

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 1222

INTRODUCER: Senator Bean

SUBJECT: Nonemergent Patient Care

DATE: January 18, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Vanwinkle	Brown	HP	Pre-meeting
2.	_____	_____	JU	_____
3.	_____	_____	RC	_____

I. Summary:

SB 1222 amends s. 401.23, F.S., relating to Medical Transportation Services, to create a new health care practice area referred to as “community paramedicine,” which includes nonemergent basic life support (BLS) or advanced life support (ALS) services provided in a nonemergent community setting by a paramedic or EMT, as applicable, under the medical supervision of a physician pursuant to a formal supervisory relationship or standing order. The bill provides that the supervising or medically directing physician is liable for any act or omission of a paramedic or EMT acting under his or her supervision or medical direction when performing such services.

The bill amends s. 401.265, F.S., to expand that statute’s application to all physicians, not only medical directors, who may supervise or provide medical direction to a paramedic or EMT who performs blood pressure screening, health promotion, and wellness activities.

The bill expands the scope of s. 401.272, F.S., to encourage more effective use of the skills of EMTs and paramedics by enabling them to perform community paramedicine, in partnership with not just local county health departments, but adds health care facilities as defined in s. 408.07, F.S., which includes 16 additional types of facilities.

The bill amends s. 465.019, F.S., to expand the scope of Class III institutional pharmacies to permit them to dispense, distribute, compound, and fill prescriptions for medicinal drugs for both inpatient and outpatient treatment. The bill further authorizes hospitals that operate Class II and III institutional pharmacies, who have not obtained a community pharmacy permit, to also dispense to a patient of the hospital’s emergency department or a hospital inpatient upon discharge if a prescriber treating the patient in the hospital determines that the medicinal drug is warranted, and that community pharmacy services are not readily accessible, geographically or otherwise.

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

II. Present Situation:

Florida's Department of Health (DOH)

The Legislature created the Department of Health (DOH) to protect and promote the health, safety and welfare of all residents and visitors in the state.¹ The DOH is charged with the regulation of health practitioners for the preservation of the health, safety, and welfare of the public. The Division of Medical Quality Assurance (MQA) is responsible for the boards² and professions within the DOH.³

Boards of Medicine and Osteopathic Medicine

The Board of Medicine regulates allopathic physicians (MD). An MD is a person who is licensed to practice medicine in Florida. Practicing medicine includes the diagnosis, treatment, operation, or prescription for any human disease, pain, injury, deformity, or other physical or mental condition.⁴ Allopathic standards of practice and standards of care for a particular practice setting include, but are not limited to, education and training, equipment and supplies, medications including anesthetics, assistance of and delegation to other personnel, transfer agreements, sterilization, records, performance of complex or multiple procedures, informed consent, and policy and procedure manuals.⁵

The Board of Osteopathic Medicine regulates osteopathic physicians (DO). A DO is a person who is licensed to practice osteopathic medicine Florida. The practice of osteopathic medicine includes the diagnosis, treatment, operation, or prescription for any human disease, pain, injury, deformity, or other physical or mental condition, which practice is based in part upon educational standards and requirements that emphasize the importance of the musculoskeletal structure and manipulative therapy in the maintenance and restoration of health.⁶

Emergency Medical Services (EMS)

The Legislature created ch. 401, F.S., in 1973 with the intent to establish a statewide organized and regulated system of regional EMS providers with two major objectives:

- To develop a statewide system of emergency medical telecommunications to maximize the use of existing radio channels to provide faster and more effective EMS to the general population;⁷ and
- To protect and enhance the public health, safety, and welfare with the establishment a state wide EMS plan to:
 - Monitor the quality of patient care delivered by each licensed service;
 - Certify EMS personnel;
 - Create an EMS advisory council;

¹ Sections 20.43 and 456.003, F.S.

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

³ Section 20.43, F.S.

⁴ Section 458.305, F.S.

⁵ Section 458.331(1)(v), F.S.

