

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 1337 Nursing

**SPONSOR(S):** Health & Human Services Committee; Health Quality Subcommittee; Pigman

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1594

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Quality Subcommittee	14 Y, 0 N, As CS	Siples	McElroy
2) Health & Human Services Committee	20 Y, 0 N, As CS	Siples	Calamas

### SUMMARY ANALYSIS

Advanced registered nurse practitioners (ARNPs) are licensed registered nurses with post-graduate education in nursing that prepares them to perform advanced or specialized nursing. ARNPs may perform nursing or medical acts that are authorized pursuant to a written protocol with a physician. A clinical nurse specialist (CNS) is trained to be an expert clinician in a specialized area, such as a certain population, setting, or disease state. Both ARNPs and CNSs receive advanced training and practice advanced or specialized nursing; however, the two professions require separate certifications.

CS/CS/HB 1337 repeals the separate certification for a CNS and includes CNS as a category of ARNP. A person who is currently certified as a CNS would have to meet all the same licensure requirements as an ARNP, including maintaining professional liability coverage. The bill retains the current scope of practice of a CNS, but requires a CNS to practice pursuant to a written protocol with a physician.

Currently, ARNPs are licensed as registered nurses and then certified as ARNPs. The bill authorizes the Department of Health (DOH) to license, rather than certify, ARNPs as such. An ARNP must still hold a license as a registered nurse to be licensed as an ARNP. The bill also adds the category of “certified nurse practitioner” to ARNP, which is comprised of the same group of licensees who are currently termed “nurse practitioners.”

The bill requires DOH and the Board of Nursing to develop a transition plan to convert the certifications that ARNPs and CNSs currently hold to licenses. The bill authorizes currently certified ARNPs and CNSs to continue practicing under such certifications until DOH and the Board of Nursing complete the transition from certification to licensure.

The bill changes the term “advanced registered nurse practitioner” to “advanced practice registered nurse” (APRN) throughout Florida Statutes. This will conform Florida laws to those in a majority of states.

The bill has an insignificant, positive fiscal impact on DOH and an insignificant, negative fiscal impact on DOH, which can be absorbed through current resources. The bill has no fiscal impact on local governments.

The bill provides an effective date of July 1, 2018, except as otherwise expressly provided.

## FULL ANALYSIS

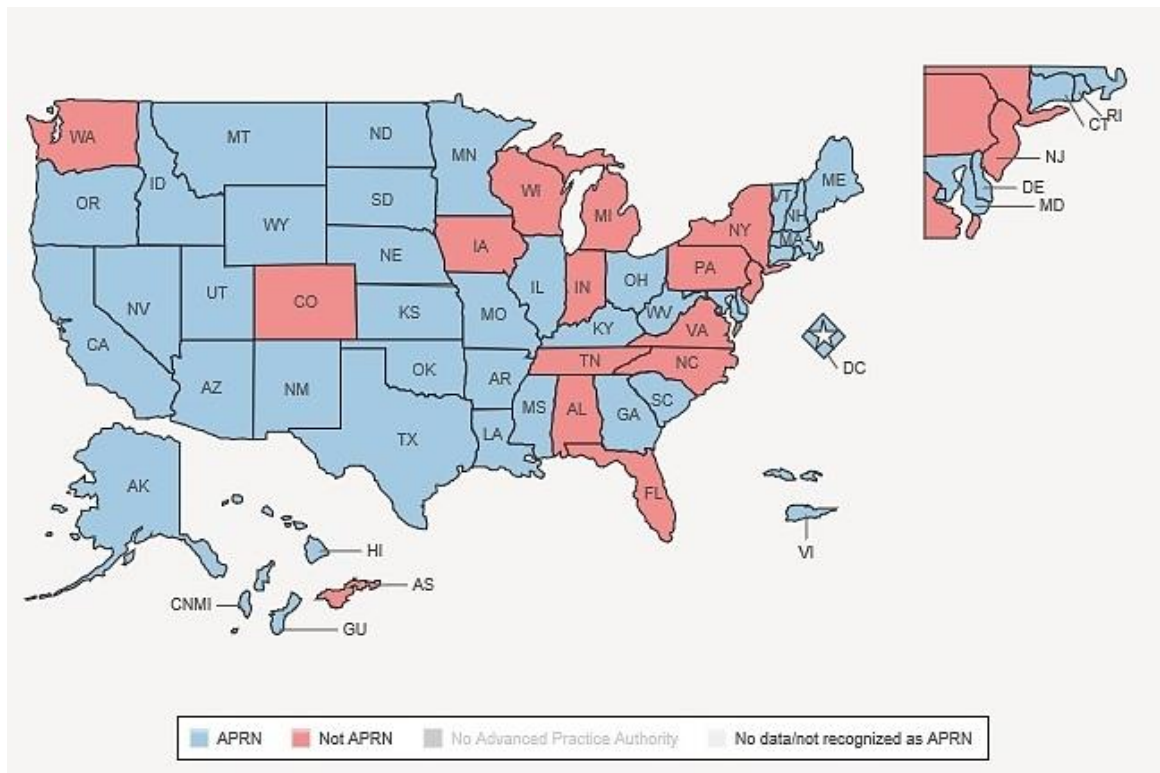
### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### **Advanced Practice Nurses**

