

Health Quality Subcommittee

**Tuesday, January 19, 2016
4:00 PM – 6:00 PM
306 HOB**

**Steve Crisafulli
Speaker**

**Cary Pigman
Chair**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Health Quality Subcommittee

Start Date and Time: Tuesday, January 19, 2016 04:00 pm
End Date and Time: Tuesday, January 19, 2016 06:00 pm
Location: 306 HOB
Duration: 2.00 hrs

Consideration of the following bill(s):

HB 941 Licensure of Health Care Professionals by Gonzalez
HB 943 Prenatal Services and Early Childhood Development by Gonzalez
HB 1143 Florida Clean Indoor Air Act by Harrison

Pursuant to rule 7.12, the deadline for amendments to bills on the agenda by non-appointed members is 6:00 p.m., Friday, January 15, 2016.

By request of the chair, all committee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Friday, January 15, 2016.

NOTICE FINALIZED on 01/14/2016 3:52PM by Iseminger.Bobbye

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 941 Licensure of Health Care Professionals
SPONSOR(S): Gonzalez
TIED BILLS: IDEN./SIM. BILLS: SB 918

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Quality Subcommittee		Siples <i>if</i>	O'Callaghan <i>MO</i>
2) Health Care Appropriations Subcommittee			
3) Health & Human Services Committee			

SUMMARY ANALYSIS

This bill makes various changes to laws governing health care practitioners regulated by the Department of Health (DOH).

The DOH currently waives fees and issues health care licenses to active duty U.S. military personnel who are within six months of a discharge and allows the DOH to issue temporary licenses to spouses of active duty military personnel who hold health care licenses from other states. The bill authorizes the DOH to extend these same privileges to qualified military personnel and spouses for licensure in professions that do not require licensure in other states. The applicant must provide evidence of training or experience equivalent to that required in Florida, and proof of a passing score on a national standards organization exam, if one is required in Florida for the type of license sought. The bill also eliminates the requirement that a military spouse who has been issued a temporary dental license practice under the indirect supervision of a Florida dentist.

The bill eliminates the requirement that certain health care providers must complete pre-licensure courses on HIV/AIDS and medical errors. The bill does not affect the requirement to complete such courses as a part of an applicable licensure renewal cycle.

The bill amends various statutes to reflect the DOH's integration of an electronic continuing education tracking system with its licensure renewal system. The bill eliminates methods, such as affidavits and audits, to prove compliance with continuing education requirements.

The bill provides a mechanism for the DOH to eliminate a deficit cash balance in the Medical Quality Assurance Trust Fund, associated with a licensed profession, by allowing the DOH to suspend charging the profession for operational and administrative costs, and permitting the DOH to transfer certain unused funds to help eliminate the deficit.

Upon the death, incapacitation, or abandonment of patient records by a health care practitioner, the DOH may be required to secure such records. The bill permits the DOH to contract with a third party to provide such services. The bill also requires boards to obtain the approval of the DOH, when appointing a custodian of medical records.

The bill deletes a provision that allows certain felons, individuals terminated for cause from any state's Medicaid program, or individuals listed on the U.S. Department of Health and Human Services Office of Inspector General's List of Excluded Individuals and Entities, to obtain a license in Florida. The deletion of this provision will prevent those denied licensure renewal based on one of these offenses from re-applying and obtaining a new license based on the exemption.

The bill defines terms and clarifies responsibilities in the impaired practitioner programs.

The bill repeals the Council on Certified Nursing Assistants and the Advisory Council of Medical Physicists, as these entities are no longer actively meeting and their duties can be fulfilled by other entities within the DOH.

The bill eliminates the annual inspections of dispensing practitioners' facilities. However, the health and safety requirements of the facilities remain unaltered. The DOH retains the ability to inspect the facilities on an as needed basis.

The bill may have an insignificant, positive impact on the DOH.

The bill provides an effective date of July 1, 2016.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0941.HQS.DOCX

DATE: 1/18/2016

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Initial Licensure of Health Care Practitioners

The Division of Medical Quality Assurance (MQA), within the Department of Health (DOH), has general regulatory authority over health care practitioners.¹ The MQA works in conjunction with 22 boards and six councils to license and regulate 7 types of health care facilities and more than 40 health care professions.² Each profession is regulated by an individual practice act and by ch. 456, F.S., which provides general regulatory and licensure authority for the MQA.

Military Health Care Practitioners

An individual who serves or has served as a health care practitioner in the U.S. Armed Forces, U.S. Reserve Forces, or the National Guard on active duty or has served on active duty with the U.S. Armed Forces as a health care practitioner in the U.S. Public Health Service, is eligible for licensure in Florida.³ The DOH is required to waive the application fee, licensure fee, and unlicensed fee for such applicants. The applicant will be issued a license to practice in Florida if the applicant submits a completed application, and:

- Receives an honorable discharge within the 6 months before or after submission of the application;
- Holds an active, unencumbered license issued by another state, the District of Columbia, or a U.S. territory or possession, with no disciplinary action taken against it in the 5 years preceding the date of application;
- Attests that he or she is not, at the time of submission, the subject of a disciplinary proceeding in a jurisdiction in which he or she holds a license or by the U.S. Department of Defense for a reason related to the practice of the profession for which he or she is applying;
- Has actively practiced the profession for which he or she is applying for the 3 years preceding the date of application; and
- Submits to a background screening, if required for the profession for which he or she is applying, and does not have any disqualifying offenses.⁴

The DOH offers the Veterans Application for Licensure Online Response System (VALOR) to provide expedited licensing for honorably discharged veterans with an active license in another state.⁵ To qualify for VALOR, a veteran must apply for a license six months before or after his or her honorable discharge from the U.S. Armed Forces.⁶

¹ Pursuant to s. 456.001(4), F.S., health care practitioners are defined to include acupuncturists, physicians, physician assistants, chiropractors, podiatrists, naturopaths, dentists, dental hygienists, optometrists, nurses, nursing assistants, pharmacists, midwives, speech language pathologists, nursing home administrators, occupational therapists, respiratory therapists, dietitians, athletic trainers, orthotists, prosthetists, electrologists, massage therapists, clinical laboratory personnel, medical physicists, dispensers of optical devices or hearing aids, physical therapists, psychologists, social workers, counselors, and psychotherapists, among others.

² Florida Department of Health, Division of Medical Quality Assurance, *Annual Report and Long-Range Plan, Fiscal Year 2014-2015*, 3, available at <http://mqawebteam.com/annualreports/1415/#6> (last visited Jan. 8, 2016).

³ Section 456.024, F.S.

⁴ Section 456.024(3)(a), F.S.

⁵ See Department of Health, *Veterans*, available at <http://www.floridahealth.gov/licensing-and-regulation/armed-forces/veterans/index.html> (last visited Jan. 8, 2016).

⁶ *Id.*

Disqualification of Certain Applicants for Licensure

Each board, or the DOH if there is no board, must refuse to admit a candidate to any examination, and refuse to issue a license, certificate, or registration to any applicant, if the candidate, applicant, or principal, officer, agent, managing employee, or affiliated person of an applicant:

- Has been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, certain specified felonies;⁷
- Has been terminated for cause from any Medicaid program; or
- Is listed on the U.S. Department of Health and Human Services' List of Excluded Individuals and Entities.⁸

Any of the above-referenced disqualifications do not apply to applicants for initial licensure or certification who were enrolled in a recognized educational or training program on or before July 1, 2009, and who applied for licensure after July 1, 2012.⁹

Section 456.0635(3), F.S., requires the DOH to refuse to renew the license, certificate, or registration of an applicant that would be disqualified for an initial license based on the disqualification criteria indicated above. However, according to the DOH, when it denies a license renewal pursuant to this section, licensees who meet the exception under s. 456.0635(2), F.S., may reapply and be granted a new license.¹⁰ By utilizing this exception, licensees that would have otherwise been disqualified have been able to regain a license to practice. When the renewal cycle ends, those licensees will once again be denied pursuant to s. 456.0635(3), F.S., but would be eligible to reapply and obtain a license under the exception.¹¹

HIV and AIDS Course Requirement

As a requirement for initial licensure, midwives, radiological personnel, clinical laboratory personnel, speech-language pathologists, and audiologists, must complete an education course on HIV and AIDS. If the applicant has not taken the course at the time of licensure and upon an affidavit showing good cause, an applicant may be granted 6 months to complete this requirement.¹²

Medical Errors Course Requirement

Section 456.013(7), F.S., requires that every health care practitioner regulated by the DOH complete an approved 2-hour course relating to the prevention of medical errors as part of the licensure and renewal process.

Continuing Education Requirements

Compliance with continuing education (CE) requirements is a condition of renewal of license for health care practitioners. Boards, or the DOH when there is no board, require each licensee to demonstrate competency by completing CEs during each licensure cycle. The number of required CE hours varies by profession. The requirements for CEs may be found in ch. 456, F.S., professional practice acts, administrative rules, or a combination of these references. Failure to comply with CE requirements may result in disciplinary action against the licensee, in accordance with the disciplinary guidelines established by the applicable board, or the DOH if there is no board.

⁷ Section 456.0635(2), F.S., provides a tiered timeframe for these individuals to apply for a license, certificate, or registration, depending on the severity of the crime and length of time elapsed between the crime and the date of application for licensure.

⁸ Section 456.0635(2), F.S.

⁹ *Id.*

¹⁰ Department of Health, *2016 Agency Legislative Bill Analysis for House Bill 941* (Dec. 15, 2015), on file with the Health Quality Subcommittee.

¹¹ *Id.* This provision was adopted

¹² Section 381.0034, F.S.

The DOH or boards, when applicable, monitor health care practitioner's compliance with the CE requirements in a manner required by statute. The statutes vary as to the as to the required method to use. For example, DOH or a board, when applicable, may have to randomly select a licensee to request the submission of CE documentation;¹³ require a licensees to a submit sworn affidavit or statement attesting that he or she has completed the required CE hours,¹⁴ or perform an audit. Licensees are responsible for maintaining documentation of the CE courses completed.

In 2001, the Legislature directed the DOH to implement an electronic CE tracking system that was to be integrated into the licensure and renewal systems.¹⁵ In the initial phase of the system, the system allowed licensees to check compliance with CE requirements but did not prevent the renewal of the license if such requirements were not met. The DOH is currently in the second phase of integration, which requires a licensee to have entered and met all CE requirements before his or her license is renewed.¹⁶ The DOH's electronic CE system eliminates the need for submission of affidavits, audits, and other methods of proof of completion of CE requirements.

Impaired Practitioners

The impaired practitioner treatment program was created to provide resources to assist health care practitioners who are impaired as a result of the misuse or abuse of alcohol or drugs, or both, or a mental or physical condition which could affect the practitioners' ability to practice with skill and safety.¹⁷ For professions that do not have programs established within their individual practice act, the DOH is required to designate an approved program by rule.¹⁸ The DOH must retain at least one impaired practitioner consultant who is licensed under the jurisdiction of the MQA and who is a licensed physician or nurse; or an entity that employs a medical director who is a licensed physician, or an executive director who is a licensed nurse.¹⁹

When the DOH receives a legally sufficient complaint²⁰ alleging that a licensed practitioner is impaired and no other complaints exist against the practitioner, the complaint is forwarded to the consultant, who assists the DOH in determining if the practitioner is, in fact, impaired. In addition to assisting the DOH in determining the existence of an impairment, the consultant also facilitates and monitors progress in the treatment of the impairment.

The reporting of such impairment is not grounds for discipline, if the licensee:

- Acknowledges the impairment;
- Voluntarily enrolls in an appropriate, approved treatment program;
- Voluntarily withdraws from practice or limits his or her scope of practice, as required by the consultant, until the licensee has successfully completed an approved treatment program; and
- Authorizes the release of medical records, including all records of evaluations, diagnoses, and treatment, to the consultant.

An impaired practitioner may voluntarily withdraw from practice and seek treatment from an approved provider, without a complaint being filed. In such situations, the DOH and the applicable board are not involved in the case.

¹³ For example, see s. 457.107, F.S.

¹⁴ For example see ss.458.347(4)(e), 466.0135(6), 466.014, and 466.032(5), F.S.

¹⁵ Chapter 2001-277, Laws of Fla.

¹⁶ *Supra* note 8.

