41 R. Pompeo denounced 21 years of persecution of Falun Gong
42 practitioners by China's communist regime, and
43 WHEREAS, the United Nations Committee Against Torture and
44 the Special Rapporteur on Torture and Other Cruel, Inhuman or
45 Degrading Treatment or Punishment have called on the Chinese
46 government to account for the sources of organs used in its
47 transplant practices, and
48 WHEREAS, several organizations have called for the
49 imposition of sanctions on Chinese medical authorities for
50 China's transplant practices, and
51 WHEREAS, the parliaments of Canada and the European Union,
52 as well as the United States House of Representatives Committee
53 on Foreign Affairs, have adopted resolutions condemning organ
54 harvesting from prisoners of conscience, and
55 WHEREAS, it is imperative to join the international outcry
56 against this major violation of human rights by the People's
57 Republic of China, NOW, THEREFORE,
58

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

12-01204-22 20221108__

59 Be It Resolved by the Legislature of the State of Florida:

60

61 That the President and Congress of the United States are
62 urged to condemn the People's Republic of China for its practice
63 of forcibly removing human organs for transplant and to adopt
64 legislation and policies that prohibit collaboration between
65 American medical and pharmaceutical companies and any Chinese
66 counterparts linked to forced organ harvesting, that ban
67 individuals who have participated in the unethical removal of
68 human tissues and organs from entering the United States, and
69 that provide for the prosecution of such individuals.
70 BE IT FURTHER RESOLVED that copies of this memorial be
71 dispatched to the President of the United States, to the
72 President of the United States Senate, to the Speaker of the
73 United States House of Representatives, and to each member of
74 the Florida delegation to the United States Congress.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Ethics and Elections, *Chair*
Appropriations
Appropriations Subcommittee on Criminal and Civil Justice
Community Affairs
Criminal Justice
Health Policy
Judiciary
Rules

JOINT COMMITTEE:
Joint Legislative Auditing Committee, *Alternating Chair*

SENATOR DENNIS BAXLEY
12th District

January 14, 2022

The Honorable Senator Manny Diaz
306 Senate Office Building
Tallahassee, FL 32399

Dear Chairman Diaz,

I would like to request SM 1108 China Forced Organ Harvesting Memorial be heard in the next Health Policy Committee meeting.

This bill is urging the President and Congress to condemn the People's Republic of China for its practice of forcibly removing human organs for transplant and to adopt certain legislation and policies that hold China accountable for such human rights violations.

I appreciate your favorable consideration.

Onward & Upward,

Senator Dennis Baxley
Senate District 12

DKB/dd

cc: Allen Brown, Staff Director

REPLY TO:
❐ 206 South Hwy 27/441, Lady Lake, Florida 32159 (352) 750-3133
❐ 315 SE 25th Avenue, Ocala, Florida 34471 (352) 789-6720
❐ 412 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5012

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

Wilton Simpson
President of the Senate

Aaron Bean
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

BILL: SB 1350

INTRODUCER: Senator Diaz

SUBJECT: Public Records and Meetings/In-hospital Medical Staff Committees

DATE: February 9, 2022 REVISED:

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

I. Summary:

SB 1350 makes confidential and exempt from public records requirements in s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution, certain specified records held by in-hospital medical staff committees of a public hospital. The bill also makes exempt any portion of an in-hospital medical staff committee meeting during which the above information is discussed and the recordings and transcripts of the exempt portions of the meeting.

The bill provides for an automatic repeal date of October 2, 2027, pursuant to the Open Government Sunset Review Act, and provides a public necessity statement as required by Article I, s. 24(c) of the State Constitution.

The bill provides an effective date of October 1, 2022.

II. Present Situation:

Access to Public Records - Generally

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

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, s. 11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in

[1] FLA. CONST. art. I, s. 24(a).
[2] *Id.*

s. 11.0431(2)-(3), F.S., and the statutory provisions are adopted in the rules of each house of the legislature.[3] Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.[4] Lastly, ch. 119, F.S., provides requirements for public records held by executive agencies.

Executive Agency Records – The Public Records Act

Chapter 119, F.S., known as the Public Records Act, provides that all state, county, and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.[5]

A public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.[6] The Florida Supreme Court has interpreted the statutory definition of "public record" to include "material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type."[7]

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person's right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.[8] A violation of the Public Records Act may result in civil or criminal liability.[9]

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.[10] The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.[11]

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[3] *See* Rule 1.48, *Rules and Manual of the Florida Senate*, (2020-2022) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 1, (2020-2022).

[4] *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).

[5] Section 119.01(1), F.S. Section 119.011(2), F.S., defines "agency" as "any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency."

[6] Section 119.011(12), F.S., defines "public record" to mean "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency."

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

[8] Section 119.07(1)(a), F.S.

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

[10] FLA. CONST. art. I, s. 24(c).

[11] *Id. See, e.g.*, *Halifax Hosp. Medical Center v. News-Journal Corp.,* 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

General exemptions from the public records requirements are contained in the Public Records Act.[12] Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.[13]

When creating a public records exemption, the Legislature may provide that a record is "exempt" or "confidential and exempt." Custodians of records designated as "exempt" are not prohibited from disclosing the record; rather, the exemption means that the custodian cannot be compelled to disclose the record.[14] Custodians of records designated as "confidential and exempt" may not disclose the record except under circumstances specifically defined by the Legislature.[15]

Open Government Sunset Review Act

The Open Government Sunset Review Act[16] (the Act) prescribes a legislative review process for newly created or substantially amended[17] public records or open meetings exemptions, with specified exceptions.[18] It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.[19]

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.[20] An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;[21]
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;[22] or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.[23]

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[12] *See, e.g.*, s. 119.071(1)(a), F.S. (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).
[13] *See, e.g.*, s. 213.053(2)(a), F.S. (exempting from public disclosure information contained in tax returns received by the Department of Revenue).
[14] *See Williams v. City of Minneola*, 575 So. 2d 683, 687 (Fla. 5th DCA 1991).
[15] *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).
[16] Section 119.15, F.S.
[17] An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.
[18] Section 119.15(2)(a) and (b), F.S., provides that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.
[19] Section 119.15(3), F.S.
[20] Section 119.15(6)(b), F.S.
[21] Section 119.15(6)(b)1., F.S.
[22] Section 119.15(6)(b)2., F.S.
[23] Section 119.15(6)(b)3., F.S.

The Act also requires specified questions to be considered during the review process.[24] In examining an exemption, the Act directs the Legislature to carefully question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.[25] If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.[26]

Hospital Committees

The types and roles of hospital committees vary from hospital to hospital. Committees generally serve as a governance tool that a hospital can use for various reasons including, but not limited to, making key decisions on the operations of the hospital or reviewing hospital practices for quality or risk management. As an example of the types of committees that may exist, one public hospital system in Florida, Broward Health, has a number of standing committees, including the:

- Audit committee, which provides a structured and systematic oversight of the hospital district's governance, risk management, and internal control practices.[27]
- Building committee, which considers all matters concerning the hospital district's and its subsidiaries' buildings, facilities and land, to attend to all matters relating to new construction, renovation, acquisition, and leasing of real property in and for the district and its subsidiaries.
- Compliance committee, which is responsible for the review and oversight of the hospital district's Compliance and Ethics Program, including, but not limited to, matters related to compliance with federal and state health care program requirements; the district's compliance-related policies and procedures; and the performance of the Chief Compliance and Privacy Officer.
- Finance committee, which reviews short, intermediate, and long-range financial plans of the hospital district and attends to all financial interests of the district as prescribed by the Charter.
- Governance committee, which reviews and makes recommendations to the hospital district's board of directors about the hospital district's governance structure and participating in the development of training and orientation materials for new commissioners.

---

[24] Section 119.15(6)(a), F.S. The specified questions are:
- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

[25] *See generally* s. 119.15, F.S.

[26] Section 119.15(7), F.S.

[27] North Broward Hospital District, Regular Board Meeting, April 28, 2021, Minutes, Exhibit A, on file with Senate Health Policy Committee staff.

- Human resource committee, which conducts annual reviews and/or performance evaluations, establishes performance standards, reviews executive leadership structure and positions, and reviews employee benefits and incentive plans.
- Joint conference committee, serves as a forum for discussion, collaboration, and conflict resolution relating to matters of the hospital district's staff, the district, and the policies and practices of the district's hospitals.
- Legal affairs and governmental relations committee, which reviews the legal affairs of the hospital districts; the district's state and federal legislative efforts; and the district's contracts for physician services, major employment contracts, and other major contractual commitments.
- Pension and investment committee, which monitors the hospital district's investment management services for the general operating funds, bond funds, self-insurance funds, employee pension plans, and other retirement plans.
- Quality assessment and oversight committee, which, among other things, evaluates the needs and expectations of the individuals served by the hospital district to determine how the district might improve its overall efforts.
- Risk-management/claims review committee, which assesses matters that relate solely to the evaluation of claims for which the hospital district is, or may be, liable under the statutory wavier of sovereign immunity in s. 768.28, F.S., and which are filed with the district's risk management program or relate solely to offers of compromise of claims filed with the risk management program.

Public Hospitals

In Florida there are currently 42 hospitals that are either government owned or that have been granted sovereign immunity by Legislative act. Several of these hospitals are owned under the same health care system.[28,29] Some examples of public hospital systems in Florida include: Halifax Health, Lee Health, Memorial Healthcare System, Sarasota Memorial Health Care System, and Broward Health.[30]

III. Effect of Proposed Changes:

SB 1350 creates s. 395.3027, F.S., to make confidential and exempt from public records requirements in s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution, the records held by in-hospital medical staff committees of a public hospital, including, but not limited to, any medical executive committee or credentialing committee, or its agent, if the records contain:

- Individually identifiable health information protected under HIPPA, or its implementing regulations.
- Personal identifying information of hospital personnel.
- Information relating to:
  - Pending legal matters, including, but not limited to, litigation strategy.