The term advanced practice nurse (APN) refers to registered nurses who have completed rigorous training and advanced education, usually resulting in a master's degree or higher. The titles of APNs vary from state to state. The National Council of State Boards of Nursing encourages states to use the term "advanced practice registered nurse" (APRN) to promote uniformity and title recognition across the nation.<sup>1</sup> Florida is one of 14 states that has not adopted the term APRN.<sup>2</sup>



##### Florida Advanced Practice Nurses

In Florida, an APN is titled as an "advanced registered nurse practitioner" (ARNP)<sup>3</sup> and is categorized as a certified nurse practitioner (CNP), certified nurse midwife (CNM), certified registered nurse anesthetist (CRNA), or psychiatric nurse.<sup>4</sup>

<sup>1</sup> National Council of State Boards of Nursing, *Model for Uniform National Advanced Practice Registered Nurse (APRN) Regulation: A Handbook for Legislators*, available at [https://www.ncsbn.org/2010\\_APRN\\_HandbookforLegislators\\_web.pdf](https://www.ncsbn.org/2010_APRN_HandbookforLegislators_web.pdf) (last visited January 24, 2018).

<sup>2</sup> National Council of State Board of Nursing, *APRN Title Map*, available at <https://www.ncsbn.org/5398.htm> (last visited February 5, 2018).

<sup>3</sup> Section 464.003(3), F.S.

<sup>4</sup> Section 464.012(4), F.S. Section 394.455(35), F.S., defines a psychiatric nurse as an ARNP who has an advanced degree in psychiatric nursing, holds a certification as a psychiatric mental health advanced practice nurse, and has 2 years of post-master's clinical experience under the supervision of a physician.

ARNPs practice advanced or specialized nursing, which includes, in addition to practices of professional nursing that registered nurses are authorized to perform, advanced-level nursing acts approved by the Board of Nursing (Board) as appropriate for ARNPs to perform by virtue of their post-basic specialized education, training, and experience.<sup>5</sup> Advanced or specialized nursing acts may only be performed if authorized under a supervising physician's protocol.<sup>6</sup> In addition to advanced or specialized nursing practices, ARNPs are authorized to practice certain medical acts, as opposed to nursing acts, as authorized within the framework of an established supervisory physician's protocol.<sup>7</sup>

An applicant must be licensed as a registered nurse, have a master's degree in a nursing clinical specialty area with preparation in specialized practitioner skills, and submit proof that the applicant holds a current national advanced practice certification from a board-approved nursing specialty board to be certified as an ARNP.<sup>8</sup>

All ARNPs must carry malpractice insurance or demonstrate proof of financial responsibility. Any applicant for certification is required to submit proof of coverage or financial responsibility within sixty days of certification and prior to each biennial certification renewal. An ARNP must have professional liability coverage of at least \$100,000 per claim with a minimum annual aggregate of at least \$300,000 or an unexpired irrevocable letter of credit in the amount of at least \$100,000 per claim with a minimum aggregate availability of at least \$300,000 and which is payable to the ARNP as beneficiary.<sup>9</sup>

#### *ARNP Scope of Practice in Florida*

Within the framework of the written protocol, an ARNP may:<sup>10</sup>

- Prescribe, dispense, administer, or order any drug;<sup>11</sup>
- Initiate appropriate therapies for certain conditions;
- Order diagnostic tests and physical and occupational therapy;
- Perform certain acts within his or her specialty; and
- Perform additional functions as may be determined by Board rule.