¹⁷ Section 456.076, F.S.

¹⁸ Section 456.076 (1), F.S.

¹⁹ Section 456.075(2), F.S.

²⁰ A complaint is legally sufficient if it contains ultimate facts that show the occurrence of a violation of a practice act, ch. 456, F.S., or a rule adopted by the DOH or a board. Section 456.073(1), F.S.

The DOH contracts with the Professionals Resource Network and the Intervention Project for Nurses to provide approved treatment programs for impaired practitioners.²¹ The Professionals Resource Network and its medical director serve as the consultant to the DOH on matters relating to practitioner impairment.²²

Currently, s. 456.076, F.S., does not define the terms “approved impaired practitioner programs,” “treatment program,” or “consultant,” and uses the terms interchangeably.

Certified Nursing Assistants

The Board of Nursing regulates certified nursing assistants (CNAs). To be certified as a CNA, an applicant must meet the education and training requirements as established in statute and by rule by the Board of Nursing, and successfully pass a background screening.²³ To maintain certification, a CNA must show proof of having completed in-service training hours, which are the equivalent of CE hours for other health care professions. Currently, a CNA must complete 12 hours of in-service training each calendar year.²⁴ CNA certificates are issued for a biennium with a May 31st expiration date.²⁵

The Council on Certified Nursing Assistants (Council) was created under the Board of Nursing to assist in the oversight of CNAs.²⁶ The Council’s duties include recommending policy and procedures for CNAs, proposing rules to implement training and certification requirements, making recommendations to the Board of Nursing regarding matters related to the certification of CNAs, and addressing concerns and problems of CNAs in order to improve safety in the practice of CNAs.²⁷ The Council is composed of five members:

- Two registered nurses appointed by the chair of the Board of Nursing;
- A licensed practical nurse appointed by the chair of the Board of Nursing; and
- Two CNAs appointed by the State Surgeon General.²⁸

Historically, the Council met every 2 months in conjunction with the Board of Nursing at a cost of \$40,000 per year.²⁹ However, the Council has not held a face-to-face meeting since 2013, and beginning in 2014, the Council meets only by telephone conference call on an as needed basis. The Board of Nursing and the Council support abolishment of the Council.³⁰

Costs of Licensure Regulation

It is the intent of the Legislature that the costs associated with regulating health care professions and health care practitioners be borne by the licensees and the licensure applicants.³¹ Further, it is the intent that no profession operate with a negative cash balance.³² The boards, in consultation with the DOH, or the DOH if there is no board, is required to set licensure renewal fees by rule and which must:

- Be based on revenue projections;

²¹ DOH, Board of Medicine, *Help Center: Does the Department Have Assistance Programs for Impaired Health Care Professionals*, <http://flboardofmedicine.gov/help-center/does-the-department-have-assistance-programs-for-impaired-health-care-professionals/> (last visited Jan. 11, 2016).

²² See Professionals Resource Network, *About Us*, available at <http://www.flprn.org/about> (last visited Jan. 11, 2016).

²³ See s. 464.203, F.S., and Rules 64B9-15.006 and 64B9-15.008, F.A.C.

²⁴ Section 464.203(7), F.S., and Rule 64B9-15.011, F.A.C.

²⁵ Rule 64B-11.001, F.A.C. See also Florida Board of Nursing, *Certified Nursing Assistant (CNA) Renewal Requirements*, available at <http://floridasnursing.gov/renewals/certified-nursing-assistant/> (last visited Jan. 6, 2016).

²⁶ Section 464.2085, F.S.

²⁷ Section 464.2085(2), F.S.

²⁸ Section 464.2085(1), F.S.

²⁹ *Supra* note 8.

³⁰ *Id.*

³¹ Section 456.025(1), F.S.

³² Section 456.025(3), F.S.

- Be adequate to cover all expenses related to that board identified in the DOH's long-range plan;³³
- Be reasonable, fair, and not serve as a barrier to licensure;
- Be based on potential earnings from working under the scope of the license;
- Be similar to fees imposed on similar licensure types; and
- Not be more than 10 percent greater than the actual cost to regulate that profession for the previous biennium.³⁴

The chairpersons of the boards and councils must meet annually to review the long-range policy plan and the current and proposed fee schedules.³⁵ The chairpersons are required to make recommendations for any necessary statutory changes relating to fees and fee caps, which are to be included in the DOH's annual report to the Legislature.

All funds collected by the DOH from fees, fines, or costs awarded to the agency by a court are paid into the Medical Quality Assurance Trust Fund.³⁶ The DOH is prohibited from expending funds from one profession to pay expenses incurred on behalf of another profession, except that the Board of Nursing may pay for costs incurred in the regulation of CNAs.³⁷

The DOH may adopt rules for advancing funds to a profession operating with a negative cash balance.³⁸ However, the advancement may not exceed two consecutive years and the regulated profession must pay interest at the current rate earned on trust funds used by the DOH to implement ch. 456, F.S. The interest earned is allocated to the various funds in accordance with the allocation of investment earnings. Each board, or the DOH if there is no board, may assess and collect a one-time fee from each active and inactive licensee, in an amount necessary to eliminate a cash deficit in the profession, or if there is no deficit, to maintain the financial integrity of the profession.³⁹ Only one such assessment may be made in any 4-year period.

According to the DOH, four one-time assessments have been imposed in the past 10 years, for the following professions:

- Electrolysis in fiscal year 2005-2006, in the amount of \$1,306;
- Nursing Home Administrators in fiscal year 2005-2006, in the amount of \$200;
- Dentistry in fiscal year 2007-2008, in the amount of \$250; and
- Midwifery in fiscal year 2008-2009, in the amount of \$250.⁴⁰

Three professions operate in a chronic deficit. Each of these professions is at its statutory fee cap, and according to the DOH, the licensure base is not large enough to generate enough revenue to cover expenditures.⁴¹ The professions and the deficit amount under which they operate are:

Profession	Cash Balance	Renewal Fee	Statutory Fee Cap	Total Licenses
Dentistry	\$ (2,144,333)	\$ 300	\$ 300	14,285
Electrologists	\$ (638,545)	\$ 100	\$ 100	1,591
Midwifery	\$ (900,155)	\$ 500	\$ 500	206

³³ Pursuant to s. 456.005, F.S., the long-range policy plan is used to facilitate efficient and cost-effective regulation by evaluating whether the DOH is operating efficiently and effectively and if there is a need for a board or council to assist in cost-effective regulation; how and why the various professions are regulated; whether there is a need to continue regulation and to what degree; whether or not consumer protection is adequate and how it can be approved; whether there is consistency between the various practice acts; and whether unlicensed activity is adequately enforced.

³⁴ *Supra* note 29.

³⁵ Section 456.025(2), F.S.

³⁶ Section 456.025(8), F.S.

³⁷ *Id.*

³⁸ *Supra* note 29.

³⁹ Section 456.025(5), F.S.

⁴⁰ *Supra* note 8 at 5.

⁴¹ *Id.*

If the boards or the DOH were to impose a one-time assessment to eliminate the deficit and result in solvency through FY 19-20, the amount per licensee would be:

- Dentistry - \$450 per active/inactive licensee;
- Electrolysis - \$900 per active/inactive licensee; and
- Midwifery - \$5,500 per active/inactive licensee.⁴²

Patient Records

Upon the death or incapacitation of a practitioner or abandonment of medical records by a practitioner, the board, or the DOH if there is no board, may temporarily or permanently appoint a custodian of records.⁴³ The records custodian is required to comply with all recordkeeping requirements of s. 456.057, F.S., including maintaining the confidentiality of patient records except upon written authorization by the patient or by operation of law.

According to the DOH, 10 times per year or more, patient records are abandoned, mostly due to the death or incarceration of a practitioner, and patients are unable to access their medical records.⁴⁴ The DOH attempts to secure the records but does not have the resources available to assume control and release the records to the patients.⁴⁵

Dispensing Practitioner Facility Inspections

The DOH is required to inspect any facility where a dispensing practitioner dispenses medicinal drugs, in the same manner and frequency as it inspects pharmacies, to determine whether the practitioner is in compliance with all applicable statutes and rules.⁴⁶ In its annual inspection of the facility, the DOH reviews compliance with the following requirements:⁴⁷

- Proper registration with the board;
- A clean and safe dispensing area;
- Display of a generic drug sign;
- Appropriate labeling of stock medications from a licensed manufacturer;
- Proof that medications were purchased from a Florida licensed wholesaler/distributor;
- No outdated medications in stock;
- Medications requiring refrigeration are appropriately stored;
- Medications dispensed are placed in childproof container;
- Completed prescription medication is labeled properly;
- Presence of all written prescriptions for medication to be dispensed;
- Proof practitioner is advising patients that prescription may be filled on premise or at any pharmacy;
- Use of counterfeit-resistant prescription blanks for all controlled substances;
- Documentation that prescriptions are written with the quantity of the drug prescribed in both text and numerical formats, and dated with the abbreviated month written out on the face of the prescription;
- All labels for dispensed medication include an expiration date;
- Documentation that practitioner is present when dispensing occurs;

⁴² *Id.*

⁴³ Section 456.057(20), F.S.

⁴⁴ *Supra* note 8.

⁴⁵ *Id.*

⁴⁶ Section 465.0276(3), F.S.

⁴⁷ Florida Department of Health, *Inspection Forms*, available at <http://www.floridahealth.gov/licensing-and-regulation/enforcement/inspection-program/inspection-forms.html> (last visited Jan. 12, 2016). Click on "Dispensing Practitioners" to view the inspection checklist; the form lists the legal authority for each item.

- Documentation that practitioner is personally checking prescriptions for accuracy prior to the patient receiving them;
- Proof that patients are received both verbal and printed offers to counsel;
- Documentation in a patient's record of medical history required for counseling;
- Daily hard copy log of all prescriptions, dated and signed by each practitioner if a computer system is utilized;
- Retrievable pedigree records for medication;
- Documentation that controlled substances are being dispensed in compliance with s. 465.0276, F.S.;
- Documentation that Schedule II or Schedule III controlled substances are being dispensed pursuant to exemptions under s. 465.0276(1)(b), F.S.;
- Documentation of proper reporting to the Prescription Drug Monitoring Program (PDMP) within 7 days of dispensing controlled substances;
- Presence and use of a locking cabinet for controlled substances;
- Controlled substance prescriptions signed and dated by practitioner;
- Controlled substance prescriptions with patient's name and address filled in; and
- Controlled substance prescriptions have the practitioner's name, address and DEA number on them.

Dispensing practitioners may not dispense Schedule II or Schedule III controlled substances, except:

- In the health care system of the Department of Corrections;
- In connection with a surgical procedure and limited to a 14-day supply;
- In an approved clinical trial;
- In a facility, licensed under s. 397.427, F.S., providing medication-assisted treatment for opiate addiction;
- In a hospice facility, licensed under part IV of chapter 400, F.S.⁴⁸

The DOH indicates that during the last two fiscal years, it has conducted 15,062 dispensing practitioner inspections with a passing rate of 99 percent.⁴⁹

Advisory Council of Medical Physicists

The Advisory Council of Medical Physicists (council) is a nine-member board, created in 1997, to advise the DOH in the regulation of the practice of medical physics.⁵⁰ The responsibilities of the council include recommending rules to regulate the practice of medical physics, practice standards, and CE requirements.⁵¹

The council fulfilled its initial statutory requirements in making recommendations for the initial development of rules, practice standards, and CE requirements, and last met in December 1998.⁵² The State Surgeon General appointed new members to the council in 2015 and the council met for the first time in 17 years. The DOH estimates that a face-to-face meeting of the council is \$3,535 per meeting. The DOH advises that an Advisory Council on Radiation Protection, which includes medical physicists among its members, may be used in lieu of the council for guidance on matters of practice and public safety.⁵³

⁴⁸ Section 465.0276(1)(b), F.S.

⁴⁹ *Supra* note 8 at 8.

⁵⁰ Section 483.901(4), F.S. Section 483.901(3)(h), F.S., defines medical physics as a branch of physics associated with the practice of medicine, and includes the fields of diagnostic radiological physics, medical nuclear radiological physics, and medical health physics.

⁵¹ Section 483.901(5), F.S.

⁵² *Supra* note 8 at 9.