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[28] Financial Data Dashboard – Operations – government controlled, Florida Health Finder, available at https://bi.ahca.myflorida.com/t/ABICC/views/FinancialDataDashboard/FinancialDataDashboard?:embed=y&:showShareOptions=true&:display_count=no&:showVizHome=no (last visited Feb. 8, 2022).

[29] A list of such hospitals is on file with Senate Health Policy Committee staff.

[30] Public Hospitals, Safety Net Hospital Alliance of Florida, available at http://safetynetsflorida.org/public (last visited Feb. 8, 2022).

- o Contract negotiations.
- o Personnel matters.
- o Peer review procedures.
- o Trade secrets as defined in s. 688.002, F.S.

The bill also makes exempt any portion of an in-hospital medical staff committee meeting during which the above information is discussed. The bill specifies that a complete recording and transcript must be made of any portion of a meeting which is closed pursuant to this subsection, and any closed portion of such meeting may not be held off the record, but also makes the recordings and transcripts exempt.

The bill provides for the automatic repeal of the statute on October 2, 2027, pursuant to the Open Government Sunset Review Act.

Section 2 of the bill provides that the Legislature finds that it is a public necessity that records held by in-hospital medical staff committees, as described above, be made confidential and exempt because subjecting the records of these in-hospital medical staff committees to the public records requirements could cause unnecessary harm to individuals whose personal identifying information and confidential health information are revealed and would impair public hospitals from effectively competing in the marketplace against private hospitals whose records are not required to be open to the public.

Additionally the bill provides that the Legislature finds that it is a public necessity that any portion of meetings held by in-hospital medical staff committees, as described above, be made exempt and that the recordings and transcripts of such meetings be made exempt, because:

- Such meetings are designed to encourage the free discussion and exchange of ideas between health care practitioners and other hospital personnel, which could be blunted if such confidential and sensitive information were subject to disclosure;
- Subjecting the in-hospital medical staff committees to the public meetings requirements is duplicative since the final decisions made by medical staff committees are subsequently presented to a public body at publicly noticed meetings; and
- The failure to exempt the recordings and transcripts of such meetings would defeat the purpose of the public meetings exemption.

The bill provides an effective date of October 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public records or public meeting exemption. The bill creates a public record exemption for certain records and transcripts of in-hospital committees of public hospitals and creates a public meetings exemption for meetings of those committees in which the confidential and exempt records are discussed.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a public necessity statement for a newly created or expanded public record or public exemption. The bill a public record exemption for certain records and transcripts of in-hospital committees of public hospitals and creates a public meetings exemption for meetings of those committees in which the confidential and exempt records are discussed. Section 2 of the bill provides a public necessity statement.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires a newly created public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill makes confidential and exempt certain records of in-hospital committees of public hospitals and makes exempt meetings of those committees in which the confidential and exempt records are discussed and the transcripts of those meetings. The exemption does not appear to be in conflict with the constitutional requirement that the exemption be no broader than necessary to accomplish its purpose.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 395.3027 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.

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

By Senator Diaz

36-01222-22 20221350__

1 A bill to be entitled
2 An act relating to public records and meetings;
3 creating s. 395.3027, F.S.; providing an exemption
4 from public records requirements for certain
5 confidential information held by in-hospital medical
6 staff committees of public hospitals; providing an
7 exemption from public meetings requirements for
8 portions of meetings held by such medical staff
9 committees during which such confidential information
10 is discussed; requiring the recording and
11 transcription of exempt portions of such meetings;
12 providing an exemption from public records
13 requirements for such recordings and transcripts;
14 providing for future legislative review and repeal of
15 the exemptions; providing a statement of public
16 necessity; providing an effective date.
17
18 Be It Enacted by the Legislature of the State of Florida:
19
20 Section 1. Section 395.3027, Florida Statutes, is created
21 to read:
22 395.3027 Confidentiality of in-hospital medical staff
23 committee records and meetings.—
24 (1) The records held by an in-hospital medical staff
25 committee, including, but not limited to, any medical executive
26 committee or credentialing committee, or agent thereof, of a
27 public hospital which contain any of the following information
28 are confidential and exempt from s. 119.07(1) and s. 24(a), Art.
29 I of the State Constitution:

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36-01222-22 20221350__

30 (a) Individually identifiable health information protected
31 under the Health Insurance Portability and Accountability Act of
32 1996, or its implementing regulations.
33 (b) Personal identifying information of hospital personnel.
34 (c) Information relating to:
35 1. Pending legal matters, including, but not limited to,
36 litigation strategy.
37 2. Contract negotiations.
38 3. Personnel matters.
39 4. Peer review procedures.
40 5. Trade secrets as defined in s. 688.002.
41 (2) Any portion of an in-hospital medical staff committee
42 meeting during which information that is confidential and exempt
43 pursuant to subsection (1) is discussed is exempt from s.
44 286.011 and s. 24(b), Art. I of the State Constitution. A
45 complete recording and transcript must be made of any portion of
46 a meeting which is closed pursuant to this subsection, and any
47 closed portion of such meeting may not be held off the record.
48 The recordings and transcripts of the closed portion of a
49 meeting are exempt from s. 119.07(1) and s. 24(a), Art. I of the
50 State Constitution.
51 (3) This section is subject to the Open Government Sunset
52 Review Act in accordance with s. 119.15 and shall stand repealed
53 on October 2, 2027, unless reviewed and saved from repeal
54 through reenactment by the Legislature.
55 Section 2. (1) The Legislature finds that it is a public
56 necessity that the records held by in-hospital medical staff
57 committees, including, but not limited to, medical executive
58 committees and credentialing committees, or agents thereof, of

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

59 public hospitals which contain individually identifiable health
60 information; the personal identifying information of hospital
61 personnel; and information relating to pending legal matters,
62 contract negotiations, personnel matters, peer review
63 procedures, and trade secrets be made confidential and exempt
64 from disclosure under s. 119.07(1), Florida Statutes, and s.
65 24(a), Article I of the State Constitution. The Legislature also
66 finds that subjecting the records of these in-hospital medical
67 staff committees to the public records requirements could cause
68 unnecessary harm to individuals whose personal identifying
69 information and confidential health information are revealed and
70 would impair public hospitals from effectively competing in the
71 marketplace against private hospitals whose records are not
72 required to be open to the public.
73 (2) The Legislature finds that it is a public necessity
74 that any portion of meetings held by in-hospital medical staff
75 committees of public hospitals during which the confidential and
76 exempt information described in subsection (1) is discussed be
77 made exempt from s. 286.011, Florida Statutes, and s. 24(b),
78 Article I of the State Constitution and that the recordings and
79 transcripts of such meetings be made exempt from s. 119.07(1),
80 Florida Statutes, and s. 24(a), Article I of the State
81 Constitution. Such meetings are designed to encourage the free
82 discussion and exchange of ideas between health care
83 practitioners and other hospital personnel, which could be
84 blunted if such confidential and sensitive information were
85 subject to disclosure. The Legislature also finds that
86 subjecting these in-hospital medical staff committees to the
87 public meetings requirements is duplicative since the final

88 decisions made by medical staff committees are subsequently
89 presented to a public body at publicly noticed meetings.
90 Furthermore, the failure to exempt the recordings and
91 transcripts of such meetings would defeat the purpose of the
92 public meetings exemption. Therefore, the Legislature finds that
93 the public and private harm in disclosing the confidential
94 information and records outweighs any public benefit derived
95 from the disclosure of such information.
96 Section 3. This act shall take effect October 1, 2022.

NORTH BROWARD
HOSPITAL DISTRICT

North Broward Hospital District Board of Commissioners
1700 Northwest 49th Street, Suite #150, Ft. Lauderdale, FL 33309

REGULAR BOARD MEETING
4:00 p.m., Wednesday, April 28, 2021

The Board of Commissioners Regular Board Meeting of the North Broward Hospital District was held at 4:00 p.m., on April 28, 2021, at the Broward Health Corporate Spectrum Location, 1700 NW 49th Street, Suite 150, Fort Lauderdale, Florida 33309.

1. **NOTICE**

Official notice is attached to these minutes, titled EXHIBIT I. Agenda of this meeting is attached to the minutes, titled EXHIBIT II. Supporting documents are attached to these minutes, titled EXHIBIT III. Exhibits are presented for consideration of the Board.

2. **CALL TO ORDER**

There being a quorum present, the meeting was called to order by Chair Nancy W. Gregoire at 4:03 p.m.

3. **ROLL CALL**

Present:
Commissioner Ray T. Berry
Commissioner Marie C. Waugh, Secretary/Treasurer
Commissioner Stacy L. Angier, Vice Chair
Commissioner Nancy W. Gregoire, Chair

Senior Leadership Additionally Present:
Jonathan Hage, Incoming Commissioner
Christopher Pernicano, Incoming Commissioner
Levi Williams, Incoming Commissioner
Shane Strum, President/Chief Executive Officer
Alan Goldsmith, Chief Operating Officer
Alex Fernandez, Chief Financial Officer
Linda Epstein, Corporate General Counsel

4. **THE PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Commissioner Stacy L. Angier.

APPROVED

5. **OATH OF OFFICE (Presenter – Linda Epstein, General Counsel)**

5.1. Levi Williams (Presenter – Sam S. Goren)

Commissioner Williams was sworn in by former General Counsel to the District, Sam Goren.

5.2. Chris Pernicano (Presenter – Linda Epstein, General Counsel)

Commissioner Pernicano was sworn in by the District's current General Counsel, Linda Epstein.

5.3. Jonathan Hage (Presenter – Linda Epstein, General Counsel)

Commissioner Hage was sworn in by the District's current General Counsel, Linda Epstein.

6. **PUBLIC COMMENTS**

Chair Gregoire opened the floor for public comments, in which the following speakers came forward:

Former North Broward Hospital District Commissioner, Mr. Joe Cobo, congratulated the newly sworn commissioners and offered his support.

Former Broward Health employee, Jasmin Shirley, welcomed the newly sworn commissioners and shared her recent patient experience (December 2020) at Broward Health Medical Center, noting that she rated the experience as an A+.