#### Clinical Nurse Specialists

A clinical nurse specialist (CNS) is trained to be an expert clinician in a specialized area, such a certain population, setting, or disease state.<sup>12</sup> A CNS delivers and manages advance practice nursing care to individuals and groups.<sup>13</sup> To be certified as a CNS, an applicant must hold a current registered nurse license and:<sup>14</sup>

- Hold a current certification in a specialty area as a CNS from a nationally recognized certifying body as determined by the board; or
- Hold a master's degree in a specialty area for which there is no certification; and

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<sup>5</sup> Section 464.012(3), F.S.

<sup>6</sup> Id.

<sup>7</sup> Id.

<sup>8</sup> Section 464.012(1), F.S., and Rule 64B9-4.002, F.A.C.

<sup>9</sup> Section 456.048, F.S., and r. 64B9-4.002, F.A.C. DOH Form DH-MQA 1186, 01/09, "Financial Responsibility," is incorporated into the rule by reference. Certain licensees, such as those who practice exclusively for federal or state governments, only practice in conjunction with a teaching position, or can demonstrate no malpractice exposure in this state are exempt from the financial responsibility requirements.

<sup>10</sup> Sections 464.012(3),(4), and 464.003, F.S.

<sup>11</sup> Controlled substances may only be prescribed or dispensed if the ARNP has graduated from a program leading to a master's or doctoral degree in a clinical specialty area with training in specialized practitioner skills.

<sup>12</sup> National Association of Clinical Nurse Specialists, *What is a CNS?*, available at <http://nacns.org/about-us/what-is-a-cns/> (last visited January 24, 2018).

<sup>13</sup> Department of Health, *2018 Agency Legislative Bill Analysis*, (Jan. 11, 2018), on file with the Health Quality Subcommittee.

<sup>14</sup> Section 464.0115, F.S.

- Complete 1,000 hours of clinical experience in the specialty area with at least 500 hours completed after graduation.

The Board has approved the following nationally recognized certifying bodies for applicants to meet the certification requirements for clinical nurse specialists:<sup>15</sup>

- Oncology Nursing Certification Corporation;
- American Association of Critical-Care Nurses;
- American Nurses Credentialing Centers; and
- National Board for Certification of Hospice and Palliative Nurses.

As of June 30, 2017, there are 165 licensed CNSs in Florida.<sup>16</sup>

Under Florida law, a CNS is authorized to deliver and manage advanced practice nursing care to individuals and groups, including:<sup>17</sup>

- Assessing the health status of individuals and families using methods appropriate to the population and area of practice;
- Diagnosing human responses to actual or potential health problems;
- Planning for health promotion, disease prevention, and therapeutic intervention in collaboration with the patient or client;
- Implementing therapeutic interventions based on the nurse specialist's area of expertise and within the scope of advanced nursing practice, including but not limited to, direct nursing care, counseling, teaching, and collaboration with other licensed health care providers; and
- Coordinating health care as necessary and appropriate and evaluating with the patient or client the effectiveness of care.

The National Council of State Boards of Nursing includes CNS as one of the 4 roles for an APRN, along with clinical nurse practitioner, certified registered nurse anesthetist, and certified nurse midwife.<sup>18</sup>

## **Effect of Proposed Changes**

### **Advanced Practice Registered Nurses**

CS/CS/HB 1337 changes the term “advanced registered nurse practitioner” to “advanced practice registered nurse” (APRN) throughout Florida Statutes.

Currently, APRNs are licensed as registered nurses and then certified as APRNs. The bill authorizes DOH to license, rather than certify, APRNs as such. APRNs must still hold a license as a registered nurse to be licensed as an APRN. The bill also adds the category of certified nurse practitioner which is comprised of the same group of licensees who are currently termed “nurse practitioners.”

The bill clarifies that certified nurse midwives who graduate on or after October 1, 1998, must hold a master's degree. This is an existing requirement; however, due to the updated title of nurse practitioner to “certified nurse practitioner,” the bill separately requires this APRN role to meet this criteria.

<sup>15</sup> Rule 64B9-4.015, F.A.C.

<sup>16</sup> Id.

<sup>17</sup> Section 464.003(7), F.S.

<sup>18</sup> National Council of State Boards of Nursing, *APRNs in the U.S.*, available at <https://www.ncsbn.org/aprn.htm> (last visited January 25, 2018).