⁶ Section 459.003, F.S.

⁷ Section 401.013, F.S.

- Develop a comprehensive statewide injury-prevention program; and
- Development minimum standards for EMS providers, personnel, vehicles, services, medical direction and inspections.⁸

The Legislature further recognized that a major impediment to meeting its two legislative objectives for s. 401, F.S., was the inability of governmental and private agencies to respond cooperatively in order to finance a system of regional EMS. In response, the Legislature found it in the public interest to foster the development of a statewide EMS provider system and created the Florida Emergency Medical Services Grant Act.⁹ This law authorizes the DOH to make grants to local agencies, EMS organizations, and youth athletic organizations to provide EMS, including emergency medical dispatch, and work with local EMS organizations to expand the use of automated external defibrillator (AED) devices.¹⁰

Emergency Medical Service Providers

Every person, firm, corporation, association, or governmental entity owning or acting as an agent for the owner of any business or service which furnishes, operates, conducts, maintains, advertises, engages in, proposes to engage in, or professes to engage in the business or service of providing prehospital or interfacility advanced life support (ALS) services or basic life support (BLS) transportation services, must be licensed as a BLS service or an ALS service, or both, before offering such services to the public.¹¹

Medical Directors

Each BLS and ALS transportation service is required to employ a medical director. The medical director must be a licensed physician; a corporation, association, partnership composed of physicians; or physicians employed by any hospital that delivers in-hospital emergency medical services and employs or contracts with physicians specifically for that purpose.

The medical director supervises and assumes direct responsibility for the medical performance of the EMTs and paramedics operating within that EMS system. The medical director's duties include advising, consulting, training, counseling, and oversight of services, including quality assurance, but he or she is not responsible for administrative and managerial functions.

Each medical director is required to establish a quality assurance committee to provide for quality assurance review of all EMTs and paramedics operating under his or her supervision. If the medical director has reasonable belief that conduct by an EMT or paramedic may constitute grounds for discipline under the practice act, he or she is required to document facts and other information related to any alleged violation. The medical director must report to the DOH any EMT or paramedic whom the medical director reasonably believes to have acted in a manner that might constitute grounds for disciplinary action.

⁸ Section 401.211, F.S.

⁹ See ss. 401.101 and 401.104, F.S.

¹⁰ Section 401.111, F.S.

¹¹ Section 401.25(1), F.S.

Any medical director who in good faith gives oral or written instructions to certified EMS personnel for the provision of emergency care is deemed to have provided emergency medical care or treatment for the purposes of s. 768.13(2), F.S.

Each medical director who uses a paramedic or EMT to perform blood pressure screening, health promotion, and wellness activities, or to administer immunizations on any patient under a protocol pursuant to s. 401.272, F.S., not in the provision of emergency care, is liable for any act or omission of the paramedic or EMT acting under his or her supervision when performing such services.¹²

The Emergency Medical Technician (EMT)

An EMT is certified by the DOH to perform BLS techniques.¹³ The BLS techniques include the assessment or treatment by a qualified person through the use of techniques described in the EMT-Basic National Standard Curriculum (EMT-BTCC) or the U.S. Department of Transportation (DOT) National EMS Education Standards of the and approved by the DOH. BLS includes the administration of oxygen and other techniques that have been approved and are performed under conditions specified by rules of the DOH.¹⁴

Qualifications for Certification

Qualifications and the procedures for certification as an EMT are governed by s. 401.27, F.S., and Florida Administrative Code Rule 64J-1.008. To be eligible to be a certified as an EMT or paramedic, an individual must first pass a criminal background check pursuant to ss. 401.411 and 456.0635, F.S.