7. **APPROVAL OF MINUTES**

7.1. Approval of Regular Board Meeting minutes dated March 31, 2021

Without objection, Chair Gregoire approved the minutes, dated March 31, 2021.

Motion ***carried*** without dissent.

8. **DISTINGUISHED PHYSICIAN AWARD TO GEORGE AZAR, MD (Presenter – Dr. William Jensen)**

Dr. Jensen, Chief of Staff of BHIP, presented Dr. George Azar, Medical Director of Special Care Units at Broward Health Imperial Point, with the Distinguished Physician Award. It was shared that Dr. Azar provided exceptional patient care and quality outcomes as an intensivist during the pandemic. Personal and professional achievements were briefly shared with the Board.

9. **MEDICAL STAFF CREDENTIALING – Dr. Andrew Ta. Chief Medical Officer**

9.1.) Broward Health North

9.3.) Broward Health Coral Springs

APPROVED

9.2.) Broward Health Imperial Point 9.4.) Broward Health Medical Center

MOTION It was ***moved*** by Commissioner Berry, ***seconded*** by Commissioner Waugh that:

The Board of Commissioners of the North Broward Hospital District approve Medical Staff Credentialing Reports, as presented.

Motion confirmed by roll-call vote:

YES Commissioner Ray. T. Berry
YES Commissioner Marie C. Waugh, Secretary/Treasurer
YES Commissioner Stacy L. Angier, Vice Chair
YES Commissioner Christopher Pernicano
YES Commissioner Jonathan Hage
YES Commissioner Levi Williams
YES Commissioner Nancy W. Gregoire, Chair

Motion ***carried*** 7/0.

10. CHIEF MEDICAL STAFF UPDATES

Medical staff updates were given by Dr. Lehr for Broward Health North, Dr. Jensen for Broward Health Imperial Point, Dr. Penate for Broward Health Coral Springs, and Dr. Kumar for Broward Health Medical Center. Said reports highlighted each of the facilities' objectives, events, and awards received over the past month.

10.1.) Broward Health North
10.2.) Broward Health Imperial Point
10.3.) Broward Health Coral Springs
10.4.) Broward Health Medical Center

Each of the physicians welcomed the newly sworn commissioners to the Board and offered their support.

11. PRESENTATIONS

11.1. CEO Update (Presenter – Shane Strum, President/CEO)

Prior to giving his full monthly report, special mentions were given to the following employees and staff during the President/CEO's update:

- David Clark, Senior Vice President, Operations for growing the organization.
- Denise Moore, Vice President, Corporate Communications and Marketing, for her readiness to take Marketing to the next level.
- Ashley Boxer, Vice President, External Affairs, for her work with the community.
- Broward Health Hospital's four CEOs.

APPROVED

- The tenured Board of Commissioners for their strong force and support.
- The three newly sworn-in Commissioners for their incoming experience, expertise and community understanding.
- Mark Sprada, Senior Vice President, Human Resource Chief Officer, for his team bringing on the best and brightest employees to Broward Health.
- Mr. Strum noted that Broward Health had vaccinated more people than any other organization in Broward County and gave thanks to Mr. Alan Goldsmith, Chief Operating Officer, for leading the charge.

Mr. Strum presented the full monthly CEO report, highlighting the five pillars (Quality, Service, People, Growth, and Finance) of the organization and the progress at each of its' facilities.

Three videos were shared highlighting the following stories:

- Broward Health NICU nurse, Ms. Bruna Martin, was recognized for her altruistic effort in donating a kidney to the husband of co-worker, Helene Molina, who she had not even met until the day before the surgery. Mr. Strum introduced Ms. Martin and Ms. Molina to the Board.

- Nanita Edwards who was diagnosed with ovarian cancer in July 2020 was told to hold onto hope after a doctor told her she only had months left to live. Ms. Edwards opted for a second opinion from Dr. Scott Jordan, who specializes in Gynecologic Oncology at Broward Health. Looking over the patient's chart, Dr. Jordan noticed that Ms. Edwards did have advanced ovarian cancer; however, she had BRCA2 mutation. The mutation was the start of a fighting chance, as said patients respond best to treatment and have a higher rate at remission.

- It was noted that moving forward Broward Health would be using their own in-house production team to highlight touching stories within the facility's employees, staff and patient experiences. The first in-house video honored National Nurses Week and National Hospital Week at Broward Health. Future productions will be made available to local television networks.

12. **CONSENT AGENDA**

12.1. Resolution FY21-16: Resolution Amending the Audit Committee in the Codified Resolutions of the Board of Commissioners of North Broward Hospital District and the Audit Committee Charter.

12.2. Interim Financial Statement for the month of March 2021.

APPROVED

MOTION It was ***moved*** by Commissioner Angier, ***seconded*** by Commissioner Pernicano, that:

The Board of Commissioners of the North Broward Hospital District approve items 12.1 through 12.2 on the Consent Agenda.

Motion confirmed by roll-call vote:

YES Commissioner Ray. T. Berry
YES Commissioner Marie C. Waugh, Secretary/Treasurer
YES Commissioner Stacy L. Angier, Vice Chair
YES Commissioner Christopher Pernicano
YES Commissioner Jonathan Hage
YES Commissioner Levi Williams
YES Commissioner Nancy W. Gregoire, Chair

Motion ***carried*** **7**/0.

13. **DISCUSSION AGENDA**

13.1. Committee Assignments

Chair Gregoire announced that under the Board's Bylaws, Article III 12(e), Board Committee appointments are made at the August Board meeting, which follows the Annual Meeting held in July. Those commissioners selected to the various Board committees serve a one (1) year term or the remainder of the then-current term.

There are eleven (11) committees on the Board, four (4) of which include the appointment of all seven (7) commissioners. Those four (4) committees include Compliance, Finance, Joint Conference, and Legal.

MOTION It was ***moved*** by Commissioner Angier, ***seconded*** by Commissioner Berry, that:

The Board of Commissioners of the North Broward Hospital District appoint the three (3) new commissioners, Commissioner Williams, Commissioner Hage, and Commissioner Pernicano to the Compliance, Finance, Joint Conference, and Legal Committees of the Board.

Motion ***carried*** unanimously.

MOTION It was ***moved*** by Commissioner Williams, ***seconded*** by Commissioner Waugh, that:

That the Board of Commissioners of the North Broward Hospital District keep the committee appointments for Audit Committee, Building Committee, Governance Committee, Human Resource Committee, Pension & Investment Committee, Quality Assessment and Oversight Committee, and Risk Committee, "as is", until the August Board Meeting, at which time the Board will make its committee selections.

APPROVED

Motion confirmed by roll-call vote:

YES Commissioner Ray. T. Berry
YES Commissioner Marie C. Waugh, Secretary/Treasurer
YES Commissioner Stacy L. Angier, Vice Chair
YES Commissioner Christopher Pernicano
YES Commissioner Jonathan Hage
YES Commissioner Levi Williams
YES Commissioner Nancy W. Gregoire, Chair

Motion ***carried*** 7/0.

14. **COMMENTS BY COMMSSIONERS**

Closing comments were given by the Commissioners.

*Commissioner Waugh departed the meeting at 5:20 p.m.

15. **NEXT REGULAR BOARD MEETING**

The next regularly scheduled Board of Commissioner's Meeting will be held on Wednesday, May 26, 2021 at 4:00 p.m. at the Broward Health Corporate Spectrum location, 1700 Northwest 49th Street, Suite 150, Fort Lauderdale, Florida 33309.

16. **ADJOURNMENT**

There being no further business on the agenda, the Chair adjourned the meeting at 5:27 p.m.

Respectfully submitted,
Commissioner Marie C. Waugh, Secretary/Treasurer

APPROVED

EXHIBIT III

Resolution FY21-16

Resolution Amending the Audit Committee in the Codified Resolutions of the Board of Commissioners of North Broward Hospital District and the Audit Committee Charter

WHEREAS, the Board of Commissioners (the "Board") of the North Broward Hospital District (the "District") has established the Amended and Restated Bylaws of the North Broward Hospital District (the "Bylaws") and its accompanying Codified Resolutions of the Board of Commissioners of the North Broward Hospital District ("Codified Resolutions"), both as amended from time to time;

WHEREAS, the Board, in accordance with its Bylaws and as provided in its Codified Resolutions, has established Board committees to properly exercise its Charter oversight duties;

WHEREAS, the Board committees meet on a regular basis to further the purposes, goals, and objectives of the Committees;

WHEREAS, the Board has established committee, consistent with the standards of the Institute of Internal Auditors ("IIA Standards"), to assist the Board in its Board oversight of the District's internal audit activities ("Audit Committee");

WHEREAS, Section 3.12(c)(1) of the Codified Resolutions delineates and outlines the structure of the Audit Committee;

WHEREAS, consistent with the IIA Standards, the Board has established an Audit Committee Charter and Section 3.12(c)(1)b. of the Codified Resolutions provides that the duties of the Audit Committee are provided in an Audit Committee Charter, adopted on August 27, 2006, as amended;

WHEREAS, to account for, and remain consistent with, best practices and changes to the IIA Standards, the Board wishes to amend and restate such Audit Committee Charter as set forth herein; and

WHEREAS, unless context otherwise requires, capitalized terms used but not defined herein have the meanings ascribed to such terms in the Bylaws and Codified Resolutions.

NOW THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the North Broward Hospital District, that:

1. The Codified Resolutions are hereby amended as provided below. Words ~~stricken~~ are deletions; words underlined are additions.

2. The Board hereby amends Section 3.12(c)(1)b. of the Codified Resolutions to read as follows:

   b. *Duties.* The Audit Committee's function, independence, and duties shall be as outlined in the Amended and Restated ~~Audit Committee~~ Charter of the Audit Committee and Internal Audit of North Broward Hospital District, adopted on ~~August 27, 2006~~ April 28, 2021, and as amended from time to time.