⁵³ *Id.*

Effect of Proposed Changes

Initial Licensure of Health Care Practitioners

Military Health Care Practitioners

The bill authorizes the DOH to waive fees and issue a health care license to an active duty member of the military, who applies six months before or after an honorable discharge, in a profession for which licensure is not required in another state.⁵⁴ However, the applicant must provide evidence of military training or experience substantially equal to the requirements for licensure in Florida, and proof of a passing score on the appropriate examination of a national standards organization, if required for licensure in Florida.

The bill also authorizes the DOH to issue temporary licenses to the spouses of active duty members of the military in professions that may not require licensure in other states. However, the applicant must provide evidence of training or experience equivalent to the requirements for licensure in Florida, and proof of a passing score on the appropriate exam of a national standards organization, if required for licensure in Florida.

The bill also eliminates a requirement that a military spouse who has been issued a temporary dental license practice under the indirect supervision of a Florida dentist.

Disqualification of Certain Applicants for Licensure

Current law requires the DOH to deny the initial licensure application or renewal application of any health care practitioner who has been convicted of certain felonies or excluded from participating in governmental health programs. The bill deletes a provision that allows certain felons, individuals terminated for cause from any state's Medicaid program, or individuals listed on the U.S. Department of Health and Human Services Office of Inspector General's List of Excluded Individuals and Entities, to obtain a license in Florida. The deletion of this provision will prevent those denied licensure renewal based on one of these offenses from re-applying and obtaining a new license based on the exemption.

HIV and AIDS Course Requirement

The bill repeals the requirement that radiological personnel, speech-language pathologists, and audiologists complete a course on HIV and AIDS prior to licensure. According to the DOH, this will accelerate the initial licensure process and reduce costs to licensees.⁵⁵ Midwives and clinical laboratory personnel must still meet this requirement for licensure.

Medical Errors Course Requirement

The bill eliminates the requirement that health care practitioners complete a 2-hour course on medical errors before a license may be issued; but maintains the requirement for biennial renewal.

Continuing Education Requirements

The bill creates s. 456.0361, F.S., and relocates the requirement that DOH establish an electronic continuing education (CE) tracking system to the newly created section of law. The bill prohibits the DOH from issuing a license renewal if the licensee has not complied with applicable CE requirements. The boards and the DOH may impose additional penalties, as authorized by statute or rule, for

⁵⁴ According to the DOH, professions not licensed in all states and jurisdictions, but are licensed in Florida, include: respiratory therapists and assistants, clinical laboratory personnel, medical physicists, opticians, athletic trainers, electrologists, nursing home administrators, midwives, orthotists and assistants, prosthetists and assistants, pedorthotists and assistants, orthotic fitters and assistants, certified chiropractic physician assistants, and pharmacy technicians. *Supra* note 8 at 3.

⁵⁵ *Supra* note 8 at 9.

noncompliance with CE requirements. The DOH is granted rulemaking authority for implementation of this provision.

The bill simplifies the CE reporting requirements for certain practitioners to conform with the electronic CE tracking system. For acupuncturists, physician assistants, optometrists, dentists, dental hygienists, dental laboratories, hearing aid specialists, and physical therapists, the bill eliminates procedures for proving compliance with CE requirements, such as the submission of an affidavit or written statement attesting to the completion of the required CEs. The bill also eliminates the DOH's authority to request that a licensee produce documentation of his or her CEs.

Impaired Practitioners

The bill clarifies and defines the following terms related to the Impaired Practitioner Treatment Program for health care practitioners:

- "Approved impaired practitioner program" means a program designated by the department to provide services for impaired practitioners through a contract that requires the program to initiate interventions and to recommend evaluations of impaired practitioners, refer impaired practitioners to approved treatment programs or approved treatment providers, and monitor the progress of impaired practitioners during treatment. Approved impaired practitioner programs may not provide medical services.
- "Approved treatment program" means a state-licensed or nationally accredited residential, intensive outpatient, partial hospital, or other treatment program that employs a multidisciplinary team of providers to treat an impaired practitioner based on the impaired practitioner's individual diagnosis and a treatment plan for the impaired practitioner approved by the consultant who referred the impaired practitioner to the treatment program.
- "Approved treatment provider" means a state-licensed or nationally certified individual with experience in the treatment of specific types of impairment who provides treatment to an impaired practitioner based on the impaired practitioner's individual diagnosis and a treatment plan for the impaired practitioner approved by the consultant who referred the impaired practitioner to the treatment provider, or a treatment program employing such individual.
- "Consultant" means an approved impaired practitioner program and the program's medical director. Consultants must receive allegations of a practitioner's impairment, intervene or arrange for an intervention with the practitioner, refer an impaired practitioner to an approved treatment program or an approved treatment provider, monitor and evaluate the progress of treatment of an impaired practitioner, and monitor the continued care provided by an approved treatment program or an approved treatment provider to an impaired practitioner.

The bill also eliminates a provision requiring the consultant to communicate with the State Surgeon General if he or she concludes that an impairment affects the licensee's practice and constitutes an immediate, serious danger to the public health, safety, or welfare. Such concerns may be addressed in accordance with the disciplinary proceedings provided in ss. 456.073 and 456.074, F.S.

Certified Nursing Assistants

The bill repeals s. 464.2085, F.S., to abolish the Council on Certified Nursing Assistants, under the Board of Nursing. The Council currently meets by telephone conference call, on an as needed basis. Historically, the Board met every two months, in conjunction with Board of Nursing meetings, at an estimated cost of \$40,000 per year. According to the DOH, the Board of Nursing, in conjunction with stakeholders, has the knowledge and experience to undertake the promulgation of rules for the CNAs. The Board of Nursing and the Council on Certified Nursing Assistants support this repeal.⁵⁶

The bill also amends the reporting schedule for CE for CNAs from annual to biennial to align the renewal cycle for the profession.

Costs of Regulation

The bill creates a mechanism to eliminate the cash deficit of professions that have operated in a deficit for two or more years and are at their statutory fee cap. The bill allows the DOH to waive allocated administrative and indirect operational costs until such profession has a positive cash balance. Administrative and operational costs include costs associated with:

- The director's office;
- System support;
- Communications;
- Central records; and
- Other administrative functions.

The waived costs are to be allocated to the other professions. The bill also authorizes the transfer of unused funds in the deficit profession's unlicensed activity account to help reduce the deficit.

The bill also removes from law:

- The requirement that the chairpersons of the boards and councils meet annually to review the DOH's long-range plan and the current and proposed fee schedules, and make recommendations for any necessary statutory changes relating to fees and fee caps to be included in DOH's annual report to the Legislature;
- The requirement that the DOH set license fees, on behalf of a board that fails to act timely, to cover anticipated deficits and maintain the required cash balance;
- The DOH's rulemaking authority for authorizing advances, with interest, to a profession operating with a negative case balance;
- The prohibition against using funds from the account of a profession to pay for the expenses of another profession; and
- A requirement that the DOH include in its annual report to the Legislature, a condensed report of the revenue and allocated expenses of each profession, along with the DOH's recommendations.

Patient Records

The bill permits the DOH to contract with a third party to become the custodian of medical records in the event of a practitioner's death, incapacitation, or abandonment of the medical records, under the same confidentiality and disclosure requirements imposed on a licensee. The bill requires board-appointed medical records custodians to be approved by the DOH.

Dispensing Practitioner

The bill eliminates the inspection by the DOH of the facilities of a dispensing practitioner. The dispensing practitioner must continue to comply with all applicable statutes and rules. However, a dispensing practitioner will not be subject to an inspection by the DOH within specified timeframes. The DOH retains the authority to inspect the facilities of a dispensing practitioner at such time as the DOH determines it is necessary.⁵⁷

⁵⁷ See s. 456.069, F.S.

Medical Physicists

The bill abolishes the Advisory Council of Medical Physicists (council), which was created to advise the DOH in the regulation of the practice of medical physics. The council fulfilled its initial statutory duties by making recommendations for the initial development of rules, practice standards, and CE requirements. The State Surgeon General appointed new members to the council in 2015 and council met for the first time in 17 years. The DOH estimates that a face-to-face meeting of the council is \$3,535 per meeting. The DOH advises that an Advisory Council on Radiation Protection includes medical physicists among its members and that group may be used for guidance on matters of practice and public safety.⁵⁸

The bill makes other technical and conforming changes.

The bill provides an effective date of July 1, 2016.

B. SECTION DIRECTORY:

- Section 1.** Amends s. 381.0043, F.S., relating to the requirement for instruction on HIV and AIDS.
- Section 2.** Amends s. 456.013, F.S., relating to the Department of Health and general licensing provisions.
- Section 3.** Amends s. 456.024, F.S., relating to members of the Armed Forces in good standing with administrative boards or the department; spouses; licensure.
- Section 4.** Amends s. 456.025, F.S., relating to fees, receipts, and disposition.
- Section 5.** Creates s. 456.0361, F.S., relating to compliance with continuing education requirements.
- Section 6.** Amends s. 456.057, F.S., relating to ownership and control of patient records; report or copies of records to be furnished; disclosure of information.
- Section 7.** Amends s. 456.0635, F.S., relating to health care fraud; disqualification for license, certificate, or registration.
- Section 8.** Amends s. 456.076, F.S., relating to treatment programs for impaired practitioners.
- Section 9.** Amends s. 457.107, F.S., relating to renewal of licenses; continuing education.
- Section 10.** Amends s. 458.347, F.S., relating to physician assistants.
- Section 11.** Amends s. 463.007, F.S., relating to renewal of license; continuing education.
- Section 12.** Amends s. 464.203, F.S., relating to certified nursing assistants; certification requirement.
- Section 13.** Repeals s. 464.2085, F.S., relating to the Council on Certified Nursing Assistants.
- Section 14.** Amends s. 456.0276, F.S., relating to the dispensing practitioner.
- Section 15.** Amends s. 466.0135, F.S., relating to continuing education; dentists.
- Section 16.** Amends s. 466.014, F.S., relating to continuing education; dental hygienists.
- Section 17.** Amends s. 466.032, F.S., relating to registration.
- Section 18.** Repeals s. 468.1201, F.S., relating to the requirement for instruction on human immunodeficiency virus and acquired immune deficiency syndrome.
- Section 19.** Amends s. 483.901, F.S., relating to medical physicists; definitions; licensure
- Section 20.** Amends s. 484.047, F.S., relating to renewal of license.
- Section 21.** Amends s. 486.109, F.S., relating to continuing education.
- Section 22.** Amends s. 458.331, F.S., relating to grounds for disciplinary action; action by the board and department.
- Section 23.** Amends s. 459.015, F.S., relating to grounds for disciplinary action; action by the board and department.
- Section 24.** Amends s. 499.028, F.S., relating to drug samples or complimentary drugs; starter packs; permits to distribute.
- Section 25.** Amends s. 921.0022, F.S., relating to the Criminal Punishment Code; offense severity ranking chart.
- Section 26.** Provides an effective date of July 1, 2016.

⁵⁸ *Supra* note 8.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The DOH may realize costs savings resulting from the elimination of the Council on Certified Nursing Assistants and the Advisory Council of Medical Physicists. The annual cost of face-to-face meetings of the Council on Certified Nursing Assistants is approximately \$40,000. The per-meeting cost of the Advisory Council of Medical Physicists is \$3,535.

The bill may have an insignificant, positive fiscal impact on the DOH, with the elimination of annual inspections of the facilities of dispensing practitioners. Based on FY 14-15 data, the annual cost of these inspections is \$597,706.98.⁵⁹

2. Expenditures:

The bill will have an insignificant, negative fiscal impact on the DOH, to pay for annual storage costs for medical records the DOH would have to retain in the event of a practitioner's death, incapacitation, or abandonment. The annual cost is estimated to be \$4,020.⁶⁰

The bill may have an insignificant, negative fiscal impact on the DOH, associated with the promulgation of rules to implement its electronic continuing education tracking system.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

With the elimination of the requirement to complete an HIV/AIDS course and medical errors course prior to licensure, affected licensees may incur less expense when applying for licensure.

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.

⁵⁹ *Supra* note 8 at 14.