To qualify for EMT certification, an individual must successfully complete an initial Florida EMT training program conducted in accordance with the January 2009 U.S. DOT National EMS Education Standards. Or, if the applicant is from out of state or military-trained, in accordance with either the 1994 U.S. DOT EMT-Basic National Standard Curriculum or the January 2009 U.S. DOT National EMS Education Standards, if he or she currently holds a valid EMT certification from the National Registry of Emergency Medical Technicians (NR-EMT). Each applicant must submit an application to the DOH. Applicants who completed an initial Florida EMT training program must take the DOH-required EMT certification examination within two years of completing the initial Florida training program. The DOH will accept a passing score for this exam if taken within the two year period, whether the exam is taken before or after the application is filed.¹⁵

To maintain an active EMT certificate, the EMT must pay the recertification fee and complete 30 hours of EMT refresher training based on criteria in the January 2009 U.S. DOT National EMS Education Standards which must include adult and pediatric education with a minimum of two hours in pediatric emergencies, and maintain a current CPR card. The DOH will accept either the affirmation of a licensed EMS provider's medical director, a certificate of completion of

¹² Section 401.265, F.S.

¹³ Section 401.23(11), F.S.

¹⁴ Section 401.23(7), F.S.

¹⁵ Fla. Admin. Code R. 64J-1.008, (2021).

refresher training from a DOH approved Florida training program, or a refresher from a DOH approved continuing education (CE) provider as proof of compliance with the requirements.¹⁶

Paramedic

A certified paramedic may perform both BLS and ALS.¹⁷ ALS includes the assessment or treatment by a certified paramedic qualified in the use of techniques such as endotracheal intubation, the administration of drugs or intravenous fluids, telemetry, cardiac monitoring, cardiac defibrillation, and other techniques described in the EMT-Paramedic National Standard Curriculum or the National EMS Education Standards, pursuant to DOH administrative rules.¹⁸

Qualifications for Certification

To be qualified for certification as a paramedic, an individual must either successfully complete an initial Florida paramedic training program that was conducted in accordance with the January 2009 U.S. DOT National EMS Education Standards; or, if the individual is from out of state or military trained in accordance with the 1998 U.S. DOT EMT-Paramedic (EMT-P) NSC or the January 2009 U.S. DOT National EMS Education Standards, if he or she currently holds a valid paramedic certification from the National Registry of Emergency Medical Technicians (NR-EMT).

Each applicant must submit an application to the DOH. If the applicant completed his or her initial paramedic training program in Florida, then he or she must pass the DOH-required paramedic certification examination within two years of completing the initial Florida training program. The DOH will accept a passing score for this exam if taken within the two-year period, whether the exam is taken before or after the application is filed.

To maintain an active certificate, a paramedic must pay the recertification fee and complete 30 hours of paramedic refresher training based on criteria in the January 2009 U.S. DOT National EMS Education Standards which includes adult and pediatric education with a minimum of two hours in pediatric emergencies, and maintain a current Advanced Cardiac Life Support (ACLS) card.¹⁹ The DOH accepts either the affirmation of a licensed EMS provider's medical director, a certificate of completion of refresher training from a DOH-approved Florida training program, or a DOH-approved CE provider's proof of compliance with the CE requirements.

EMS Services in Community Health Care

Section 401.272, F.S., was created by the Legislature to encourage more effective use of the skills of EMTs and paramedics by enabling them to perform, in partnership with local county health departments, specific additional health care tasks that are consistent with the public health and welfare. Notwithstanding any other provision of law to the contrary, a paramedic or an EMT may perform "health promotion and wellness"²⁰ activities and blood pressure screenings in a

¹⁶ Id.

¹⁷ Section 401.23(17), F.S.

¹⁸ Section 401.23(1), F.S.

¹⁹ See s 401.27(4)(e)2., F.S., and Fla. Admin. Code R. 64J-1.022, (2021).

²⁰"Health promotion and wellness" means the provision of public health programs pertaining to the prevention of illness and injury. Section 401.272,(2)(a), F.S.

nonemergency environment, within the scope of his or her training, and under the direction of a medical director.