3. The Board hereby establishes the Amended and Restated Charter of the Audit Committee and Internal Audit of North Broward Hospital District attached hereto as Exhibit A and incorporated herein by reference as if fully set forth herein.

4. Such Amended and Restated Charter of the Audit Committee and Internal Audit of North Broward Hospital District hereby supersedes the Audit Committee Charter, adopted on August 27, 2006, and all amendments thereto, all in effect as of the date of the ratification of this Resolution.
5. This Resolution shall take immediate effect upon ratification and hereby supersedes, amends, replaces and repeals any conflicting resolution or conflicting policy previously adopted by the Board.

DULY ADOPTED this 28 day of April, 2021.

Time Adopted 5:11 PM

EXHIBIT A

AMENDED AND RESTATED CHARTER OF THE AUDIT COMMITTEE AND INTERNAL AUDIT OF NORTH BROWARD HOSPITAL DISTRICT

AMENDED AND RESTATED CHARTER OF THE AUDIT COMMITTEE AND INTERNAL AUDIT OF NORTH BROWARD HOSPITAL DISTRICT

Background and Role

The Board of Commissioners (the "Board") of the North Broward Hospital District (the "District"), within subsection (c)(1) of section 3.12 of the Codified Resolutions of the Board ("Codified Resolutions"), established the Audit Committee as a permanent standing committee of the District and established the Internal Audit Department as an independent department with a Chief Internal Auditor. This Amended and Restated Charter of the Audit Committee and Internal Audit of North Broward Hospital District ("Audit Committee Charter") amends and restates the original Audit Committee Charter adopted on August 27, 2006, as amended, and provides a blueprint for how internal audit should operate. This Audit Committee Charter establishes that it is vital that the District, as a special taxing district of the State of Florida, be held accountable for the use of public funds and apply sound management practices through established policies and procedures that conform with state and federal law, rules and regulations.

Mission and Purpose

The mission of the Audit Committee is to enhance and protect the District's organizational value by providing risk-based and objective assurance, advice, and insight. The Audit Committee's purpose is to provide a structured and systematic oversight of the District's governance, risk management, and internal control practices. The Audit Committee assists the Board and the District's senior management by providing independent advice and guidance on the adequacy and effectiveness of—and of potential improvements to—the District's initiatives and practices for values and ethics; governance structure; risk management; internal control framework; oversight of the Internal Audit Department and external auditors; and financial statements and public accountability reporting.

Standards for the Professional Practice of Internal Auditing

The Audit Committee and the Internal Audit Department shall govern themselves by adherence to the mandatory elements of The Institute of Internal Auditors' International Professional Practices Framework, including its Standards, Core Principles for the Professional Practice of Internal Auditing, Definition of Internal Auditing, and Code of Ethics, as amended from time to time and then in effect (collectively, "IIA Standards").

Audit Committee Values and Communication

The Audit Committee shall conduct itself consistent with all state and federal laws that govern the District, as well as the District's enabling legislation and charter (codified in ch. 2006-347, Laws of Florida and ch. 2007-299, Laws of Florida), the Amended and Restated Bylaws of the North Broward Hospital District (the "Board's Bylaws"), the Code of Conduct of Broward Health, and Broward Health's Policies and Procedures, all as amended from time to time. All communication with the District's management and staff shall always be direct, open, and complete.

Scope, Authority, and Responsibilities

The Audit Committee shall discharge its respective responsibilities in accordance with this Audit Charter. The following authority and responsibilities are hereby established:

Audit Committee Organization and Structure

The following components, operational procedures, and membership and qualification requirements shall apply to the Audit Committee and its members:

1. Audit Committee Composition, Offices, and Officer Selection. The Composition of the Audit Committee shall be set forth in section 3.12(c)(1) of the Codified Resolutions and the offices and selection of officers shall be consistent with section 3.12(e) of the Codified Resolutions, all as amended from time to time.

2. Meetings and Quorum. The frequency of meetings of the Audit Committee shall be provided in section 3.12(c)(1) of the Codified Resolutions. A quorum of the Audit Committee shall be consistent with Art. III, s. 1.(b) of the Board's Bylaws.

3. Meeting Agendas. The Audit Committee chair shall coordinate with the Chief Internal Auditor to establish agendas for Audit Committee meetings.

4. Open Meetings and Meeting Minutes. Unless otherwise exempt under Florida law, all meetings of the Audit Committee shall be open to the public as provided in § 286.011, Florida Statutes, as amended from time to time and any successor statute thereof. Minutes of the Audit Committee shall be promptly recorded and made available to all Board members and Audit Committee members consistent with Art. III, s. 5. of the Board's Bylaws.

5. Competency of Members. Audit Committee members shall have sufficient competency to fulfill the roles of the Audit Committee.

6. Independence. Each member of the Audit Committee shall be independent and free from any relationship that, in the opinion of the Board, would interfere with the exercise of independent judgment as a member of the Audit Committee.

7. Terms of Appointment. Members of the Board shall serve on the Audit Committee and be appointed consistent with section 3.12(e) of the Codified Resolutions. The outside expert consultants of the Audit Committee shall serve at the pleasure of the Board and be appointed or reappointed annually at the Board's Annual Meeting and may serve on the Audit Committee up to a maximum of four (4) years (consecutively or non-consecutively).

8. Remuneration of Outside Expert Consultants. The outside expert consultants of the Audit Committee shall serve without compensation but may be paid for traveling expenses consistent with § 112.061, Florida Statutes and the District's policy governing travel and reimbursement expenditures.

9. Conflicts of Interest. As is required of all Board members, all outside expert consultants serving as Audit Committee members shall adhere and comply with the District's policies

and procedures, the Code of Conduct of Broward Health, and the Board's Code of Conduct and Ethics as delineated in Art. II., s. 7 of the Board's Bylaws and section 2.7 of the Codified Resolutions (collectively, the "District's Code of Conduct and Ethics"). Outside expert consultants shall promptly disclose any conflict of interest or any appearance of impropriety to the Audit Committee and shall be required to fully, accurately and timely complete all forms required by the District, including, without limitation, a Conflict of Interest and Financial Disclosure Form. If there is any question regarding whether an outside expert consultant serving on the Audit Committee should recuse themselves from a vote, the Audit Committee shall vote to determine the appropriateness of recusal.

10. Orientation Training. All outside expert consultants of the Audit Committee shall receive the same formal orientation training provided to Board members which shall include, without limitation, training on the purpose and mandate of the Audit Committee and the District's Code of Conduct and Ethics. In accordance with section 2.7 of the Codified Resolutions, the outside expert consultants of the Audit Committee must acknowledge receipt of compliance training and that they will comply with the District's Code of Conduct and Ethics.

11. Attendance Requirements for District Employees. The President and Chief Executive Officer ("President and CEO"), General Counsel, and the Chief Internal Auditor, or their designees shall be required to attend all Audit Committee meetings to further the purposes, goals, and objectives of the Audit Committee, provide support and relevant information to the Audit Committee, and to assist in matters falling within the jurisdiction of the Audit Committee. The Chief Internal Auditor, or another appropriate designee, shall facilitate and coordinate meetings as well as provide ancillary support to the Audit Committee, as time and resources permit.

Authority of the Audit Committee

Consistent with this Audit Committee Charter, and as otherwise permitted by the Board, in discharging its responsibilities, the Audit Committee may request the attendance of employees of the District and relevant information it considers necessary to discharge its duties. The Audit Committee shall also, to the extent permitted by state and federal law, have unrestricted access to records, data, and reports. If access to requested documents is denied due to legal or confidentiality reasons, the Audit Committee and/or Chief Internal Auditor will follow the Board's approved mechanism for resolution of the matter. The Audit Committee is also empowered to:

1. Request assistance from the District's Office of the General Counsel or, to the extent that there is an actual or perceived conflict of interest, request the General Counsel to engage independent counsel following the approval of the Board.

2. Recommend to the Board the appointment and compensation of advisors and external auditors as necessary.

3. Review all audit and non-audit services performed by the external auditors, including the work of any registered public accounting firm employed by the District.
4. Recommend appropriate actions to the Board to resolve any disagreements between members of senior management and external auditors regarding financial reporting and other matters.
5. Recommend to the Board the approval for all auditing and non-audit services performed by external auditors.

Responsibilities of the Audit Committee

It is the responsibility of the Audit Committee to review the internal audit activities of the District and provide the Board with independent and objective advice with respect to the following aspects of the management of the organization, as well as other duties and responsibilities delegated from the Board from time to time where not duplicative of actions by another Board committee or of the Board itself:

Prevention and Detection of Fraud

To obtain reasonable assurance with respect to the District's procedures for the prevention and detection of fraud, the Audit Committee may:

1. Oversee management's arrangements for the prevention and deterrence of fraud.
2. Provide oversight of the District's antifraud programs and controls in place to identify potential fraud and ensure that investigations are undertaken if fraud is detected.

Control

To obtain reasonable assurance with respect to the adequacy and effectiveness of the District's controls in responding to risks within the District's governance, operations, and information systems, the Audit Committee may:

1. Review and report to the Board on the effectiveness of the District's control framework, including information technology security and control.
2. Review and provide advice to the Board on the control of the District as a whole and its individual units.
3. Review and make recommendations to the Board on all matters of significance arising from work performed by other providers of financial and internal control assurance to members of senior management and the Board.

Financial Statements and Public Accountability Reporting

The Audit Committee is responsible for oversight of the independent audit of the District's financial statements, including, but not limited to, overseeing the resolution of audit findings in areas such as internal controls, legal and regulatory compliance, and ethics. Accordingly, the Audit Committee may make appropriate recommendations to the Board upon the Audit Committee's:

1. Review with the District's management and the external auditors the results of audit engagements, including any difficulties encountered.
2. Review and understand significant accounting and reporting issues, including complex or unusual transactions, highly judgmental areas, and recent professional and regulatory pronouncements and their impact on the District's financial statements.
3. Review the annual financial statements, and consider whether they are complete, consistent with information known to Audit Committee members, and reflect appropriate accounting principles.
4. Review with management and the external auditors all matters required to be communicated to the Audit Committee under generally accepted external auditing standards.
5. Review and understanding of the strategies, assumptions, and estimates that management has made in preparing financial statements, budgets, and investment plans.
6. Review and understanding of how management develops interim financial information and the nature and extent of internal and external auditor involvement in the process.
7. Review, at least annually, the report by the external auditor describing:
   a. The external auditor's internal quality-control procedures; and
   b. Any material issues raised by the most recent internal quality control review or peer review, or by any inquiry or investigation by governmental or professional authorities within the preceding five (5) years with respect to independent audits carried out by the external auditor, and any steps taken to deal with such issues.