## Clinical Nurse Specialists

The bill repeals the separate certification for a CNS and categorizes a CNS as an APRN. A person who is currently certified as a CNS will have to meet all the same licensure requirements as an ARNP. A CNS who graduates on or after July 1, 2007, must hold a master's degree. The bill requires a CNS to establish a written protocol with a physician and file it with the Board. The bill also requires a CNS to obtain professional liability coverage of at least \$100,000 per claim with a minimum annual aggregate of at least \$300,000 or an unexpired irrevocable letter of credit in the amount of at least \$100,000 per claim with a minimum aggregate availability of at least \$300,000. As an APRN, a CNS will have the authority to prescribe and administer medicinal drugs, including controlled substances.

The bill defines the scope of practice for a CNS in conformity with the current statutory definition of "clinical nurse practice," and requires the CNS to practice pursuant to a written protocol with a physician.

The bill requires DOH and the Board to establish a transition process and timeline for ARNPs and CNSs who are certified in good standing as of September 30, 2018, to convert to an APRN license that becomes effective October 1, 2018. The bill authorizes an ARNP or CNS who holds a certificate to practice in good standing on September 30, 2018, to continue practicing while DOH and the Board transitions from certification to licensure. The bill does not restrict the authority of DOH or the Board to discipline such individuals during the transition period. This provision sunsets on October 1, 2020.

The bill provides an effective date of July 1, 2018, except as otherwise expressly provided in the bill. Effective March 1, 2019, the bill's provision changes "advanced registered nurse practitioner" to "advanced practice registered nurse" services in the list of minimum benefits that Medicaid managed care providers must provide.

### B. SECTION DIRECTORY:

**Section 1:** Amends s. 464.003, F.S., relating to definitions.

**Section 2:** Repeals s. 464.0115, F.S., relating to clinical nurse specialists.

**Section 3:** Amends s. 464.012, F.S., relating to certification of advanced registered nurse practitioners; fees; controlled substance prescribing.

**Section 4:** Amends s. 960.28, F.S., relating to payment for victims' initial forensic physical examinations.

**Section 5:** Amends s. 39.303, F.S., relating to child protection teams and sexual abuse treatment programs; services; eligible cases.

**Section 6:** Amends s. 39.304, F.S., relating to photographs, medical examinations, X rays, and medical treatment of abused, abandoned, or neglected child.

**Section 7:** Amends s. 90.503, F.S., relating to psychotherapist-patient privilege.

**Section 8:** Amends s. 110.12315, F.S., relating to prescription drug program.

**Section 9:** Amends s. 121.0515, F.S., relating to special risk class.

**Section 10:** Amends s. 252.515, F.S., relating to postdisaster Relief Assistance Act; immunity for civil liability.

**Section 11:** Amends s. 310.071, F.S., relating to deputy pilot certification.

**Section 12:** Amends s. 310.073, F.S., relating to state pilot licensing.

**Section 13:** Amends s. 310.081, F.S., relating to department to examine and license state pilot and certificate deputy pilots; vacancies.

**Section 14:** Amends s. 320.0848, F.S., relating to persons who have disabilities; issuance of disabled parking permits; temporary permits; permits for certain providers of transportation services to persons who have disabilities.

**Section 15:** Amends s. 381.00315, F.S., relating to public health advisories; public health emergencies; isolation and quarantines.