⁶⁰ *Id.*

B. RULE-MAKING AUTHORITY:

The bill grants the DOH authority to promulgate rules to implement the electronic tracking of continuing education requirements.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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27 | that the Department of Health set license fees and
28 | recommend fee cap increases in certain circumstances;
29 | providing that a profession may operate at a deficit
30 | for a certain time period; deleting a provision
31 | authorizing the department to advance funds under
32 | certain circumstances; deleting a requirement that the
33 | department implement an electronic continuing
34 | education tracking system; authorizing the department
35 | to waive specified costs under certain circumstances;
36 | revising legislative intent; deleting a prohibition
37 | against the expenditure of funds by the department
38 | from the account of a profession to pay for the
39 | expenses of another profession; deleting a requirement
40 | that the department include certain information in an
41 | annual report to the Legislature; creating s.
42 | 456.0361, F.S.; requiring the department to establish
43 | an electronic continuing education tracking system;
44 | prohibiting the department from renewing a license
45 | unless the licensee has complied with all continuing
46 | education requirements; authorizing the department to
47 | adopt rules; amending s. 456.057, F.S.; revising a
48 | provision for a person or an entity appointed by the
49 | board to be approved by the department; authorizing
50 | the department to contract with a third party to
51 | provide record custodian services; amending s.
52 | 456.0635, F.S.; deleting a provision on applicability

53 relating to the issuance of licenses; amending s.
 54 456.076, F.S.; defining terms; providing for approval
 55 of treatment programs by department rule; providing
 56 that the department is not responsible for paying for
 57 the care provided by approved treatment programs or
 58 for consultant services; deleting a requirement for a
 59 communication from a consultant to the State Surgeon
 60 General; conforming provisions to changes made by the
 61 act; amending s. 457.107, F.S.; deleting a provision
 62 authorizing the Board of Acupuncture to request
 63 certain documentation from applicants; amending s.
 64 458.347, F.S.; deleting a requirement that a physician
 65 assistant file a signed affidavit with the department;
 66 amending s. 463.007, F.S.; making technical changes;
 67 amending s. 464.203, F.S.; revising inservice training
 68 requirements for certified nursing assistants;
 69 deleting a rulemaking requirement; repealing s.
 70 464.2085, F.S., relating to the Council on Certified
 71 Nursing Assistants; amending s. 465.0276, F.S.;
 72 deleting a requirement that the department inspect
 73 certain facilities; amending s. 466.0135, F.S.;
 74 deleting a requirement that a dentist file a signed
 75 affidavit with the department; deleting a provision
 76 authorizing the Board of Dentistry to request certain
 77 documentation from applicants; amending s. 466.014,
 78 F.S.; deleting a requirement that a dental hygienist

79 file a signed affidavit with the department; deleting
 80 a provision authorizing the board to request certain
 81 documentation from applicants; amending s. 466.032,
 82 F.S.; deleting a requirement that a dental laboratory
 83 file a signed affidavit with the department; deleting
 84 a provision authorizing the department to request
 85 certain documentation from applicants; repealing s.
 86 468.1201, F.S., relating to a requirement for
 87 instruction on human immunodeficiency virus and
 88 acquired immune deficiency syndrome; amending s.
 89 483.901, F.S.; deleting provisions relating to the
 90 Advisory Council of Medical Physicists in the
 91 department; authorizing the department to issue
 92 temporary licenses in certain circumstances;
 93 authorizing the department to adopt rules; amending s.
 94 484.047, F.S.; deleting a requirement for a written
 95 statement from an applicant in certain circumstances;
 96 amending s. 486.109, F.S.; deleting a provision
 97 authorizing the department to conduct a random audit
 98 for certain information; amending ss. 458.331,
 99 459.015, 499.028, and 921.0022, F.S.; conforming
 100 cross-references; providing an effective date.

101

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

103

104 Section 1. Subsection (3) of section 381.0034, Florida

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105 Statutes, is amended to read:

106 381.0034 Requirement for instruction on HIV and AIDS.—

107 (3) The department shall require, as a condition of
 108 granting a license under chapter 467 or part III of chapter 483
 109 ~~the chapters specified in subsection (1)~~, that an applicant
 110 making initial application for licensure complete an educational
 111 course acceptable to the department on human immunodeficiency
 112 virus and acquired immune deficiency syndrome. Upon submission
 113 of an affidavit showing good cause, an applicant who has not
 114 taken a course at the time of licensure must ~~shall~~, ~~upon an~~
 115 ~~affidavit showing good cause~~, be allowed 6 months to complete
 116 this requirement.

117 Section 2. Subsection (7) of section 456.013, Florida
 118 Statutes, is amended to read:

119 456.013 Department; general licensing provisions.—

120 (7) The boards, or the department when there is no board,
 121 shall require the completion of a 2-hour course relating to
 122 prevention of medical errors as part of the biennial licensure
 123 ~~and~~ renewal process. The 2-hour course counts toward ~~shall count~~
 124 ~~towards~~ the total number of continuing education hours required
 125 for the profession. The course must ~~shall~~ be approved by the
 126 board or department, as appropriate, and must ~~shall~~ include a
 127 study of root-cause analysis, error reduction and prevention,
 128 and patient safety. In addition, the course approved by the
 129 Board of Medicine and the Board of Osteopathic Medicine must
 130 ~~shall~~ include information relating to the five most misdiagnosed

131 conditions during the previous biennium, as determined by the
 132 board. If the course is being offered by a facility licensed
 133 pursuant to chapter 395 for its employees, the board may approve
 134 up to 1 hour of the 2-hour course to be specifically related to
 135 error reduction and prevention methods used in that facility.

136 Section 3. Paragraph (a) of subsection (3) and paragraphs
 137 (a) and (j) of subsection (4) of section 456.024, Florida
 138 Statutes, are amended to read:

139 456.024 Members of Armed Forces in good standing with
 140 administrative boards or the department; spouses; licensure.—

141 (3) A person who serves or has served as a health care
 142 practitioner in the United States Armed Forces, United States
 143 Reserve Forces, or the National Guard or a person who serves or
 144 has served on active duty with the United States Armed Forces as
 145 a health care practitioner in the United States Public Health
 146 Service is eligible for licensure in this state. The department
 147 shall develop an application form, and each board, or the
 148 department if there is no board, shall waive the application
 149 fee, licensure fee, and unlicensed activity fee for such
 150 applicants. For purposes of this subsection, "health care
 151 practitioner" means a health care practitioner as defined in s.
 152 456.001 and a person licensed under part III of chapter 401 or
 153 part IV of chapter 468.

154 (a) The board, or department if there is no board, shall
 155 issue a license to practice in this state to a person who:

- 156 1. Submits a complete application.

157 2. Receives an honorable discharge within 6 months before,
 158 or will receive an honorable discharge within 6 months after,
 159 the date of submission of the application.

160 3. Holds an active, unencumbered license issued by another
 161 state, the District of Columbia, or a possession or territory of
 162 the United States and who has not had disciplinary action taken
 163 against him or her in the 5 years preceding the date of
 164 submission of the application, or who is a military health care
 165 practitioner in a profession for which licensure in a state or
 166 jurisdiction is not required to practice in the United States
 167 Armed Services, who provides evidence of military training or
 168 experience substantially equivalent to the requirements for
 169 licensure in this state in that profession, and who obtained a
 170 passing score on the appropriate examination of a national
 171 standards organization if required for licensure in this state.

172 4. Attests that he or she is not, at the time of
 173 submission, the subject of a disciplinary proceeding in a
 174 jurisdiction in which he or she holds a license or by the United
 175 States Department of Defense for reasons related to the practice
 176 of the profession for which he or she is applying.

177 5. Actively practiced the profession for which he or she
 178 is applying for the 3 years preceding the date of submission of
 179 the application.

180 6. Submits a set of fingerprints for a background
 181 screening pursuant to s. 456.0135, if required for the
 182 profession for which he or she is applying.

183
184 The department shall verify information submitted by the
185 applicant under this subsection using the National Practitioner
186 Data Bank.

187 (4)(a) The board, or the department if there is no board,
188 may issue a temporary professional license to the spouse of an
189 active duty member of the Armed Forces of the United States who
190 submits to the department:

191 1. A completed application upon a form prepared and
192 furnished by the department in accordance with the board's
193 rules;

194 2. The required application fee;

195 3. Proof that the applicant is married to a member of the
196 Armed Forces of the United States who is on active duty;

197 4. Proof that the applicant holds a valid license for the
198 profession issued by another state, the District of Columbia, or
199 a possession or territory of the United States, and is not the
200 subject of any disciplinary proceeding in any jurisdiction in
201 which the applicant holds a license to practice a profession
202 regulated by this chapter, or is a health care practitioner in a
203 profession for which licensure in another state or jurisdiction
204 may not be required, who provides evidence of training or
205 experience substantially equivalent to the requirements for
206 licensure in this state in that profession and proof of a
207 passing score on the appropriate examination of a national
208 standards organization if required for licensure in this state;

209 | and

210 | 5. Proof that the applicant's spouse is assigned to a duty
211 | station in this state pursuant to the member's official active
212 | duty military orders. and

213 | ~~6. Proof that the applicant would otherwise be entitled to~~
214 | ~~full licensure under the appropriate practice act, and is~~
215 | ~~eligible to take the respective licensure examination as~~
216 | ~~required in Florida.~~

217 | ~~(j) An applicant who is issued a temporary professional~~
218 | ~~license to practice as a dentist pursuant to this section must~~
219 | ~~practice under the indirect supervision, as defined in s.~~
220 | ~~466.003, of a dentist licensed pursuant to chapter 466.~~

221 | Section 4. Present subsections (3) through (11) of section
222 | 456.025, Florida Statutes, are redesignated as subsections (2)
223 | through (10), respectively, and present subsections (2), (3),
224 | (7), and (8) of that section are amended, to read:

225 | 456.025 Fees; receipts; disposition.-

226 | ~~(2) The chairpersons of the boards and councils listed in~~
227 | ~~s. 20.43(3)(g) shall meet annually at division headquarters to~~
228 | ~~review the long-range policy plan required by s. 456.005 and~~
229 | ~~current and proposed fee schedules. The chairpersons shall make~~
230 | ~~recommendations for any necessary statutory changes relating to~~
231 | ~~fees and fee caps. Such recommendations shall be compiled by the~~
232 | ~~Department of Health and be included in the annual report to the~~
233 | ~~Legislature required by s. 456.026 as well as be included in the~~
234 | ~~long-range policy plan required by s. 456.005.~~

235 (2)~~(3)~~ Each board within the jurisdiction of the
 236 department, or the department when there is no board, shall
 237 determine by rule the amount of license fees for the profession
 238 it regulates, based upon long-range estimates prepared by the
 239 department of the revenue required to implement laws relating to
 240 the regulation of professions by the department and the board.
 241 Each board, or the department if there is no board, shall ensure
 242 that license fees are adequate to cover all anticipated costs
 243 and to maintain a reasonable cash balance, as determined by rule
 244 of the agency, with advice of the applicable board. ~~If~~
 245 ~~sufficient action is not taken by a board within 1 year after~~
 246 ~~notification by the department that license fees are projected~~
 247 ~~to be inadequate, the department shall set license fees on~~
 248 ~~behalf of the applicable board to cover anticipated costs and to~~
 249 ~~maintain the required cash balance. The department shall include~~
 250 ~~recommended fee cap increases in its annual report to the~~
 251 ~~Legislature.~~ Further, it is the intent of the Legislature
 252 ~~legislative intent~~ that a ~~no~~ regulated profession not operate
 253 with a negative cash balance. If, however, a profession's fees
 254 are at their statutory fee cap and the requirements of
 255 subsections (1) and (4) are met, a profession may operate at a
 256 deficit until the deficit is eliminated ~~The department may~~
 257 ~~provide by rule for advancing sufficient funds to any profession~~
 258 ~~operating with a negative cash balance. The advancement may be~~
 259 ~~for a period not to exceed 2 consecutive years, and the~~
 260 ~~regulated profession must pay interest. Interest shall be~~

261 ~~calculated at the current rate earned on investments of a trust~~
 262 ~~fund used by the department to implement this chapter. Interest~~
 263 ~~earned shall be allocated to the various funds in accordance~~
 264 ~~with the allocation of investment earnings during the period of~~
 265 ~~the advance.~~

266 (6)~~(7)~~ Each board, or the department if there is no board,
 267 shall establish~~7~~ by rule~~7~~, a fee of up to ~~not to exceed~~ \$250 for
 268 anyone seeking ~~approval~~ to provide continuing education courses
 269 or programs and ~~shall establish by rule~~ a biennial renewal fee
 270 of up to ~~not to exceed~~ \$250 for the renewal of an approval to
 271 provide providership ~~of~~ such courses. The fees collected ~~from~~
 272 ~~continuing education providers~~ shall be used for the purposes of
 273 reviewing course provider applications, monitoring the integrity
 274 of the courses provided, covering legal expenses incurred as a
 275 result of not granting or renewing an approval ~~a providership~~,
 276 and developing and maintaining an electronic continuing
 277 education tracking system pursuant to s. 456.0361. ~~The~~
 278 ~~department shall implement an electronic continuing education~~
 279 ~~tracking system for each new biennial renewal cycle for which~~
 280 ~~electronic renewals are implemented after the effective date of~~
 281 ~~this act and shall integrate such system into the licensure and~~
 282 ~~renewal system~~. All approved continuing education providers
 283 shall provide information on course attendance to the department
 284 necessary to implement the electronic tracking system. The
 285 department shall, by rule, specify the form and procedures by
 286 which the information is to be submitted.