Audit Committee Charter

It is the responsibility of the Audit Committee to ensure that this Audit Committee Charter remain consistent with current best practices and IIA Standards. To that end, the Audit Committee shall:

1. Review this Audit Committee Charter at least annually and recommend any necessary amendments or modifications to the Board.

Oversight of the Internal Audit Department and External Auditors

The Internal Audit Department shall be overseen by the Chief Internal Auditor. The scope of the Internal Audit Department's role and function encompasses, but is not limited to, objective examinations of evidence for the purpose of providing independent assessments on the adequacy and effectiveness of governance, risk management, and control processes. In the furtherance of the Internal Audit Department's accomplishment of such goals and to obtain reasonable assurance with respect to internal audit activity, the Audit Committee may provide recommendations to the Board related to:

Internal Audit Charter and Resources

1. The review and ratification of the Internal Audit Department Charter at least annually consistent with the mandatory guidance of the IIA Standards, the scope and nature of assurance and consulting services, and any changes in the financial, risk management, and governance processes of the District, as well as developments and best practices in the professional practice of internal auditing.
2. The review of the requested resources to achieve the internal audit plan.

Chief Internal Auditor Performance

3. Advising the Board regarding the qualifications and recruitment, appointment, and removal of the Chief Internal Auditor.
4. Providing input to management related to evaluating the performance of the Chief Internal Auditor.
5. Recommending to the Board the appropriate compensation of the Chief Internal Auditor.

Internal Audit Strategy and Plan

6. The Internal Audit Department's strategic plan, objectives, performance measures, and outcomes.
7. A proposed risk-based internal audit plan and internal audit projects.
8. The internal audit plan and engagement work program, including internal audit resources necessary to achieve the plan.
9. The Internal Audit Department's performance.

Internal Audit Engagement and Follow-up

10. The review of final reports from the internal audit plan.
11. The review and tracking of management's action plans to address the results of internal audit engagements.

Standards Conformance

12. The review of the steps taken to ensure that the Internal Audit Department's internal audit activity conforms with the IIA Standards.
13. The review of the Internal Audit Department's quality assurance and improvement program for periodic assessments of the Internal Audit Department and that the results of such periodic assessments are presented to the Audit Committee.
14. Verifying the results of the Internal Audit Department's internal and external quality assurance review and the implementation of the recommended action plan.
15. The review of any recommendations for the continuous improvement of the Internal Audit Department.

External Auditors

16. To obtain reasonable assurance with respect to work of external auditors, meeting with the external auditors during the planning phase of the engagement, the presentation of the audited financial statements, and the discussion of the results of engagements and recommendations for the District's management.
17. Obtaining statements from external auditors about their relationships with the District, including non-audit services performed in the past, and discussing the information with the external auditors to review and confirm their independence.

Reporting on Audit Committee Performance

The Audit Committee may report to the Board any matter it deems of sufficient importance. At a minimum, the Audit Committee shall report to the Board at least annually, and more often as requested by the Board, summarizing the Audit Committee's activities and recommendations. The Audit Committee's report may be delivered during an Audit Committee meeting attended by the Board or during a regularly scheduled meeting of the Board. The report shall at least include:

1. A summary of the work the Audit Committee performed to fully discharge its responsibilities during the preceding year.
2. A summary of the District's progress in addressing the results of internal and external audit engagement reports.
3. An overall assessment of the District's risk, control, and compliance processes, including details of any significant emerging risks or legislative changes impacting the District.
4. Details of meetings, including the number of meetings held during the relevant period and the number of meetings each member attended.
5. Any other information required by new or emerging corporate governance developments.

NORTH BROWARD
HOSPITAL DISTRICT

COMMITTEE ASSIGNMENTS
Revised August 31, 2021

CURRENT COMMITTEE MEMBER	PURPOSE OF COMMITTEE
AUDIT COMMITTEE 1. Stacy L. Angier – Chair 2. Nancy W. Gregoire – Vice Chair 3. Marie C. Waugh Two (2) expert consultants appointed by the Board: 4. William Benson 5. Vacant Expert consultants serving on the Audit Committee shall be subject to Section I-7 of the bylaws. *****The Board Treasurer shall not serve on the Audit Committee	Composition. The Audit Committee shall consist of three (3) Commissioners and two (2) expert consultants who shall be appointed by the Board in accordance with the Bylaws. Expert consultants serving on the Audit Committee shall be subject to Bylaws and, consistent with the Bylaws, shall participate in the Board's orientation program. The Chief Internal Auditor, or his or her designee, shall be required to attend all Audit Committee meetings to further the purposes, goals, and objectives of the Audit Committee, provide support and relevant information to the Audit Committee, and assist in matters falling within the jurisdiction of the Audit Committee. The Board's Secretary-Treasurer shall not serve on the Audit Committee. Duties. The Audit Committee's function, independence, and duties shall be as outlined in the Audit Committee Charter, adopted on August 27, 2006, and amended on April 28, 2021 Meetings. The Audit Committee shall meet at least quarterly or as otherwise required by applicable law, or as necessary to perform its duties as set forth herein.
BUILDING COMMITTEE 1. Jonathan K. Hage – Chair 2. Levi G. Williams, Jr. – Vice Chair 3. Ray T. Berry	Composition. The Building Committee shall consist of three (3) Commissioners who shall be appointed by the Board. Duties. The Building Committee shall consider all matters concerning the District's and its Subsidiaries' buildings, facilities and land and to attend to all matters relating to new construction, renovation, acquisition, and leasing of real property in and for the District and its Subsidiaries, as well as to perform other duties that may be requested by the Board from time to time. Meetings. The Building Committee shall meet as necessary to perform its duties as set forth herein

<table>
<tr><th>CURRENT COMMITTEE MEMBER</th><th>PURPOSE OF COMMITTEE</th></tr>
<tr><td>COMPLIANCE COMMITTEE
1. Nancy W. Gregoire – Chair
2. Ray T. Berry – Vice Chair
3. Stacy L. Angier
4. Marie C. Waugh
5. Levi G. Williams, Jr.
6. Jonathan K. Hage
7. Christopher J. Pernicano</td><td>Composition. The Compliance Committee shall consist of all members of the Board. The Chief Compliance and Privacy Officer, or his or her designee, shall be required to attend all Compliance Committee meetings to further the purposes, goals, and objectives of the Compliance Committee, provide support and relevant information to the Compliance Committee, and assist in matters falling within the jurisdiction of the Compliance Committee.

Duties. The Compliance Committee shall be responsible for the review and oversight of the District's Compliance and Ethics Program, including, but not limited to, matters related to compliance with federal and state health care program requirements; the District's compliance-related policies and procedures; the performance of the Chief Compliance and Privacy Officer; and any other duties that may be requested by the Board from time to time.

The Compliance Committee shall submit to the Board a description of the documents and other materials it reviewed along with any additional steps taken (including, but not limited to, the engagement of an independent advisor or other third-party resources) in the Compliance Committee's oversight of the District's Compliance and Ethics Program

Meetings. The Compliance Committee shall meet at least quarterly or more as necessary to perform its duties as set forth herein.</td></tr>
<tr><td>FINANCE COMMITTEE
1. Marie C. Waugh – Chair
2. Christopher J. Pernicano – Vice Chair
3. Nancy W. Gregoire
4. Ray T. Berry
5. Stacy L. Angier
6. Levi G. Williams, Jr.
7. Jonathan K. Hage</td><td>Composition. The Finance Committee shall consist of all Commissioners.

Duties. The Finance Committee shall review short, intermediate, and long-range financial plans of the District and shall attend to all financial interests of the District as prescribed by the Charter. The Finance Committee shall also perform other duties that may be requested by the Board from time to time.

Meetings. The Finance Committee shall meet at least quarterly or as otherwise required by applicable law, or as necessary to perform its duties as set forth herein.</td></tr>
<tr><td>GOVERNANCE COMMITTEE
1. Stacy L. Angier – Chair
2. Marie C. Waugh – Vice Chair
3. Christopher J. Pernicano</td><td>Composition. The Governance Committee shall consist of three (3) Commissioners who shall be appointed by the Board in accordance with the Bylaws.

Duties. The duties of the Governance Committee shall include, but not be limited to, reviewing and making recommendations to the Board about the District's governance structure and participating in the development of training and orientation materials for new Commissioners. The Governance Committee shall conduct periodic reviews of the District's Bylaws and governance-related policies to ensure that they are consistent with the District's Charter, as amended from time to time, and that the Board is performing its duties as outlined in the Charter efficiently. The Governance Committee shall also perform any other duties that may be requested by the Board from time to time.

Meetings. The Governance Committee shall meet as needed at the request of the Board, the Chair, or the chair of the Governance Committee.</td></tr>
</table>

CURRENT COMMITTEE MEMBER	PURPOSE OF COMMITTEE
HUMAN RESOURCE COMMITTEE 1. Marie C. Waugh – Chair 2. Ray T. Berry – Vice Chair 3. Stacy L. Angier	Composition. The Human Resources Committee shall consist of three (3) Commissioners who shall be appointed by the Board in accordance with the Bylaws. The CEO shall, to the extent necessary, require the attendance of the Chief Human Resources Officer to further the purposes, goals and objectives of the Human Resources Committee, provide support and/or relevant information to the Human Resources Committee, and to assist in matters falling within the jurisdiction of the Human Resources Committee. Duties. The duties of the Human Resources Committee shall include, but not be limited to, conducting annual reviews and/or performance evaluations of Direct Reports, establishing performance standards, reviewing executive leadership structure and positions, and reviewing employee benefits and incentive plans. The Human Resources Committee shall also perform other duties that may be requested by the Board from time to time. Meetings. The Human Resources Committee shall meet as necessary to perform its duties as set forth herein.