**Section 16:** Amends s. 381.00593, F.S., relating to public school volunteer health care practitioner program.

- Section 17:** Amends s. 383.14, F.S., relating to screening for metabolic disorders, other hereditary and congenital disorder, and environmental risk factors.
- Section 18:** Amends s. 383.141, F.S., relating to prenatally diagnosed conditions; patient to be provided information; definitions; information clearinghouse; advisory council.
- Section 19:** Amends s. 384.27, F.S., relating to physical examination and treatment.
- Section 20:** Amends s. 390.0111, F.S., relating to termination of pregnancies.
- Section 21:** Amends s. 390.012, F.S., relating to powers of agency; rules; disposal of fetal remains.
- Section 22:** Amends s. 394.455, F.S., relating to definitions.
- Section 23:** Amends s. 395.0191, F.S., relating to staff membership and clinical privileges.
- Section 24:** Amends s. 397.311, F.S., relating to definitions.
- Section 25:** Amends s. 397.4012, F.S., relating to exemptions from licensure.
- Section 26:** Amends s. 397.427, F.S., relating to medication-assisted treatment service providers; rehabilitation program; needs assessment and provision of services; persons authorized to issue takeout medication; unlawful operation; penalty.
- Section 27:** Amends s. 397.679, F.S., relating to emergency admission; circumstances justifying.
- Section 28:** Amends s. 397.6793, F.S., relating to professional's certificate for emergency admission.
- Section 29:** Amends s. 400.021, F.S., relating to definitions.
- Section 30:** Amends s. 400.462, F.S., relating to definitions.
- Section 31:** Amends s. 400.487, F.S., relating to home health service agreements; physician's, physician assistant's, and advanced registered nurse practitioner's treatment orders; patient assessment; establishment and review of plan of care; provision of services; orders not to resuscitate.
- Section 32:** Amends s. 400.506, F.S., relating to licensure of nurse registries; requirements; penalties.
- Section 33:** Amends s. 400.9973, F.S., relating to client admission, transfer, and discharge.
- Section 34:** Amends s. 400.9974, F.S., relating to client comprehensive treatment plans; client services.
- Section 35:** Amends s. 400.9976, F.S., relating to administration of medication.
- Section 36:** Amends s. 400.9979, F.S., relating to restraint and seclusion; client safety.
- Section 37:** Amends s. 401.445, F.S., relating to emergency examination and treatment of incapacitated persons.
- Section 38:** Amends s. 409.905, F.S., relating to mandatory Medicaid services.
- Section 39:** Amends s. 409.908, F.S., relating to reimbursement of Medicaid providers.
- Section 40:** Amends s. 409.973, F.S., relating to benefits.
- Section 41:** Amends s. 409.973, F.S., relating to benefits.
- Section 42:** Amends s. 429.918, F.S., relating to licensure designation as a specialized Alzheimer's services adult day care center.
- Section 43:** Amends s. 456.0391, F.S., relating to advanced registered nurse practitioners; information required for certification.
- Section 44:** Amends s. 456.0392, F.S., relating to prescription labeling.
- Section 45:** Amends s. 456.041, F.S., relating to practitioner profile; creation.
- Section 46:** Amends s. 456.048, F.S., relating to financial responsibility requirements for certain health care practitioners.
- Section 47:** Amends s. 456.072, F.S., relating to grounds for discipline; penalties; enforcement.
- Section 48:** Amends s. 456.44, F.S., relating to controlled substance prescribing.
- Section 49:** Amends s. 458.3265, F.S., relating to pain-management clinics.
- Section 50:** Amends s. 458.331, F.S., relating to licensure by examination; requirements; fees.
- Section 51:** Amends s. 458.348, F.S., relating to formal supervisory relationships, standing orders, and established protocols; notice; standards.
- Section 52:** Amends s. 459.0137, F.S., relating to pain-management clinics.
- Section 53:** Amends s. 459.015, F.S., relating to grounds for disciplinary action; action by the board and department.
- Section 54:** Amends s. 459.025, F.S., relating to formal supervisory relationships, standing orders, and established protocols; notice; standards.
- Section 55:** Amends s. 464.003, F.S., relating to definitions.
- Section 56:** Amends s. 464.004, F.S., relating to Board of Nursing; membership; appointment; terms.