287 ~~(7)(8)~~ All moneys collected by the department from fees or
 288 fines or from costs awarded to the agency by a court shall be
 289 paid into a trust fund used by the department to implement this
 290 chapter. The Legislature shall appropriate funds from this trust
 291 fund sufficient to administer ~~carry out~~ this chapter and the
 292 provisions of law with respect to professions regulated by the
 293 Division of Medical Quality Assurance within the department and
 294 the boards. The department may contract with public and private
 295 entities to receive and deposit revenue pursuant to this
 296 section. The department shall maintain separate accounts in the
 297 trust fund used by the department to implement this chapter for
 298 every profession within the department. To the maximum extent
 299 possible, the department shall directly charge all expenses to
 300 the account of each regulated profession. For the purpose of
 301 this subsection, direct charge expenses include, but are not
 302 limited to, costs for investigations, examinations, and legal
 303 services. For expenses that cannot be charged directly, the
 304 department shall provide for the proportionate allocation among
 305 the accounts of expenses incurred by the department in the
 306 performance of its duties with respect to each regulated
 307 profession. If a profession has established renewal fees that
 308 meet the requirements of subsection (1), has fees that are at
 309 the statutory fee cap, and has been operating in a deficit for 2
 310 or more fiscal years, the department may waive allocated
 311 administrative and operational indirect costs until such time as
 312 the profession has a positive cash balance. The costs related to

313 administration and operations include, but are not limited to,
314 the costs of the director's office and the costs of system
315 support, communications, central records, and other such
316 administrative functions. Such waived costs shall be allocated
317 to the other professions that must meet the requirements of this
318 section, and cash in the unlicensed activity account under s.
319 456.065 of the profession whose costs have been waived shall be
320 transferred to the operating account in an amount not to exceed
321 the amount of the deficit. The regulation by the department of
322 professions, as defined in this chapter, ~~must shall~~ be financed
323 solely from revenue collected by the department ~~it~~ from fees and
324 other charges and deposited in the Medical Quality Assurance
325 Trust Fund, and all such revenue is hereby appropriated to the
326 department, which. ~~However, it is legislative intent that each~~
327 ~~profession shall operate within its anticipated fees. The~~
328 ~~department may not expend funds from the account of a profession~~
329 ~~to pay for the expenses incurred on behalf of another~~
330 ~~profession, except that the Board of Nursing must pay for any~~
331 ~~costs incurred in the regulation of certified nursing~~
332 ~~assistants. The department shall maintain adequate records to~~
333 ~~support its allocation of agency expenses. The department shall~~
334 ~~provide any board with reasonable access to these records upon~~
335 ~~request. On or before October 1 of each year, the department~~
336 ~~shall provide each board an annual report of revenue and direct~~
337 ~~and allocated expenses related to the operation of that~~
338 ~~profession. The board shall use these reports and the~~

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339 department's adopted long-range plan to determine the amount of
 340 license fees. ~~A condensed version of this information, with the~~
 341 ~~department's recommendations, shall be included in the annual~~
 342 ~~report to the Legislature prepared under s. 456.026.~~

343 Section 5. Section 456.0361, Florida Statutes, is created
 344 to read:

345 456.0361 Compliance with continuing education
 346 requirements.-

347 (1) The department shall establish an electronic
 348 continuing education tracking system to monitor licensee
 349 compliance with applicable continuing education requirements and
 350 to determine whether a licensee is in full compliance with the
 351 requirements at the time of his or her application for license
 352 renewal. The tracking system shall be integrated into the
 353 department's licensure and renewal process.

354 (2) The department may not renew a license until the
 355 licensee complies with all applicable continuing education
 356 requirements. This subsection does not prohibit the department
 357 or the boards from imposing additional penalties under the
 358 applicable professional practice act or applicable rules for
 359 failure to comply with continuing education requirements.

360 (3) The department may adopt rules to implement this
 361 section.

362 Section 6. Subsection (20) of section 456.057, Florida
 363 Statutes, is amended to read:

364 456.057 Ownership and control of patient records; report

365 or copies of records to be furnished; disclosure of
 366 information.-

367 (20) The board with department approval, or department
 368 when there is no board, may temporarily or permanently appoint a
 369 person or an entity as a custodian of medical records in the
 370 event of the death of a practitioner, the mental or physical
 371 incapacitation of a ~~the~~ practitioner, or the abandonment of
 372 medical records by a practitioner. Such ~~The~~ custodian ~~appointed~~
 373 shall comply with ~~all provisions of this section~~. The department
 374 may contract with a third party to provide these services under
 375 the confidentiality and disclosure requirements of this section,
 376 ~~including the release of patient records.~~

377 Section 7. Subsection (2) of section 456.0635, Florida
 378 Statutes, is amended to read:

379 456.0635 Health care fraud; disqualification for license,
 380 certificate, or registration.-

381 (2) Each board within the jurisdiction of the department,
 382 or the department if there is no board, shall refuse to admit a
 383 candidate to any examination and refuse to issue a license,
 384 certificate, or registration to any applicant if the candidate
 385 or applicant or any principal, officer, agent, managing
 386 employee, or affiliated person of the applicant:

387 (a) Has been convicted of, or entered a plea of guilty or
 388 nolo contendere to, regardless of adjudication, a felony under
 389 chapter 409, chapter 817, or chapter 893, or a similar felony
 390 offense committed in another state or jurisdiction, unless the

391 candidate or applicant has successfully completed a drug court
 392 program for that felony and provides proof that the plea has
 393 been withdrawn or the charges have been dismissed. Any such
 394 conviction or plea shall exclude the applicant or candidate from
 395 licensure, examination, certification, or registration unless
 396 the sentence and any subsequent period of probation for such
 397 conviction or plea ended:

398 1. For felonies of the first or second degree, more than
 399 15 years before the date of application.

400 2. For felonies of the third degree, more than 10 years
 401 before the date of application, except for felonies of the third
 402 degree under s. 893.13(6) (a).

403 3. For felonies of the third degree under s. 893.13(6) (a),
 404 more than 5 years before the date of application;

405 (b) Has been convicted of, or entered a plea of guilty or
 406 nolo contendere to, regardless of adjudication, a felony under
 407 21 U.S.C. ss. 801-970, or 42 U.S.C. ss. 1395-1396, unless the
 408 sentence and any subsequent period of probation for such
 409 conviction or plea ended more than 15 years before the date of
 410 the application;

411 (c) Has been terminated for cause from the Florida
 412 Medicaid program pursuant to s. 409.913, unless the candidate or
 413 applicant has been in good standing with the Florida Medicaid
 414 program for the most recent 5 years;

415 (d) Has been terminated for cause, pursuant to the appeals
 416 procedures established by the state, from any other state

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417 Medicaid program, unless the candidate or applicant has been in
 418 good standing with a state Medicaid program for the most recent
 419 5 years and the termination occurred at least 20 years before
 420 the date of the application; or

421 (e) Is currently listed on the United States Department of
 422 Health and Human Services Office of Inspector General's List of
 423 Excluded Individuals and Entities.

424
 425 ~~This subsection does not apply to candidates or applicants for~~
 426 ~~initial licensure or certification who were enrolled in an~~
 427 ~~educational or training program on or before July 1, 2009, which~~
 428 ~~was recognized by a board or, if there is no board, recognized~~
 429 ~~by the department, and who applied for licensure after July 1,~~
 430 ~~2012.~~

431 Section 8. Present subsections (1) through (9) of section
 432 456.076, Florida Statutes, are redesignated as subsections (2)
 433 through (10), respectively, a new subsection (1) is added to
 434 that section, and present subsection (1), paragraph (c) of
 435 present subsection (2), present subsection (3), paragraphs (a),
 436 (c), (e), and (f) of present subsection (4), and present
 437 subsections (6), (8), and (9) of that section are amended, to
 438 read:

439 456.076 Treatment programs for impaired practitioners.--

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

441 (a) "Approved impaired practitioner program" means a
 442 program designated by the department to provide services for

443 impaired practitioners through a contract that requires the
 444 program to initiate interventions and to recommend evaluations
 445 of impaired practitioners, refer impaired practitioners to
 446 approved treatment programs or approved treatment providers, and
 447 monitor the progress of impaired practitioners during treatment.
 448 Approved impaired practitioner programs may not provide medical
 449 services.

450 (b) "Approved treatment program" means a state-licensed or
 451 nationally accredited residential, intensive outpatient, partial
 452 hospital, or other treatment program that employs a
 453 multidisciplinary team of providers to treat an impaired
 454 practitioner based on the impaired practitioner's individual
 455 diagnosis and a treatment plan for the impaired practitioner
 456 approved by the consultant who referred the impaired
 457 practitioner to the treatment program.

458 (c) "Approved treatment provider" means a state-licensed
 459 or nationally certified individual with experience in the
 460 treatment of specific types of impairment who provides treatment
 461 to an impaired practitioner based on the impaired practitioner's
 462 individual diagnosis and a treatment plan for the impaired
 463 practitioner approved by the consultant who referred the
 464 impaired practitioner to the treatment provider, or a treatment
 465 program employing such individual.

466 (d) "Consultant" means an approved impaired practitioner
 467 program and the program's medical director. Consultants must
 468 receive allegations of a practitioner's impairment, intervene or

469 arrange for an intervention with the practitioner, refer an
 470 impaired practitioner to an approved treatment program or an
 471 approved treatment provider, monitor and evaluate the progress
 472 of treatment of an impaired practitioner, and monitor the
 473 continued care provided by an approved treatment program or an
 474 approved treatment provider to an impaired practitioner.

475 (2)(1) For professions whose practice acts do not provide
 476 for that do not have impaired practitioner programs provided for
 477 in their practice acts, the department shall, ~~by rule,~~ designate
 478 by rule approved impaired practitioner programs under this
 479 section. The department may adopt rules setting forth
 480 appropriate criteria for approval of treatment providers and
 481 treatment programs. The rules may specify the manner in which
 482 the consultant, retained as provided ~~set forth~~ in subsection (3)
 483 ~~subsection (2),~~ works with the department in intervention; 7
 484 requirements for evaluating and treating a professional and,
 485 ~~requirements~~ for continued care of impaired professionals by
 486 approved treatment providers; requirements for, continued
 487 monitoring by the consultant of the care provided by approved
 488 treatment providers and approved treatment programs regarding
 489 the professionals under their care; 7 and requirements related to
 490 the consultant's expulsion of professionals from the approved
 491 impaired practitioner program.

492 (3)(2)

493 (c)1. The consultant shall assist the probable cause panel
 494 and the department in carrying out the responsibilities of this

495 section. This includes working with department investigators to
 496 determine whether a practitioner is, in fact, impaired.

497 2. The consultant may contract with a school or program to
 498 provide services to a student enrolled for the purpose of
 499 preparing for licensure as a health care practitioner as defined
 500 in this chapter or as a veterinarian under chapter 474 if the
 501 student is allegedly impaired as a result of the misuse or abuse
 502 of alcohol or drugs, or both, or due to a mental or physical
 503 condition. The department is not responsible for paying for the
 504 care provided by approved treatment providers or approved
 505 treatment programs or for consultant services ~~a consultant~~.