A paramedic may administer immunizations in a nonemergency environment, within the scope of his or her training, and under the direction of a medical director. There must be a written agreement between the paramedic's medical director and the county health department located in each county in which the paramedic administers immunizations. This agreement must establish the protocols, policies, and procedures under which the paramedic must operate. Each medical director under whose direction a paramedic administers immunizations must verify and document that the paramedic has received sufficient training and experience to administer immunizations. The verification must be documented on forms developed by the DOH, and the forms must be maintained at the service location of the licensee and made available to the DOH upon request.

The Board of Pharmacy

The Board of Pharmacy (BOP) is created within the DOH and is authorized to make rules to regulate the practice of professional pharmacy in pharmacies meeting minimum requirements for safe practice.²¹ All pharmacies must obtain a permit before operating, unless exempt by law. This is true whether opening a new establishment or simply changing locations or owners.²²

The Practice of Pharmacy

Florida law recognizes seven types of pharmacies as eligible for various operating permits to be issued by the DOH:

- Community pharmacy;²³
- Institutional pharmacy;²⁴
- Nuclear pharmacy;²⁵
- Special pharmacy;²⁶
- Internet pharmacy;²⁷
- Non-resident sterile compounding pharmacy;²⁸ and

²¹ See ss. 465.002, and 465.0155, F.S.

²² Fla. Admin. Code R. 64B16-28.100(1) (2021).

²³ The term "community pharmacy" includes every location where medicinal drugs are compounded, dispensed, stored, or sold or where prescriptions are filled or dispensed on an outpatient basis. See ss. 465.003(11)(a)1. and 465.018, F.S.

²⁴ See ss. 465.003(11)(a)2., and 465.019, F.S.

²⁵ The term "nuclear pharmacy" includes every location where radioactive drugs and chemicals within the classification of medicinal drugs are compounded, dispensed, stored, or sold, but does not include hospitals licensed under ch. 395, F.S., or the nuclear medicine facilities of such hospitals. See ss. 465.003(11)(a)3. and 465.0193, F.S.

²⁶ The term "special pharmacy" includes every location where medicinal drugs are compounded, dispensed, stored, or sold if such locations are not otherwise defined by law. See ss. 465.003(11)(a)4. and 465.0196, F.S.

²⁷ The term "internet pharmacy" includes locations not otherwise licensed or issued a permit under ch. 465, F.S., whether or not in Florida, which use the Internet to communicate with or obtain information from consumers in this state and use such communication or information to fill or refill prescriptions or to dispense, distribute, or otherwise engage in the practice of pharmacy in this state. See ss. 465.003(11)(a)5. and 465.0197, F.S.

²⁸ The term "nonresident sterile compounding pharmacy" includes a pharmacy that ships, mails, delivers, or dispenses, in any manner, a compounded sterile product into Florida, and a nonresident pharmacy registered under s. 465.0156, F.S., or an outsourcing facility, must hold a nonresident sterile compounding permit. See s. 465.0158(1), F.S.

- Special sterile compounding pharmacy.²⁹

Institutional Pharmacies

An “institutional pharmacy” includes any pharmacy located in a health care institution, which includes a hospital, clinic, nursing home, dispensary, sanitarium, extended care facility, or other facility where medicinal drugs are compounded, dispensed, stored, or sold.³⁰ Institutional pharmacy permits are required for any pharmacy located in any health care institution.³¹

Currently there are four types of institutional pharmacy permits issued by the BOP to institutional pharmacies: Institutional Class I, Class II, Modified Class II, and Class III.³²

Institutional Class I Pharmacy

A Class I institutional pharmacy is an institutional pharmacy in which all medicinal drugs are administered from individual prescription containers to an individual patient and in which medicinal drugs are not dispensed on the premises, except that licensed nursing homes³³ may purchase medical oxygen for administration to residents.³⁴