- Section 57:** Amends s. 464.013, F.S., relating to Renewal of license or certificate.
- Section 58:** Amends s. 464.015, F.S., relating to titles and abbreviations; restrictions; penalty.
- Section 59:** Amends s. 464.015, F.S., relating to titles and abbreviations; restrictions; penalty.
- Section 60:** Amends s. 464.016, F.S., relating to violations and penalties.
- Section 61:** Amends s. 464.018, F.S., relating to disciplinary actions.
- Section 62:** Amends s. 464.0205, F.S., relating to retired volunteer nurse certificate.
- Section 63:** Amends s. 467.003, F.S., relating to definitions.
- Section 64:** Amends s. 480.0475, F.S., relating to massage establishments; prohibited practices.
- Section 65:** Amends s. 483.041, F.S., relating to definitions.
- Section 66:** Amends s. 483.801, F.S., relating to exemptions.
- Section 67:** Amends s. 486.021, F.S., relating to definitions.
- Section 68:** Amends s. 490.012, F.S., relating to violations; penalties; injunction.
- Section 69:** Amends s. 491.0057, F.S., relating to dual licensure as a marriage and family therapist.
- Section 70:** Amends s. 491.012, F.S., relating to violations; penalty; injunction.
- Section 71:** Amends s. 493.6108, F.S., relating to investigation of applicants by Department of Agriculture and Consumer Services.
- Section 72:** Amends s. 627.357, F.S., relating to medical malpractice self-insurance.
- Section 73:** Amends s. 627.6471, F.S., relating to contracts for reduced rates of payment; limitations; coinsurance and deductibles.
- Section 74:** Amends s. 627.6472, F.S., relating to exclusive provider organizations.
- Section 75:** Amends s. 627.736, F.S., relating to required personal injury protection benefits; exclusions; priority; claims.
- Section 76:** Amends s. 633.412, F.S., relating to firefighters; qualifications for certification
- Section 77:** Amends s. 641.3923, F.S., relating to discrimination against providers prohibited.
- Section 78:** Amends s. 766.103, F.S., relating to Florida Medical Consent Law.
- Section 79:** Amends s. 766.1115, F.S., relating to health care providers; creation of agency relationship with governmental contractors.
- Section 80:** Amends s. 766.1116, F.S., relating to health care practitioner; waiver of license renewal fees and continuing education requirements.
- Section 81:** Amends s. 766.118, F.S., relating to determination of noneconomic damages.
- Section 82:** Amends s. 794.08, F.S., relating to female genital mutilation.
- Section 83:** Amends s. 893.02, F.S., relating to definitions.
- Section 84:** Amends s. 893.05, F.S., relating to practitioners and persons administering controlled substances in their absence.
- Section 85:** Amends s. 943.13, F.S., relating to officers' minimum qualifications for employment or appointment.
- Section 86:** Amends s. 948.03, F.S., relating to terms and conditions of probation.
- Section 87:** Amends s. 1002.20, F.S., relating to K-12 student and parent rights.
- Section 88:** Amends s. 1002.42, F.S., relating to private schools.
- Section 89:** Amends s. 1006.062, F.S., relating to administration of medication and provision of medical services by district school board personnel.
- Section 90:** Amends s. 1009.65, F.S., relating to Medical Education Reimbursement and Loan Repayment Program.
- Section 91:** Amends s. 1009.66, F.S., relating to Nursing Student Loan Forgiveness Program.
- Section 92:** Amends s. 1009.67 F.S., relating to nursing scholarship program.
- Section 93:** Provides an effective date of July 1, 2018, except as otherwise expressly provided.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

DOH may experience an insignificant, positive fiscal impact related to a difference in the certification fees for a CNS and an APRN, because the bill requires a CNS to be licensed as an

ARNP. The certification fee for an APRN is \$100, whereas a certification fee for a CNS is \$75, resulting in a net increase of \$25 for each CNS who becomes licensed as an APRN.<sup>19</sup>

2. Expenditures:

DOH may experience an insignificant, negative fiscal impact related to a difference in the renewal fees for CNS and APRN certifications, because the bill requires a CNS to be licensed as an ARNP. The renewal fee for a CNS is \$140, and the renewal fee for an APRN is \$115, resulting in a net loss of \$25 for each CNS who becomes licensed as an APRN.<sup>20</sup>

DOH will experience a non-recurring, insignificant negative fiscal impact to update the Licensing and Enforcement Information Database System (LEIDS), DOH's website, and the Medical Quality Assurance online system, which current resources are adequate to absorb.<sup>21</sup>

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Currently, a licensed APRN must maintain professional liability coverage and have a protocol with a supervising physician, and a CNS is not required to meet these requirements. A CNS who elects to become licensed as an APRN may incur additional costs to meet these APRN licensure requirements.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

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<sup>19</sup> Rule 64B9-7.001, F.A.C.

<sup>20</sup> Id.

<sup>21</sup> *Supra* note 13.



#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On January 29, 2018, the Health Quality Subcommittee adopted a technical amendment to reflect the multiple effective dates within the bill.

On February 7, 2018, the Health and Human Services Committee adopted a strike-all amendment that did the following:

- Eliminated an obsolete path to licensure;
- Reinstated “psychiatric nurse” as an APRN classification;
- Defined the scope of practice for a clinical nurse specialist based on the current statutory definition of “clinical nurse specialist practice;”
- Required DOH and the Board to establish a transition plan for converting ARNP certifications to APRN licenses;
- Authorized certified ARNPs and CNSs in good standing to continue to practice under their certifications until the transition from certification to licensure is complete; and
- Made technical changes to the bill to reflect that the Nurse Licensure Compact is now effective.

The bill was reported favorably as a committee substitute. This analysis is drafted to the committee substitute as passed by the Health and Human Services Committee.