506 (4) (3) Before certifying or declining to certify an
 507 application for licensure to the department, each board and
 508 profession within the Division of Medical Quality Assurance may
 509 delegate to its chair or other designee its authority to
 510 determine, ~~before certifying or declining to certify an~~
 511 ~~application for licensure to the department,~~ that an applicant
 512 for licensure under its jurisdiction may be impaired as a result
 513 of the misuse or abuse of alcohol or drugs, or both, or due to a
 514 mental or physical condition that could affect the applicant's
 515 ability to practice with skill and safety. Upon such
 516 determination, the chair or other designee may refer the
 517 applicant to the consultant for an evaluation before the board
 518 certifies or declines to certify his or her application to the
 519 department. If the applicant agrees to be evaluated ~~by the~~
 520 ~~consultant,~~ the department's deadline for approving or denying

521 the application pursuant to s. 120.60(1) is tolled until the
 522 evaluation is completed and the result of the evaluation and
 523 recommendation ~~by the consultant~~ is communicated to the board by
 524 the consultant. If the applicant declines to be evaluated ~~by the~~
 525 ~~consultant~~, the board shall certify or decline to certify the
 526 applicant's application to the department notwithstanding the
 527 lack of an evaluation and recommendation by the consultant.

528 (5)~~(4)~~(a) When ~~Whenever~~ the department receives a written
 529 or oral, legally sufficient complaint alleging that a licensee
 530 under the jurisdiction of the Division of Medical Quality
 531 Assurance within the department is impaired as a result of the
 532 misuse or abuse of alcohol or drugs, or both, or due to a mental
 533 or physical condition which could affect the licensee's ability
 534 to practice with skill and safety, and no complaint against the
 535 licensee other than impairment exists, the reporting of such
 536 information does ~~shall~~ not constitute grounds for discipline
 537 pursuant to s. 456.072 or ~~the corresponding grounds for~~
 538 ~~discipline within~~ the applicable practice act if the probable
 539 cause panel of the appropriate board, or the department when
 540 there is no board, finds:

541 1. The licensee has acknowledged his or her ~~the~~ impairment
 542 ~~problem~~.

543 2. The licensee has voluntarily enrolled in an
 544 appropriate, approved treatment program.

545 3. The licensee has voluntarily withdrawn from practice or
 546 has limited the scope of his or her practice as required by the

547 consultant, in each case, until such time as the panel, or the
 548 department when there is no board, is satisfied the licensee has
 549 successfully completed an approved treatment program.

550 4. The licensee has executed releases for medical records,
 551 authorizing ~~the~~ release to the consultant of all records of
 552 evaluations, diagnoses, and treatment of the licensee, including
 553 records of treatment for emotional or mental conditions, ~~to the~~
 554 ~~consultant~~. The consultant may not ~~shall~~ make ~~no~~ copies or
 555 reports of records that are unrelated to ~~do not regard~~ the issue
 556 of the licensee's impairment and his or her participation in an
 557 approved ~~a~~ treatment program.

558 (c) Inquiries by a licensee or others related to approved
 559 ~~impairment~~ treatment programs which are intended ~~designed~~ to
 560 allow provide information to the licensee and others to obtain
 561 information and which do not indicate that the licensee presents
 562 a danger to the public do ~~shall~~ not constitute a complaint
 563 within the meaning of s. 456.073 and are ~~shall be~~ exempt from
 564 ~~the provisions of~~ this subsection.

565 (e) The probable cause panel, or the department when there
 566 is no board, shall work directly with the consultant, and all
 567 information concerning a practitioner obtained from the
 568 consultant by the panel, or the department when there is no
 569 board, shall remain confidential and exempt from the provisions
 570 of s. 119.07(1), subject to the provisions of subsections (7)
 571 and (8) ~~subsections (6) and (7)~~.

572 (f) A finding of probable cause may ~~shall~~ not be made if,

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573 based upon information it receives from the consultant and the
 574 department, as long as the panel, or the department when there
 575 is no board, is satisfied, ~~based upon information it receives~~
 576 ~~from the consultant and the department,~~ that the licensee is
 577 progressing satisfactorily in an approved ~~impaired practitioner~~
 578 treatment program and it is determined that no other complaint
 579 has been made against the licensee ~~exists~~.

580 (7) (6) (a) Upon request, an approved treatment provider
 581 shall, ~~upon request,~~ disclose to the consultant all information
 582 in his or her ~~its~~ possession regarding the issue of a licensee's
 583 impairment and the licensee's participation in the approved
 584 treatment program. All information obtained by the consultant
 585 and department pursuant to this section is confidential and
 586 exempt from the provisions of s. 119.07(1), subject to the
 587 provisions of this subsection and subsection (8) ~~(7)~~. Failure to
 588 provide such information to the consultant is grounds for
 589 withdrawal of approval of the approved treatment ~~such program or~~
 590 provider.

591 (b) If, after consultation with the approved treatment
 592 provider, in the opinion of the consultant believes that, ~~after~~
 593 ~~consultation with the treatment provider,~~ an impaired licensee
 594 has not progressed satisfactorily in an approved ~~a~~ treatment
 595 program, all information regarding the issue of a licensee's
 596 impairment and participation in the approved ~~a~~ treatment program
 597 which is in the consultant's possession shall be disclosed to
 598 the department. Such disclosure constitutes ~~shall constitute~~ a

599 complaint pursuant to the general provisions of s. 456.073.
 600 ~~Whenever the consultant concludes that impairment affects a~~
 601 ~~licensee's practice and constitutes an immediate, serious danger~~
 602 ~~to the public health, safety, or welfare, that conclusion shall~~
 603 ~~be communicated to the State Surgeon General.~~

604 (9)~~(8)~~(a) A consultant retained pursuant to subsection (3)
 605 ~~subsection (2)~~, a consultant's officers and employees, and those
 606 acting at the direction of the consultant for the limited
 607 purpose of an emergency intervention on behalf of a licensee or
 608 student as described in subsection (3) ~~subsection (2)~~ when the
 609 consultant is unable to perform such intervention shall be
 610 considered agents of the department for purposes of s. 768.28
 611 while acting within the scope of the consultant's duties under
 612 the contract with the department if the contract complies with
 613 the requirements of this section. The contract must require
 614 that:

- 615 1. The consultant indemnify the state for any liabilities
 616 incurred up to the limits set out in chapter 768.
- 617 2. The consultant establish a quality assurance program to
 618 monitor services delivered under the contract.
- 619 3. The consultant's quality assurance program, treatment,
 620 and monitoring records be evaluated quarterly.
- 621 4. The consultant's quality assurance program be subject
 622 to review and approval by the department.
- 623 5. The consultant operate under policies and procedures
 624 approved by the department.

625 6. The consultant provide to the department for approval a
 626 policy and procedure manual that comports with all statutes,
 627 rules, and contract provisions approved by the department.

628 7. The department be entitled to review the records
 629 relating to the consultant's performance under the contract for
 630 the purpose of management audits, financial audits, or program
 631 evaluation.

632 8. All performance measures and standards be subject to
 633 verification and approval by the department.

634 9. The department be entitled to terminate the contract
 635 with the consultant for noncompliance with the contract.

636 (b) In accordance with s. 284.385, the Department of
 637 Financial Services shall defend any claim, suit, action, or
 638 proceeding, including a claim, suit, action, or proceeding for
 639 injunctive, affirmative, or declaratory relief, against the
 640 consultant, the consultant's officers or employees, or those
 641 acting at the direction of the consultant for the limited
 642 purpose of an emergency intervention on behalf of a licensee or
 643 student as described in subsection (3) ~~subsection (2)~~ when the
 644 consultant is unable to perform such intervention, which claim,
 645 suit, action, or proceeding is brought as a result of an act or
 646 omission by any of the consultant's officers and employees and
 647 those acting under the direction of the consultant for the
 648 limited purpose of an emergency intervention on behalf of the
 649 licensee or student when the consultant is unable to perform
 650 such intervention, if the act or omission arises out of and is

651 in the scope of the consultant's duties under its contract with
 652 the department.

653 (c) If the consultant retained pursuant to subsection (3)
 654 ~~subsection (2)~~ is retained by any other state agency, and if the
 655 contract between such state agency and the consultant complies
 656 with the requirements of this section, the consultant, the
 657 consultant's officers and employees, and those acting under the
 658 direction of the consultant for the limited purpose of an
 659 emergency intervention on behalf of a licensee or student as
 660 described in subsection (3) ~~subsection (2)~~ when the consultant
 661 is unable to perform such intervention shall be considered
 662 agents of the state for the purposes of this section while
 663 acting within the scope of and pursuant to guidelines
 664 established in the contract between such state agency and the
 665 consultant.

666 ~~(10)(9)~~ An impaired practitioner consultant is the
 667 official custodian of records relating to the referral of an
 668 impaired licensee or applicant to that consultant and any other
 669 interaction between the licensee or applicant and the
 670 consultant. The consultant may disclose to the impaired licensee
 671 or applicant or his or her designee any information that is
 672 disclosed to or obtained by the consultant or that is
 673 confidential under paragraph (7)(a) ~~paragraph (6)(a)~~, but only
 674 to the extent that it is necessary to do so to carry out the
 675 consultant's duties under this section. The department, and any
 676 other entity that enters into a contract with the consultant to

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677 receive the services of the consultant, has direct
678 administrative control over the consultant to the extent
679 necessary to receive disclosures from the consultant as allowed
680 by federal law. If a disciplinary proceeding is pending, an
681 impaired licensee may obtain such information from the
682 department under s. 456.073.

683 Section 9. Subsection (3) of section 457.107, Florida
684 Statutes, is amended to read:

685 457.107 Renewal of licenses; continuing education.—

686 (3) The board shall ~~by rule~~ prescribe by rule continuing
687 education requirements of up to, ~~not to exceed~~ 30 hours
688 biennially, as a condition for renewal of a license. All
689 education programs that contribute to the advancement,
690 extension, or enhancement of professional skills and knowledge
691 related to the practice of acupuncture, whether conducted by a
692 nonprofit or profitmaking entity, are eligible for approval. The
693 continuing professional education requirements must be in
694 acupuncture or oriental medicine subjects, including, but not
695 limited to, anatomy, biological sciences, adjunctive therapies,
696 sanitation and sterilization, emergency protocols, and diseases.
697 The board may ~~shall have the authority to~~ set a fee of up to,
698 ~~not to exceed~~ \$100, for each continuing education provider. The
699 licensee shall retain in his or her records the certificates of
700 completion of continuing professional education requirements ~~to~~
701 ~~prove compliance with this subsection. The board may request~~
702 ~~such documentation without cause from applicants who are~~

703 ~~selected at random.~~ All national and state acupuncture and
 704 oriental medicine organizations and acupuncture and oriental
 705 medicine schools are approved to provide continuing professional
 706 education in accordance with this subsection.

707 Section 10. Paragraph (e) of subsection (4) of section
 708 458.347, Florida Statutes, is amended to read:

709 458.347 Physician assistants.—

710 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

711 (e) A supervisory physician may delegate to a fully
 712 licensed physician assistant the authority to prescribe or
 713 dispense any medication used in the supervisory physician's
 714 practice unless such medication is listed on the formulary
 715 created pursuant to paragraph (f). A fully licensed physician
 716 assistant may only prescribe or dispense such medication under
 717 the following circumstances:

718 1. A physician assistant must clearly identify to the
 719 patient that he or she is a physician assistant and—
 720 ~~Furthermore, the physician assistant must~~ inform the patient
 721 that the patient has the right to see the physician before a
 722 ~~prior to any prescription is being~~ prescribed or dispensed by
 723 the physician assistant.

724 2. The supervisory physician must notify the department of
 725 his or her intent to delegate, on a department-approved form,
 726 before delegating such authority and ~~notify the department~~ of
 727 any change in prescriptive privileges of the physician
 728 assistant. Authority to dispense may be delegated only by a

729 supervising physician who is registered as a dispensing
 730 practitioner in compliance with s. 465.0276.