CURRENT COMMITTEE MEMBER	PURPOSE OF COMMITTEE
JOINT CONFERENCE COMMITTEE 1. Stacy L. Angier – Chair 2. Levi G. Williams, Jr. – Vice Chair 3. Ray T. Berry 4. Marie C. Waugh 5. Nancy W. Gregoire 6. Jonathan K. Hage 7. Christopher J. Pernicano	Composition. The Joint Conference Committee shall be a committee comprised of all members of the Board. To further the purposes, goals and objectives of the Joint Conference Committee, provide support and/or relevant information to the Joint Conference Committee, and to assist in matters falling within the jurisdiction of the Joint Conference Committee, there shall be a standing invitation to attend for the following individuals: (1) the officers of the District's four (4) Medical Staffs (Chief of Staff, Vice Chief of Staff, and the Secretary/Treasurer of each of the District's hospitals); (2) the Chairperson of the Unified Medical Staff Committee, or his or her designee; (3) the Chief Executive Officer of each of the Districts hospitals, or each of their respective designees; (4) the District's President and CEO, or his or her designee; (5) the District's Chief Medical Officer; (6) the Chief Medical Officer of each of the District's hospitals; and (7) legal counsel representing Broward Health and legal counsel representing the Medical Staff. Duties. The purpose of the Joint Conference Committee is to (a) serve as a forum for discussion, collaboration, and conflict resolution relating to matters of the District's four (4) Medical Staffs, the District, and the policies and practices of the District's hospitals, especially those matters pertaining to the delivery of efficient, effective, and quality patient care; (b) to serve and conduct itself as a medico-administrative liaison among the District's four (4) Medical Staffs, the Board, the executive leadership of Broward Health, and the administration of each of the District's hospitals; and (c) to address other matters falling within the jurisdiction of the Joint Conference Committee. The Chairperson of the Joint Conference Subcommittee established pursuant to Section 9.16 of the Bylaws of the Medical Staff of Broward Health, the Chairperson of the Unified Medical Staff Committee, the District's President and CEO, and/or the District's Chief Medical Officer may place items on the Joint Conference Committee's agenda for full consideration by the Joint Conference Committee. Any member of the Joint Conference Subcommittee shall have the opportunity to speak to and participate in the discussion of all agenda items. Meetings. The Joint Conference Committee shall meet at least twice per year or as necessary at the request of either the Chair of the Board, any three (3) members of the Board, the Chair of the Joint Conference Subcommittee, the Chair of the Unified Medical Staff Committee, the Districts President and CEO, the District's Chief Medical Officer, or when a decision of the Board is contrary to a recommendation of any Medical Executive Council of the District's hospitals or the Unified Medical Staff Committee. The recommendations of the Joint Conference Committee shall at all times be subject to final approval of the Board. It is the Board's intent that the Joint Conference Committee shall at all times endeavor to carry out the general purposes of the Board and shall exercise its authority in such a manner as to assist the Board in its proper performance of its duties, as is consistent with the Board's Bylaws and the Bylaws of the Medical Staff of Broward Health.

CURRENT COMMITTEE MEMBER	PURPOSE OF COMMITTEE
LEGAL AFFAIRS AND GOVERNMENTAL RELATIONS COMMITTEE 1. Nancy W. Gregoire – Chair 2. Levi G. Williams, Jr. – Vice Chair 3. Stacy L. Angier 4. Ray T. Berry 5. Marie C. Waugh 6. Jonathan K. Hage 7. Christopher J. Pernicano	Composition. The Legal Affairs and Governmental Relations Committee shall consist of all Commissioners. Duties. The duties of the Legal Affairs and Governmental Relations Committee shall include, but not be limited to, reviewing the legal affairs of the District; reviewing the District's State and Federal legislative efforts; reviewing contracts for physician services, major employment contracts, and other major contractual commitments to be presented to the Board in accordance with the Board policies and General Administrative Policies and Procedures, as approved and as may be amended from time to time; and performing other duties that may be requested by the Board from time to time. Meetings. The Legal Affairs and Governmental Relations Committee shall meet as necessary to perform its duties as set forth herein.
PENSION AND INVESTMENT COMMITTEE 1. Christopher J. Pernicano – Chair 2. Ray T. Berry – Vice Chair 3. Marie C. Waugh	Composition. The Pension and Investment Committee shall consist of three (3) Commissioners who shall be appointed by the Board consistent with the Bylaws. Duties. The duties of the Pension and Investment Committee shall include, but not be limited to, monitoring of investment management services for the general operating funds, bond funds, self-insurance funds, employee pension plans and other employee retirement plans, including, without limitation, those under Sections 403(B) and 457(B) of the Internal Revenue Code of 1986, as amended. The Pension and Investment Committee shall also perform other duties that may be requested by the Board from time to time. Meetings. The Pension and Investment Committee shall meet as necessary to perform its duties as set forth herein.

CURRENT COMMITTEE MEMBER	PURPOSE OF COMMITTEE
QUALITY ASSESSMENT AND OVERSIGHT COMMITTEE 1. Ray T. Berry – Chair 2. Nancy W. Gregoire – Vice Chair 3. Stacy L. Angier	Composition. The QAOC shall consist of three (3) Commissioners who shall be appointed by the Board in accordance with the Bylaws. To further the purposes, goals, and objectives, provide support and/or relevant information, and assist in matters falling within the jurisdiction of the QAOC, the following individuals or their designees shall be required to attend all QAOC meetings: the District's CEO; two (2) senior corporate members assigned by the District's CEO; one (1) member of Corporate Quality and Risk Management Department; the Chief Medical Officer of the District or a physician designated by the Chief Medical Officer; one (1) Regional Chief Nursing Officer; a senior representative overseeing the District's safety and security; a representative from the Ambulatory Services Division; a representative from Broward Health's Home Health and Hospice; the General Counsel; the Chief Internal Auditor; the Chief Compliance and Privacy Officer; and the four (4) Regional Chief Executive Officers, the four (4) Regional Medical Officers, and the four (4) Quality Services Managers. Duties. The duties of the QAOC shall include, but not be limited to, evaluating the needs and expectations of the individuals served by the District to determine how the District might improve its overall efforts; identify new programs and processes to better assist those individuals served by the District; identify high-volume, high-risk, problem-prone or high-cost processes; recommend methods of improvement; make recommendations regarding patient safety; and evaluate the impact of patient outcomes. The QAOC should engage and receive input and data from outside regulatory and accrediting agencies, as appropriate, to assist in the performance of its duties. The QAOC shall also perform any other duties that may be requested by the Board from time to time or as provided by Florida Law and applicable federal law, rules and regulations and accreditation standards. Meetings. The QAOC shall meet as necessary to perform its duties as set forth herein.

CURRENT COMMITTEE MEMBER	PURPOSE OF COMMITTEE
RISK-MANAGEMENT/CLAIMS REVIEW COMMITTEE 1. Nancy W. Gregoire – Chair 2. Jonathan K. Hage – Vice Chair 3. Ray T. Berry	Composition. The Risk Management Committee shall consist of three (3) non-voting Commissioners who shall be appointed by the Board in accordance with the Bylaws. To further the purposes, goals, and objectives, provide support and/or relevant information, and to assist in matters falling within the jurisdiction of the Risk Management Committee, a representative from the Corporate Quality and Case Management Department, and a representative from the Corporate Claims and Insurance Department, , shall be required to attend all Risk Management Committee meetings. Duties. The duties of the Risk Management Committee shall include matters that relate solely to the evaluation of claims for which the District is, or may be, liable under Section 768.28, Florida Statutes, and which are filed with the District's Risk Management program or relate solely to offers of compromise of claims filed with the Risk Management program. A representative from the Corporate Claims and Insurance Department, shall be responsible for maintaining a list of all matters discussed at the Risk Management Committee and noting each matter that has resulted in the termination of all litigation and settlement of all claims arising out of the same incident. Discussion at the Risk Management Committee shall be limited only to that necessary to the evaluation of claims for which the District is liable under Section 768.28, Florida Statutes, and which are filed with the District's Risk Management program or relate solely to offers of compromise of claims filed with the Risk Management program. The Risk Management Committee shall also perform any other duties as may be provided under Florida Law. No member of the Risk Management Committee shall be entitled to vote on the Risk Management Committee, and no action may be taken at a Risk Management Committee meeting. The Risk Management Committee is designed solely for the District's Risk Management Department to provide information to the Board regarding threatened or pending tort litigation against the District. This, however, shall not preclude the Board from voting on any of these matters at a meeting of the Board. Meetings. The Risk Management Committee shall meet as needed to perform its duties as set forth herein. From time to time, the Risk Management Committee, to better develop an understanding of the offers of compromise of claims filed with the Risk Management program and to foster more substantive discussion, may request the attendance of Risk Management personnel and outside legal counsel who are necessary for the discussions pertaining to the claims that are to be brought to the Risk Management Committee meeting. All meetings of the Risk Management Committee shall be limited to matters that are exempt from the provisions of section 286.011, Florida Statutes, and section 24(a), Art. I of the Florida Constitution. The minutes of the meetings and proceedings of Risk Management Committee shall be recorded and maintained by the Risk Management Department and are exempt from the provisions of section 119.07(1), Florida Statutes, and section 24(a), Art. I of the Florida Constitution until termination of all litigation and settlement of all claims arising out of the same incident.