Institutional Class II Pharmacy

A Class II institutional pharmacy is a pharmacy that employs the services of a registered pharmacist or pharmacists who, in practicing institutional pharmacy, provide dispensing and consulting services on the premises to patients of the institution, for use on the premises of the institution.³⁵ A Class II institutional pharmacy is required to be open sufficient hours to meet the needs of the hospital facility.³⁶ The consultant pharmacist of record is responsible for establishing a written policy and procedure manual.³⁷

Modified Institutional Class II Pharmacy Permits

Modified Institutional Class II pharmacies are institutional pharmacies in short-term, primary care treatment centers that meet all the requirements for a Class II permit, except space and equipment requirements.³⁸ Modified Class II Institutional pharmacies are designated as Type A, Type B, and Type C according to the specialized type of the medicinal drug delivery system utilized at the facility, either a patient-specific or bulk drug system, and the quantity of the medicinal drug formulary at the facility.³⁹

²⁹ See Fla. Admin. Code R. 64B16-28.100 and 64B16-28.802 (2021). An outsourcing facility is considered a pharmacy and must hold a special sterile compounding permit if it engages in sterile compounding.

³⁰ Section 465.003(11)(a)2., F.S.

³¹ Fla. Admin. Code R. 64B16-28.100(3) (2021).

³² Section 465.019, F.S.

³³ See part II, ch. 400, F.S., relating to nursing homes.

³⁴ Section 465.019(2)(a), F.S.

³⁵ See s. 465.019(2)(b), F.S. Exceptions apply when there is a state of emergency and for single doses of a drug ordered by physicians in limited circumstances.

³⁶ Fla. Admin. Code R. 64B16-28.603 (2021).

³⁷ Section 465.019(5), F.S.

³⁸ Section 465.019(2)(c), F.S.

³⁹ Fla. Admin. Code R. 64B16-28.702(2) (2021). Modified Class II Institutional Pharmacies provide the following pharmacy services: (1) Type “A” Modified Class II Institutional Pharmacies provide pharmacy services in a facility which has a formulary of not more than 15 medicinal drugs, excluding those medicinal drugs contained in an emergency box, and in

Institutional Class III Pharmacies

Class III institutional pharmacies are pharmacies, including central distribution facilities, that are affiliated with a hospital that provide the same services authorized by a Class II institutional pharmacy permit. Class III institutional pharmacies may:

- Dispense, distribute, compound, and fill prescriptions for medicinal drugs;
- Prepare prepackaged drug products;
- Conduct other pharmaceutical services for the affiliated hospital and for entities under common control that are each permitted under ch. 465, F.S., to possess medicinal drugs; and
- Provide the services in Class I institutional pharmacies, Class II institutional pharmacies, and Modified Class II institutional pharmacies that hold an active health care clinic establishment permit.^{40, 41}

Institutional Pharmacies – Dispensing Medicinal Drugs

Class II and Class III institutional pharmacies are permitted to dispense medicinal drugs to outpatients only when that institution has been issued a community pharmacy permit from the DOH.⁴² However, medicinal drugs may be dispensed by a hospital that operates a Class II or Class III institutional pharmacy to a patient of the hospital's emergency department or a hospital inpatient upon discharge if a prescriber treating the patient in the hospital determines that the medicinal drug is warranted and that community pharmacy services are not readily accessible, geographically or otherwise, to the patient. Such prescribing and dispensing must be for a supply of the drug that will last for the greater of the following:

- Up to 48 hours; or
- Through the end of the next business day.⁴³

Notwithstanding those limits, if a state of emergency has been declared and is in effect for a specific area of the state, a supply of a medicinal drug which will last up to 72 hours may be prescribed and dispensed to persons in that area. A prescriber prescribing medicinal drugs in a state of emergency may also provide the patient with a prescription for the drug for use beyond the initial prescription period if the prescriber determines that such use is warranted. Any prescribing or dispensing of a controlled substance during a state of emergency must comply with the applicable requirements of ss. 456.44 and 465.0276, F.S.