731 3. The physician assistant must complete ~~file with the~~
 732 ~~department a signed affidavit that he or she has completed a~~
 733 minimum of 10 continuing medical education hours in the
 734 specialty practice in which the physician assistant has
 735 prescriptive privileges with each licensure renewal ~~application.~~

736 4. The department may issue a prescriber number to the
 737 physician assistant granting authority for the prescribing of
 738 medicinal drugs authorized within this paragraph upon completion
 739 of the ~~foregoing~~ requirements of this paragraph. The physician
 740 assistant ~~is shall~~ not be required to independently register
 741 pursuant to s. 465.0276.

742 5. The prescription must be written in a form that
 743 complies with chapter 499 and, in addition to the supervisory
 744 physician's name, address, and telephone number, must contain,
 745 ~~in addition to the supervisory physician's name, address, and~~
 746 ~~telephone number,~~ the physician assistant's prescriber number.
 747 Unless it is a drug or drug sample dispensed by the physician
 748 assistant, the prescription must be filled in a pharmacy
 749 permitted under chapter 465 and must be dispensed in that
 750 pharmacy by a pharmacist licensed under chapter 465. The
 751 inclusion ~~appearance~~ of the prescriber number creates a
 752 presumption that the physician assistant is authorized to
 753 prescribe the medicinal drug and the prescription is valid.

754 6. The physician assistant must note the prescription or

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755 dispensing of medication in the appropriate medical record.

756 Section 11. Subsection (3) of section 463.007, Florida
757 Statutes, is amended to read:

758 463.007 Renewal of license; continuing education.—

759 (3) As a condition of license renewal, a licensee must
760 ~~Unless otherwise provided by law, the board shall require~~
761 ~~licensees to periodically demonstrate his or her their~~
762 ~~professional competence, as a condition of renewal of a license,~~
763 by completing up to 30 hours of continuing education during the
764 2-year period preceding license renewal. For certified
765 optometrists, the 30-hour continuing education requirement
766 includes ~~shall include~~ 6 or more hours of approved transcript-
767 quality coursework in ocular and systemic pharmacology and the
768 diagnosis, treatment, and management of ocular and systemic
769 conditions and diseases during the 2-year period preceding
770 application for license renewal.

771 Section 12. Subsection (7) of section 464.203, Florida
772 Statutes, is amended to read:

773 464.203 Certified nursing assistants; certification
774 requirement.—

775 (7) A certified nursing assistant shall complete 24 ~~12~~
776 hours of inservice training during each biennium ~~calendar year~~.
777 The certified nursing assistant shall maintain ~~be responsible~~
778 ~~for maintaining~~ documentation demonstrating compliance with
779 these provisions. ~~The Council on Certified Nursing Assistants,~~
780 ~~in accordance with s. 464.2085(2)(b), shall propose rules to~~

781 ~~implement this subsection.~~

782 Section 13. Section 464.2085, Florida Statutes, is
 783 repealed.

784 Section 14. Paragraph (b) of subsection (1) and subsection
 785 (3) of section 465.0276, Florida Statutes, are amended to read:

786 465.0276 Dispensing practitioner.—

787 (1)

788 (b) A practitioner registered under this section may not
 789 dispense a controlled substance listed in Schedule II or
 790 Schedule III as provided in s. 893.03. This paragraph does not
 791 apply to:

792 1. The dispensing of complimentary packages of medicinal
 793 drugs which are labeled as a drug sample or complimentary drug
 794 as defined in s. 499.028 to the practitioner's own patients in
 795 the regular course of her or his practice without the payment of
 796 a fee or remuneration of any kind, whether direct or indirect,
 797 as provided in subsection (4) ~~subsection (5)~~.

798 2. The dispensing of controlled substances in the health
 799 care system of the Department of Corrections.

800 3. The dispensing of a controlled substance listed in
 801 Schedule II or Schedule III in connection with the performance
 802 of a surgical procedure. The amount dispensed pursuant to the
 803 subparagraph may not exceed a 14-day supply. This exception does
 804 not allow for the dispensing of a controlled substance listed in
 805 Schedule II or Schedule III more than 14 days after the
 806 performance of the surgical procedure. For purposes of this

807 | subparagraph, the term "surgical procedure" means any procedure
 808 | in any setting which involves, or reasonably should involve:

809 | a. Perioperative medication and sedation that allows the
 810 | patient to tolerate unpleasant procedures while maintaining
 811 | adequate cardiorespiratory function and the ability to respond
 812 | purposefully to verbal or tactile stimulation and makes intra-
 813 | and postoperative monitoring necessary; or

814 | b. The use of general anesthesia or major conduction
 815 | anesthesia and preoperative sedation.

816 | 4. The dispensing of a controlled substance listed in
 817 | Schedule II or Schedule III pursuant to an approved clinical
 818 | trial. For purposes of this subparagraph, the term "approved
 819 | clinical trial" means a clinical research study or clinical
 820 | investigation that, in whole or in part, is state or federally
 821 | funded or is conducted under an investigational new drug
 822 | application that is reviewed by the United States Food and Drug
 823 | Administration.

824 | 5. The dispensing of methadone in a facility licensed
 825 | under s. 397.427 where medication-assisted treatment for opiate
 826 | addiction is provided.

827 | 6. The dispensing of a controlled substance listed in
 828 | Schedule II or Schedule III to a patient of a facility licensed
 829 | under part IV of chapter 400.

830 | ~~(3) The department shall inspect any facility where a~~
 831 | ~~practitioner dispenses medicinal drugs pursuant to subsection~~
 832 | ~~(2) in the same manner and with the same frequency as it~~

833 ~~inspects pharmacies for the purpose of determining whether the~~
 834 ~~practitioner is in compliance with all statutes and rules~~
 835 ~~applicable to her or his dispensing practice.~~

836 Section 15. Subsection (3) of section 466.0135, Florida
 837 Statutes, is amended to read:

838 466.0135 Continuing education; dentists.—

839 (3) A ~~In applying for license renewal, the dentist shall~~
 840 complete ~~submit a sworn affidavit, on a form acceptable to the~~
 841 ~~department, attesting that she or he has completed the required~~
 842 continuing education as provided ~~required in this section in~~
 843 ~~accordance with the guidelines and provisions of this section~~
 844 ~~and listing the date, location, sponsor, subject matter, and~~
 845 ~~hours of completed continuing education courses. An~~ The
 846 applicant shall retain in her or his records any ~~such~~ receipts,
 847 vouchers, or certificates ~~as may be necessary to document~~
 848 completion of such ~~the~~ continuing education courses ~~listed in~~
 849 ~~accordance with this subsection. With cause, the board may~~
 850 ~~request such documentation by the applicant, and the board may~~
 851 ~~request such documentation from applicants selected at random~~
 852 ~~without cause.~~

853 Section 16. Section 466.014, Florida Statutes, is amended
 854 to read:

855 466.014 Continuing education; dental hygienists.—In
 856 addition to the other requirements for relicensure for dental
 857 hygienists set out in this chapter ~~act~~, the board shall require
 858 each licensed dental hygienist to complete at least ~~not less~~

859 | ~~than~~ 24 hours but not ~~or~~ more than 36 hours of continuing
 860 | professional education in dental subjects, biennially, in
 861 | programs prescribed or approved by the board or in equivalent
 862 | programs of continuing education. Programs of continuing
 863 | education approved by the board are ~~shall be~~ programs of
 864 | learning which, in the opinion of the board, contribute directly
 865 | to the dental education of the dental hygienist. The board shall
 866 | adopt rules and guidelines to administer and enforce the
 867 | ~~provisions of this section. In applying for license renewal, the~~
 868 | ~~dental hygienist shall submit a sworn affidavit, on a form~~
 869 | ~~acceptable to the department, attesting that she or he has~~
 870 | ~~completed the continuing education required in this section in~~
 871 | ~~accordance with the guidelines and provisions of this section~~
 872 | ~~and listing the date, location, sponsor, subject matter, and~~
 873 | ~~hours of completed continuing education courses. An~~ The
 874 | applicant shall retain in her or his records any ~~such~~ receipts,
 875 | vouchers, or certificates ~~as may be necessary to document~~
 876 | completion of such ~~the~~ continuing education courses ~~listed in~~
 877 | ~~accordance with this section. With cause, the board may request~~
 878 | ~~such documentation by the applicant, and the board may request~~
 879 | ~~such documentation from applicants selected at random without~~
 880 | ~~cause.~~ Compliance with the continuing education requirements is
 881 | ~~shall be~~ mandatory for issuance of the renewal certificate. The
 882 | board may ~~shall~~ have the authority to excuse licensees, as a
 883 | group or as individuals, from all or part of the continuing
 884 | educational requirements if, ~~or any part thereof, in the event~~

885 an unusual circumstance, emergency, or hardship has prevented
 886 compliance with this section.

887 Section 17. Subsection (5) of section 466.032, Florida
 888 Statutes, is amended to read:

889 466.032 Registration.—

890 (5) A ~~The~~ dental laboratory owner or at least one employee
 891 of any dental laboratory renewing registration on or after July
 892 1, 2010, shall complete 18 hours of continuing education
 893 biennially. Programs of continuing education must ~~shall~~ be
 894 programs of learning that contribute directly to the education
 895 of the dental technician and may include, but are not limited
 896 to, attendance at lectures, study clubs, college courses, or
 897 scientific sessions of conventions and research.

898 (a) The aim of continuing education for dental technicians
 899 is to improve dental health care delivery to the public as such
 900 is impacted through the design, manufacture, and use of
 901 artificial human oral prosthetics and related restorative
 902 appliances.

903 (b) Continuing education courses shall address one or more
 904 of the following areas of professional development, including,
 905 but not limited to:

906 1. Laboratory and technological subjects, including, but
 907 not limited to, laboratory techniques and procedures, materials,
 908 and equipment; and

909 2. Subjects pertinent to oral health, infection control,
 910 and safety.

911 (c) Programs that meet ~~meeting~~ the general requirements of
 912 continuing education may be developed and offered to dental
 913 technicians by the Florida Dental Laboratory Association and the
 914 Florida Dental Association. Other organizations, schools, or
 915 agencies may also be approved to develop and offer continuing
 916 education in accordance with specific criteria established by
 917 the department.

918 ~~(d) Any dental laboratory renewing a registration on or~~
 919 ~~after July 1, 2010, shall submit a sworn affidavit, on a form~~
 920 ~~approved by the department, attesting that either the dental~~
 921 ~~laboratory owner or one dental technician employed by the~~
 922 ~~registered dental laboratory has completed the continuing~~
 923 ~~education required in this subsection in accordance with the~~
 924 ~~guidelines and provisions of this subsection and listing the~~
 925 ~~date, location, sponsor, subject matter, and hours of completed~~
 926 ~~continuing education courses. The dental laboratory shall retain~~
 927 ~~in its records such receipts, vouchers, or certificates as may~~
 928 ~~be necessary to document completion of the continuing education~~
 929 ~~courses listed in accordance with this subsection. With cause,~~
 930 ~~the department may request that the documentation be provided by~~
 931 ~~the applicant. The department may also request the documentation~~
 932 ~~from applicants selected at random without cause.~~

933 (d)(e)1. This subsection does not apply to a dental
 934 laboratory that is physically located within a dental practice
 935 operated by a dentist licensed under this chapter.

936 2. A dental laboratory in another state or country which

937 provides service to a dentist licensed under this chapter is not
 938 required to register with the state and may continue to provide
 939 services to such dentist with a proper prescription. However, a
 940 dental laboratory in another state or country, ~~however,~~ may
 941 voluntarily comply with this subsection.