BROWARD HEALTH FOUNDATION	PURPOSE OF COMMITTEE
Jonathan K. Hage	Meetings. The foundation meets monthly.
CHILDREN'S DIAGNOSTIC AND TREATMENT CENTER	**PURPOSE OF COMMITTEE**
Stacy L. Angier	Meetings. CDTC meets monthly.
COMMUNITY RELATIONS COUNCILS	**PURPOSE OF COMMITTEE**
Broward Health Imperial Point Stacy L. Angier **Broward Health Coral Springs** Nancy W. Gregoire **Broward Health North** Marie C. Waugh **Broward Health Medical Center** Ray T. Berry **Senior Services** Nancy W. Gregoire **Primary Care** Levi G. Williams, Jr.	Duties. To serve as a focus for community involvement in regional needs assessment and program development. Meetings. All the Councils meet every other month.

File Numbe	License Numbe	Classific	Hospital Name
110019	3954	ACUTE	BROWARD HEALTH CORAL SPRINGS
100200	3996	ACUTE	BROWARD HEALTH IMPERIAL POINT
100039	4128	ACUTE	BROWARD HEALTH MEDICAL CENTER
100086	4020	ACUTE	BROWARD HEALTH NORTH
100244	4366	ACUTE	CAPE CORAL HOSPITAL
100175	4218	RURAL	DESOTO MEMORIAL HOSPITAL
100078	4495	RURAL	DOCTORS MEMORIAL HOSPITAL
100220	4301	ACUTE	GULF COAST MEDICAL CENTER LEE MEMORIAL HEALTH SYSTEM
110009	4334	ACUTE	H LEE MOFFITT CANCER CENTER & RESEARCH INSTITUTE HOSPITAL
100017	4181	ACUTE	HALIFAX HEALTH MEDICAL CENTER
23960051	4181	ACUTE	HALIFAX HEALTH MEDICAL CENTER- PORT ORANGE
23960152	4530	ACUTE	HALIFAX HEALTH UF HEALTH MEDICAL CENTER OF DELTONA
110016	4181	PSYCH	HALIFAX PSYCHIATRIC CENTER-NORTH
120005	4186	ACUTE	HEALTHPARK MEDICAL CENTER
100098	3995	RURAL	HENDRY REGIONAL MEDICAL CENTER
100142	3999	RURAL	JACKSON HOSPITAL
100022	3998	ACUTE	JACKSON MEMORIAL HOSPITAL
100114	3998	ACUTE	JACKSON NORTH MEDICAL CENTER
100208	3998	ACUTE	JACKSON SOUTH MEDICAL CENTER
23960144	3998	ACUTE	JACKSON WEST MEDICAL CENTER
100130	3992	RURAL	LAKESIDE MEDICAL CENTER
100012	4186	ACUTE	LEE MEMORIAL HOSPITAL
100004	4346	RURAL	MADISON COUNTY MEMORIAL HOSPITAL
23960050	4480	ACUTE	MEMORIAL HOSPITAL MIRAMAR
100230	4121	ACUTE	MEMORIAL HOSPITAL PEMBROKE
111527	4316	ACUTE	MEMORIAL HOSPITAL WEST
100038	4411	ACUTE	MEMORIAL REGIONAL HOSPITAL
100225	4411	ACUTE	MEMORIAL REGIONAL HOSPITAL SOUTH
100028	4467	ACUTE	PARRISH MEDICAL CENTER
100087	4191	ACUTE	SARASOTA MEMORIAL HOSPITAL
23960161	4536	ACUTE	Sarasota Memorial Hospital - Venice

File Numbe	License Numbe	Classific	Hospital Name
100001	4063	ACUTE	UF HEALTH JACKSONVILLE
100084	4000	ACUTE	UF HEALTH LEESBURG HOSPITAL
23960123	4063	ACUTE	UF HEALTH NORTH
120011	4286	PSYCH	UF HEALTH PSYCHIATRIC HOSPITAL
100113	4286	ACUTE	UF HEALTH SHANDS HOSPITAL
23960032	4464	ACUTE	UF HEALTH THE VILLAGES HOSPITAL

File Numbe	License Numbe	Classific	Hospital Name
104000	3990	PSYCH	FLORIDA STATE HOSPITAL
104007	4004	PSYCH	NORTHEAST FLORIDA STATE HOSPITAL
110183	4006	ACUTE	RECEPTION AND MEDICAL CENTER HOSPITAL

120014	4496	PSYCH	SOUTH FLORIDA EVALUATION AND TREATMENT CENTER
104001	4013	PSYCH	SOUTH FLORIDA STATE HOSPITAL

Street Address	**City**	**Bed Capaci**
3000 CORAL HILLS DR	CORAL SPRINGS	250
6401 N FEDERAL HWY	FORT LAUDERDALE	204
1600 S ANDREWS AVE	FORT LAUDERDALE	723
201 E SAMPLE RD	POMPANO BEACH	409
636 DEL PRADO BLVD	CAPE CORAL	291
900 N ROBERT AVE	ARCADIA	49
2600 Hospital Drive	BONIFAY	20
13681 DOCTORS WAY	FORT MYERS	699
12902 MAGNOLIA DR	TAMPA	218
303 N CLYDE MORRIS BLVD	DAYTONA BEACH	563
1041 DUNLAWTON AVE	PORT ORANGE	80
3300 HALIFAX CROSSINGS BLVD	DELTONA	43
841 JIMMY ANN DR	DAYTONA BEACH	30
9981 HEALTHPARK CIR	FORT MYERS	461
524 W SAGAMORE AVE	CLEWISTON	25
4250 HOSPITAL DR	MARIANNA	100
1611 NW 12TH AVE	MIAMI	1547
160 NW 170TH ST	NORTH MIAMI BEACH	382
9333 SW 152ND ST	MIAMI	262
2801 NW 79 Ave	DORAL	98
39200 HOOKER HWY	BELLE GLADE	70
2776 CLEVELAND AVE	FORT MYERS	414
224 NW CRANE AVE	MADISON	25
1901 SW 172ND AVE	MIRAMAR	178
7800 SHERIDAN ST	PEMBROKE PINES	301
703 N FLAMINGO RD	PEMBROKE PINES	486
3501 JOHNSON ST	HOLLYWOOD	797
3600 WASHINGTON ST	HOLLYWOOD	216
951 N WASHINGTON AVE	TITUSVILLE	210
1700 S TAMIAMI TRL	SARASOTA	895
2600 Laurel Rd E	NORTH VENICE	110

Street Address	City	Bed Capaci
655 W 8TH ST	JACKSONVILLE	603
600 E DIXIE AVE	LEESBURG	330
15255 MAX LEGGETT PARKWAY	JACKSONVILLE	92
4101 NW 89TH BLVD	GAINESVILLE	81
1600 SW ARCHER RD	GAINESVILLE	1030
1451 EL CAMINO REAL	THE VILLAGES	307

Street Address	City	Bed Capaci
100 N MAIN ST	CHATTAHOOCHEE	949
7487 S STATE RD 121	MACCLENNY	1138
7765 S COUNTY RD 231	LAKE BUTLER	120

18680 SW 376TH ST	FLORIDA CITY	249
800 E CYPRESS DR	PEMBROKE PINES	350

Owner Name	**Ownership Type**
NORTH BROWARD HOSPITAL DISTRICT	Hospital District
NORTH BROWARD HOSPITAL DISTRICT	Hospital District
NORTH BROWARD HOSPITAL DISTRICT	Hospital District
NORTH BROWARD HOSPITAL DISTRICT	Hospital District
CAPE MEMORIAL HOSPITAL INC	Hospital District
DESOTO COUNTY HOSPITAL DISTRICT	Hospital District
HOLMES COUNTY HOSPITAL CORPORATION	Hospital District
LEE MEMORIAL HEALTH SYSTEM	Hospital District
H LEE MOFFITT CANCER CENTER AND RESEARCH INSTITUTE HOSPITAL INC	Corporation
HALIFAX HOSPITAL MEDICAL CENTER	Hospital District
HALIFAX HOSPITAL MEDICAL CENTER	Hospital District
MEDICAL CENTER OF DELTONA INC	Corporation
HALIFAX HOSPITAL MEDICAL CENTER	Hospital District
LEE MEMORIAL HEALTH SYSTEM	Hospital District
HENDRY COUNTY HOSPITAL AUTHORITY	Hospital District
JACKSON COUNTY HOSPITAL DISTRICT	Hospital District
PUBLIC HEALTH TRUST OF MIAMI-DADE COUNTY	City/County
PUBLIC HEALTH TRUST OF MIAMI-DADE COUNTY	City/County
PUBLIC HEALTH TRUST OF MIAMI-DADE COUNTY	City/County
PUBLIC HEALTH TRUST OF MIAMI-DADE COUNTY	City/County
DISTRICT HOSPITAL HOLDINGS INC	Hospital District
LEE MEMORIAL HEALTH SYSTEM	Hospital District
MADISON COUNTY HOSPITAL HEALTH SYSTEMS INC	Hospital District
SOUTH BROWARD HOSPITAL DISTRICT	Hospital District
SOUTH BROWARD HOSPITAL DISTRICT	Hospital District
SOUTH BROWARD HOSPITAL DISTRICT	Hospital District
SOUTH BROWARD HOSPITAL DISTRICT	Hospital District
SOUTH BROWARD HOSPITAL DISTRICT	Hospital District
NORTH BREVARD COUNTY HOSPITAL DISTRICT	Hospital District
SARASOTA COUNTY PUBLIC HOSPITAL DISTRICT	Hospital District
SARASOTA COUNTY PUBLIC HOSPITAL DISTRICT	Hospital District

Owner Name	Ownership Type
SHANDS JACKSONVILLE MEDICAL CENTER INC	Corporation
LEESBURG REGIONAL MEDICAL CENTER INC	Corporation
SHANDS JACKSONVILLE MEDICAL CENTER INC	Corporation
SHANDS TEACHING HOSPITAL AND CLINICS, INC.	Corporation
SHANDS TEACHING HOSPITAL AND CLINICS, INC.	Corporation
THE VILLAGES TRI-COUNTY MEDICAL CENTER INC	Corporation