which the medicinal drugs are stored in bulk and in which the consultant pharmacist provides on-site consultations not less than once every month, unless otherwise directed by the BOP after review of the policy and procedure manual; (2) Type "B" Modified Class II Institutional Pharmacies provide pharmacy services in a facility in which medicinal drugs are stored in the facility in patient specific form and in bulk form and which has an expanded drug formulary, and in which the consultant pharmacist provides on-site consultations not less than once per month, unless otherwise directed by the BOP after review of the policy and procedure manual; and (3) Type "C" Modified Class II Institutional Pharmacies provide pharmacy services in a facility in which medicinal drugs are stored in the facility in patient specific form and which has an expanded drug formulary, and in which the consultant pharmacist provides onsite consultations not less than once per month, unless otherwise directed by the BOP after review of the policy and procedure manual.

⁴⁰ Section 465.019(2)(d)1., F.S.

⁴¹ See s. 499.01(2)(r), F.S.

⁴² See s. 465.019(2)(a), F.S., which prohibits a Class I institutional pharmacy from dispensing medicinal drugs.

⁴³ Section 465.019(4), F.S.

III. Effect of Proposed Changes:

SB 1222 amends s. 401.23, F.S., relating to Medical Transportation Services, to create a new health care practice referred to as “community paramedicine,” which includes nonemergent BLS or ALS services provided in a nonemergent community setting by a paramedic or an EMT, as applicable, under the medical supervision of a physician pursuant to a formal supervisory relationship or standing order.

The bill amends s. 401.265, F.S., to expand that statute’s application to all physicians, not only medical directors, who may supervise or provide medical direction to a paramedic or EMT who performs blood pressure screening, health promotion, and wellness activities.

The bill expands the services an EMT may provide, to include the administration of vaccines services under a protocol as specified in s. 401.272(2)(b), F.S., but does not specifically amend s. 401.272(2)(b), F.S. The bill also expands the services an EMT may provide to include community paramedicine, which includes ALS skills that EMTs are not normally trained to perform, and adds community paramedicine skills to the activities a paramedic may perform in nonemergent settings under the supervision or medical direction of a physician with a protocol as specified in s. 401.272, F.S.

The bill provides that the supervising or medically directing physician is liable for any act or omission of a paramedic or EMT acting under his or her supervision or medical direction when performing such services.

The bill expands the purpose of s. 401.272, F.S., to encourage more effective use of the skills of EMTs and paramedics by enabling them to perform community paramedicine, in partnership with local county health departments and health care facilities as defined in s. 408.07, F.S., which includes:

- Ambulatory surgical center;
- Hospice;
- Nursing home;
- Hospital;
- Diagnostic-imaging center;
- Freestanding or hospital-based therapy center;
- Clinical laboratory;
- Home health agency;
- Cardiac catheterization laboratory;
- Medical equipment supplier;
- Alcohol or chemical dependency treatment center;
- Physical rehabilitation center;
- Lithotripsy center;
- Ambulatory care center;
- Birth center, or
- Nursing home component licensed under ch. 400, F.S., within a continuing care facility licensed under ch. 651, F.S.

Under the bill, paramedics and EMTs may perform community paramedicine, health promotion and wellness activities, and blood pressure screenings in a nonemergency environment, within the scope of their training, and under the direction of a physician in all the above locations. The term “health promotion and wellness” means the provision of public health programs pertaining to the prevention of illness and injury.

The bill amends s. 465.019, F.S., to expand the scope of Class III institutional pharmacies to permit them to dispense, distribute, compound, and fill prescriptions for medicinal drugs for both inpatient and outpatient treatment. The bill further authorizes hospitals that operate Class II and III institutional pharmacies, which have not obtained a community pharmacy permit, to also dispense to a patient of the hospital’s emergency department or a hospital inpatient upon discharge if a prescriber treating the patient in the hospital determines that the medicinal drug is warranted, and that community pharmacy services are not readily accessible, geographically or otherwise.

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:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 401.23, 401.265, 401.272, 465.019, 14.33, 252.515, 395.1027, and 401.245.

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.