Owner Name	Ownership Type
STATE OF FLORIDA DEPARTMENT OF CHILDREN AND FAMILIES	State
STATE OF FLORIDA DEPARTMENT OF CHILDREN AND FAMILIES	State
STATE OF FLORIDA DEPARTMENT OF CORRECTIONS	State

STATE OF FLORIDA DEPARTMENT OF CHILDREN AND FAMILIES State
STATE OF FLORIDA DEPARTMENT OF CHILDREN AND FAMILIES State

Corporate Affiliation, if any
NORTH BROWARD HOSPITAL DISTRICT
NORTH BROWARD HOSPITAL DISTRICT
NORTH BROWARD HOSPITAL DISTRICT
NORTH BROWARD HOSPITAL DISTRICT
LEE MEMORIAL HEALTH SYSTEM
NA
NA
LEE MEMORIAL HEALTH SYSTEM
NA
HALIFAX HEALTH
HALIFAX HEALTH
HALIFAX HEALTH
HALIFAX HEALTH
LEE MEMORIAL HEALTH SYSTEM
NA
NA
PUBLIC HEALTH TRUST OF MIAMI-DADE COUNTY
PUBLIC HEALTH TRUST OF MIAMI-DADE COUNTY
PUBLIC HEALTH TRUST OF MIAMI-DADE COUNTY
PUBLIC HEALTH TRUST OF MIAMI-DADE COUNTY
NA
LEE MEMORIAL HEALTH SYSTEM
NA
SOUTH BROWARD HOSPITAL DISTRICT
SOUTH BROWARD HOSPITAL DISTRICT
SOUTH BROWARD HOSPITAL DISTRICT
SOUTH BROWARD HOSPITAL DISTRICT
SOUTH BROWARD HOSPITAL DISTRICT
NA
SARASOTA COUNTY PUBLIC HOSPITAL DISTRICT
SARASOTA COUNTY PUBLIC HOSPITAL DISTRICT

Corporate Affiliation, if any	Sovereign Immunity Authority
SHANDS TEACHING HOSPITAL AND CLINICS, INC.	s. 1004.41
SHANDS TEACHING HOSPITAL AND CLINICS, INC.	s. 1004.42
SHANDS TEACHING HOSPITAL AND CLINICS, INC.	s. 1004.43
SHANDS TEACHING HOSPITAL AND CLINICS, INC.	s. 1004.44
SHANDS TEACHING HOSPITAL AND CLINICS, INC.	s. 1004.45
SHANDS TEACHING HOSPITAL AND CLINICS, INC.	s. 1004.46

Corporate Affiliation, if any
STATE OF FLORIDA
STATE OF FLORIDA
STATE OF FLORIDA

STATE OF FLORIDA
STATE OF FLORIDA

CourtSmart Tag Report

Room: KB 412	**Case No.:** -	**Type:**
Caption: Senate Health Policy Committee		**Judge:**

Started: **2/10/2022 8:32:40 AM**
Ends: **2/10/2022 10:25:03 AM** **Length: 01:52:24**

8:33:00 AM	Roll call quorum present
8:34:00 AM	SB 1026 by Senator Cruz
8:34:54 AM	roll call on SB 1026 favorably
8:35:04 AM	AB 1442 by Senator 1442
8:35:24 AM	Senator Jones explains bill
8:36:04 AM	Chair Diaz asks question
8:36:42 AM	Senator Jones responds
8:36:48 AM	appearance cards waiving in support
8:37:18 AM	Senator Jones to close on bill
8:37:34 AM	roll call on SB 1442 favorably
8:37:57 AM	SB 1734 by Senator Gibson
8:38:27 AM	Senator Gibson explains bill
8:39:31 AM	appearance cards
8:40:29 AM	Senator Gibson closes on bill
8:40:48 AM	roll call on SB 1734 favorably
8:41:46 AM	SB 1108 by Senator Baxley
8:42:13 AM	Senator Baxley explains bill
8:43:07 AM	Baxley waives close
8:43:54 AM	roll call on SB 1108 favorably
8:44:05 AM	passing gavel to Senator Brodeur
8:44:22 AM	SB 1350 by Chair Diaz
8:44:40 AM	Senator Powell recognized for question
8:45:35 AM	Chair Diaz responds
8:46:22 AM	Senator Cruz asks question
8:47:23 AM	Chair Diaz responds
8:47:46 AM	Senator Cruz asks question
8:48:12 AM	Chair Diaz responds
8:48:25 AM	Chair Diaz waives close
8:49:25 AM	roll call on SB 135 favorably
8:49:40 AM	passes gavel back to Chair Diaz
8:50:11 AM	Recording Paused
8:50:15 AM	Recording Resumed
8:50:19 AM	SB 1572 by Senator Baxley
8:50:36 AM	Senator Baxley explains bill
8:51:10 AM	strike all amendment barcode 683352
8:51:58 AM	Senator Baxley explains strike all
8:52:10 AM	Senator Cruz recognized for question
8:53:12 AM	Senator Baxley explains strike all
8:56:50 AM	appearance cards
8:57:50 AM	strike all amendment is adopted
8:58:06 AM	Steve Waterhouse to speak
8:58:39 AM	Steve Waterhouse is the Director of Alzheimer's Association
8:59:40 AM	Jennifer Green Fla, Assisted Living
9:00:52 AM	Pricilla Jean Louis, Caregiver
9:02:44 AM	Jennifer Braisted, Alzheimer's Assoc
9:03:44 AM	Senator Baxley waives close
9:04:26 AM	roll call SB 1572 CS favorably
9:04:50 AM	Senator Harrell explains SB 730
9:05:35 AM	appearance cards
9:06:23 AM	Senator Harrell to close on bill
9:07:09 AM	roll call on SB 730 favorably
9:07:27 AM	SB Bradley SB 1114

9:07:40 AM Senator Bradley explains bill
9:08:11 AM Senator Book for a question
9:09:11 AM Senator Bradley responds
9:09:43 AM Senator Powell recognized for a question
9:10:27 AM Senator Bradley responds
9:10:46 AM Senator Powell follow up
9:11:39 AM appearance cards
9:11:59 AM Senator Bradley waives close
9:12:33 AM roll call on SB 1114 favorably
9:12:47 AM Senator Burgess SB 1892 explains bill
9:13:44 AM barcode amendment 513916
9:14:44 AM Senator Powell asks question on amendment
9:14:56 AM Senator Burgess explains
9:15:43 AM follow up by Senator Powell
9:16:28 AM Senator Burgess explains
9:17:13 AM Senator Cruz recognized for question
9:17:24 AM Senator Burgess explains ratio
9:18:35 AM Senator Baxley asks question
9:19:35 AM Senator Cruz responds
9:20:01 AM Claudia Daviant Florida pharmacy assoc
9:21:22 AM Senator Cruz responds about ratio
9:21:41 AM Senator Jones recognized in debate
9:22:42 AM Senator Burgess closes on bill
9:23:25 AM roll call on SB 1892 CS favorably
9:23:43 AM SB 700 Senator Burgess explains bill
9:24:22 AM amendment 625372 adopted favorably
9:25:24 AM back on bill as amended
9:25:39 AM Senator Burgess waives close
9:26:01 AM roll call on CS/SB 700 favorably
9:26:19 AM Senator Albritton SB 804 explains bill
9:26:45 AM strike all 667406 amendment
9:26:58 AM Senator Albritton explains strike all
9:28:14 AM appearance cards
9:29:14 AM Tonya Jackson Healthcare Workers
9:32:56 AM Senator Books asks question to Ms. Jackson
9:33:57 AM Ms. Jackson responds
9:34:17 AM Senator Albritton responds to Ms, Jackson
9:34:47 AM Senator Albritton responds
9:36:00 AM Ms Jackson responds
9:37:00 AM Senator Book responds
9:37:57 AM Ms. Jackson responds
9:38:15 AM Senator Jones recognized for question
9:38:34 AM Ms. Jackson reponds about CNA shortage
9:40:17 AM Senator Jones follow up
9:42:41 AM Ms. Jackson explains further staffing shortage
9:43:41 AM Senator Jones last question
9:45:04 AM Senator Powell recognized for a question
9:46:12 AM Ms. Jackson responds
9:47:11 AM Senator Powell follow up
9:48:45 AM Brecht Heuchan Florida Justice Assoc
9:51:31 AM Senator Powell for one question
9:52:30 AM Senator Powell asks about litigation
9:52:53 AM Senator Powell explains further
9:54:00 AM debate on amendment
9:55:00 AM amendment adopted
9:55:07 AM back on bill as amended
9:55:17 AM Zayne Smith AARP
9:56:17 AM William Stander Life Care Residents Assoc
9:57:14 AM Jim Polaski
9:58:49 AM Steve Bahmer Leading Age Florida
9:59:56 AM auri Mizrahi Rivergarden Agency
10:01:07 AM Senator Book ask question to Mauri Mizrahi

10:04:27 AM Senator Cruz for one question
10:05:27 AM Mauri reponds
10:05:37 AM Senator Cruz followup
10:05:50 AM Senator Jones for one question
10:06:27 AM Tricia Thacker Florida HealthCare Assoc
10:07:56 AM Sean Robinson Florida Health Care Assoc
10:08:58 AM Senator Jones time certain vote at 10:27 am
10:09:47 AM Senator Book debate
10:10:47 AM Senator Jones in debate
10:13:47 AM Senator Cruz on debate
10:17:13 AM Senator Powell in debate
10:19:36 AM Chair Diaz speaks directly to Senator Albritton in support
10:20:36 AM Senator Albritton to close on bill
10:21:54 AM roll call on SB 804 as amended
10:22:53 AM SB 804 CS favorably
10:23:11 AM Vote after roll call - Senator Broduer Tab 7 and 9
10:23:27 AM Vote after roll call - Senator Garcia 7,9,1,11,12 and Senator Alrbitton 7,9,1,11,12,10,5
10:23:57 AM Chair Diaz closes remarks
10:24:09 AM Chair Diaz thanks staff