942 Section 18. Section 468.1201, Florida Statutes, is
 943 repealed.

944 Section 19. Paragraph (a) of subsection (3), subsections
 945 (4) and (5), paragraphs (a) and (e) of subsection (6), and
 946 subsection (7) of section 483.901, Florida Statutes, are
 947 amended, and paragraph (k) is added to subsection (6) of that
 948 section, to read:

949 483.901 Medical physicists; definitions; licensure.—

950 (3) DEFINITIONS.—As used in this section, the term:

951 ~~(a) "Council" means the Advisory Council of Medical~~
 952 ~~Physicists in the Department of Health.~~

953 ~~(4) COUNCIL. The Advisory Council of Medical Physicists is~~
 954 ~~created in the Department of Health to advise the department in~~
 955 ~~regulating the practice of medical physics in this state.~~

956 ~~(a) The council shall be composed of nine members~~
 957 ~~appointed by the State Surgeon General as follows:~~

958 ~~1. A licensed medical physicist who specializes in~~
 959 ~~diagnostic radiological physics.~~

960 ~~2. A licensed medical physicist who specializes in~~
 961 ~~therapeutic radiological physics.~~

962 ~~3. A licensed medical physicist who specializes in medical~~

963 ~~nuclear radiological physies.~~

964 ~~4. A physician who is board certified by the American~~
 965 ~~Board of Radiology or its equivalent.~~

966 ~~5. A physician who is board certified by the American~~
 967 ~~Osteopathic Board of Radiology or its equivalent.~~

968 ~~6. A chiropractic physician who practices radiology.~~

969 ~~7. Three consumer members who are not, and have never~~
 970 ~~been, licensed as a medical physicist or licensed in any closely~~
 971 ~~related profession.~~

972 ~~(b) The State Surgeon General shall appoint the medical~~
 973 ~~physicist members of the council from a list of candidates who~~
 974 ~~are licensed to practice medical physies.~~

975 ~~(c) The State Surgeon General shall appoint the physician~~
 976 ~~members of the council from a list of candidates who are~~
 977 ~~licensed to practice medicine in this state and are board~~
 978 ~~certified in diagnostic radiology, therapeutic radiology, or~~
 979 ~~radiation oncology.~~

980 ~~(d) The State Surgeon General shall appoint the public~~
 981 ~~members of the council.~~

982 ~~(e) As the term of each member expires, the State Surgeon~~
 983 ~~General shall appoint the successor for a term of 4 years. A~~
 984 ~~member shall serve until the member's successor is appointed,~~
 985 ~~unless physically unable to do so.~~

986 ~~(f) An individual is ineligible to serve more than two~~
 987 ~~full consecutive 4 year terms.~~

988 ~~(g) If a vacancy on the council occurs, the State Surgeon~~

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989 ~~General shall appoint a member to serve for a 4-year term.~~

990 ~~(h) A council member must be a United States citizen and~~
 991 ~~must have been a resident of this state for 2 consecutive years~~
 992 ~~immediately before being appointed.~~

993 ~~1. A member of the council who is a medical physicist must~~
 994 ~~have practiced for at least 6 years before being appointed or be~~
 995 ~~board certified for the specialty in which the member practices.~~

996 ~~2. A member of the council who is a physician must be~~
 997 ~~licensed to practice medicine in this state and must have~~
 998 ~~practiced diagnostic radiology or radiation oncology in this~~
 999 ~~state for at least 2 years before being appointed.~~

1000 ~~3. The public members of the council must not have a~~
 1001 ~~financial interest in any endeavor related to the practice of~~
 1002 ~~medical physics.~~

1003 ~~(i) A council member may be removed from the council if~~
 1004 ~~the member:~~

1005 ~~1. Did not have the required qualifications at the time of~~
 1006 ~~appointment;~~

1007 ~~2. Does not maintain the required qualifications while~~
 1008 ~~serving on the council; or~~

1009 ~~3. Fails to attend the regularly scheduled council~~
 1010 ~~meetings in a calendar year as required by s. 456.011.~~

1011 ~~(j) Members of the council may not receive compensation~~
 1012 ~~for their services; however, they are entitled to reimbursement,~~
 1013 ~~from funds deposited in the Medical Quality Assurance Trust~~
 1014 ~~Fund, for necessary travel expenses as specified in s. 112.061~~

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1015 ~~for each day they engage in the business of the council.~~
 1016 ~~(k) At the first regularly scheduled meeting of each~~
 1017 ~~calendar year, the council shall elect a presiding officer and~~
 1018 ~~an assistant presiding officer from among its members. The~~
 1019 ~~council shall meet at least once each year and at other times in~~
 1020 ~~accordance with department requirements.~~
 1021 ~~(l) The department shall provide administrative support to~~
 1022 ~~the council for all licensing activities.~~
 1023 ~~(m) The council may conduct its meetings electronically.~~
 1024 ~~(5) POWERS OF COUNCIL. The council shall:~~
 1025 ~~(a) Recommend rules to administer this section.~~
 1026 ~~(b) Recommend practice standards for the practice of~~
 1027 ~~medical physics which are consistent with the Guidelines for~~
 1028 ~~Ethical Practice for Medical Physicists prepared by the American~~
 1029 ~~Association of Physicists in Medicine and disciplinary~~
 1030 ~~guidelines adopted under s. 456.079.~~
 1031 ~~(c) Develop and recommend continuing education~~
 1032 ~~requirements for licensed medical physicists.~~
 1033 (4)(6) LICENSE REQUIRED.—An individual may not engage in
 1034 the practice of medical physics, including the specialties of
 1035 diagnostic radiological physics, therapeutic radiological
 1036 physics, medical nuclear radiological physics, or medical health
 1037 physics, without a license issued by the department for the
 1038 appropriate specialty.
 1039 (a) The department shall adopt rules to administer this
 1040 section which specify license application and renewal fees,

1041 continuing education requirements, and standards for practicing
 1042 medical physics. ~~The council shall recommend to the department~~
 1043 ~~continuing education requirements that shall be a condition of~~
 1044 ~~license renewal.~~ The department shall require a minimum of 24
 1045 hours per biennium of continuing education offered by an
 1046 organization ~~recommended by the council and~~ approved by the
 1047 department. The department, ~~upon recommendation of the council,~~
 1048 may adopt rules to specify continuing education requirements for
 1049 persons who hold a license in more than one specialty.

1050 (e) Upon ~~On~~ receipt of an application and fee as specified
 1051 in this section, the department may issue a license to practice
 1052 medical physics in this state ~~on or after October 1, 1997,~~ to a
 1053 person who is board certified in the medical physics specialty
 1054 in which the applicant applies to practice by the American Board
 1055 of Radiology for diagnostic radiological physics, therapeutic
 1056 radiological physics, or medical nuclear radiological physics;
 1057 by the American Board of Medical Physics for diagnostic
 1058 radiological physics, therapeutic radiological physics, or
 1059 medical nuclear radiological physics; or by the American Board
 1060 of Health Physics or an equivalent certifying body approved by
 1061 the department.

1062 (k) Upon proof of a completed residency program and
 1063 receipt of the fee set forth by rule, the department may issue a
 1064 temporary license for no more than 1 year. The department may
 1065 adopt by rule requirements for temporary licensure and renewal
 1066 of temporary licenses.

1067 (5)~~(7)~~ FEES.—The fee for the initial license application
 1068 shall be \$500 and is nonrefundable. The fee for license renewal
 1069 may not be more than \$500. These fees may cover only the costs
 1070 incurred by the department ~~and the council~~ to administer this
 1071 section. By July 1 each year, the department shall determine
 1072 ~~advise the council~~ if the fees are insufficient to administer
 1073 this section.

1074 Section 20. Subsection (2) of section 484.047, Florida
 1075 Statutes, is amended to read:

1076 484.047 Renewal of license.—

1077 (2) In addition to the other requirements for renewal
 1078 provided in this section and by the board, the department shall
 1079 renew a license upon receipt of the renewal application and, the
 1080 renewal fee, ~~and a written statement affirming compliance with~~
 1081 ~~all other requirements set forth in this section and by the~~
 1082 ~~board.~~ A licensee must maintain, if applicable, a certificate
 1083 from a manufacturer or independent testing agent certifying that
 1084 the testing room meets the requirements of s. 484.0501(6) and,
 1085 if applicable, a certificate from a manufacturer or independent
 1086 testing agent stating that all audiometric testing equipment
 1087 used by the licensee has been calibrated acoustically to
 1088 American National Standards Institute standards on an annual
 1089 ~~basis acoustically to American National Standards Institute~~
 1090 ~~standard specifications.~~ Possession of any applicable
 1091 certificate is ~~the certificates shall be~~ a prerequisite to
 1092 renewal.

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1093 Section 21. Subsections (1) and (4) of section 486.109,
 1094 Florida Statutes, are amended to read:

1095 486.109 Continuing education.—

1096 (1) The board shall require licensees to ~~periodically~~
 1097 demonstrate their professional competence as a condition of
 1098 renewal of a license by completing 24 hours of continuing
 1099 education biennially.

1100 (4) Each licensee shall maintain ~~be responsible for~~
 1101 ~~maintaining~~ sufficient records ~~in a format as determined by rule~~
 1102 ~~which shall be subject to a random audit by the department to~~
 1103 demonstrate ~~assure~~ compliance with this section.

1104 Section 22. Paragraph (e) of subsection (1) of section
 1105 458.331, Florida Statutes, is amended to read:

1106 458.331 Grounds for disciplinary action; action by the
 1107 board and department.—

1108 (1) The following acts constitute grounds for denial of a
 1109 license or disciplinary action, as specified in s. 456.072(2):

1110 (e) Failing to report to the department any person who the
 1111 licensee knows is in violation of this chapter or of the rules
 1112 of the department or the board. A treatment provider approved
 1113 pursuant to s. 456.076 shall provide the department or
 1114 consultant with information in accordance with the requirements
 1115 of s. 456.076(5), (6), (7), (8), and (10) ~~s. 456.076(4), (5),~~
 1116 ~~(6), (7), and (9)~~.

1117 Section 23. Paragraph (e) of subsection (1) of section
 1118 459.015, Florida Statutes, is amended to read:

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1119 459.015 Grounds for disciplinary action; action by the
 1120 board and department.-

1121 (1) The following acts constitute grounds for denial of a
 1122 license or disciplinary action, as specified in s. 456.072(2):

1123 (e) Failing to report to the department or the
 1124 department's impaired professional consultant any person who the
 1125 licensee or certificateholder knows is in violation of this
 1126 chapter or of the rules of the department or the board. A
 1127 treatment provider, approved pursuant to s. 456.076, shall
 1128 provide the department or consultant with information in
 1129 accordance with the requirements of s. 456.076(5), (6), (7),
 1130 (8), and (10) ~~s. 456.076(4), (5), (6), (7), and (9)~~.

1131 Section 24. Paragraph (a) of subsection (15) of section
 1132 499.028, Florida Statutes, is amended to read:

1133 499.028 Drug samples or complimentary drugs; starter
 1134 packs; permits to distribute.-

1135 (15) A person may not possess a prescription drug sample
 1136 unless:

1137 (a) The drug sample was prescribed to her or him as
 1138 evidenced by the label required in s. 465.0276(4) ~~s.~~
 1139 ~~465.0276(5)~~.

1140 Section 25. Paragraph (g) of subsection (3) of section
 1141 921.0022, Florida Statutes, is amended to read:

1142 921.0022 Criminal Punishment Code; offense severity
 1143 ranking chart.-

1144 (3) OFFENSE SEVERITY RANKING CHART

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1145	(g) LEVEL 7		
1146			
	Florida	Felony	
	Statute	Degree	Description
1147	316.027(2)(c)	1st	Accident involving death, failure to stop; leaving scene.
1148	316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
1149	316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
1150	327.35(3)(c)2.	3rd	Vessel BUI resulting

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1151	402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
			in serious bodily injury.
1152	409.920 (2)(b)1.a.	3rd	Medicaid provider fraud; \$10,000 or less.
1153	409.920 (2)(b)1.b.	2nd	Medicaid provider fraud; more than \$10,000, but less than \$50,000.
1154	456.065(2)	3rd	Practicing a health care profession without a license.
1155	456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
1156			

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1157	458.327(1)	3rd	Practicing medicine without a license.
1158	459.013(1)	3rd	Practicing osteopathic medicine without a license.
1159	460.411(1)	3rd	Practicing chiropractic medicine without a license.
1160	461.012(1)	3rd	Practicing podiatric medicine without a license.
1161	462.17	3rd	Practicing naturopathy without a license.
1162	463.015(1)	3rd	Practicing optometry without a license.
1163	464.016(1)	3rd	Practicing nursing without a license.
1164	465.015(2)	3rd	Practicing pharmacy without a license.
	466.026(1)	3rd	Practicing dentistry or

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			dental hygiene without a license.
1165	467.201	3rd	Practicing midwifery without a license.
1166	468.366	3rd	Delivering respiratory care services without a license.
1167	483.828 (1)	3rd	Practicing as clinical laboratory personnel without a license.
1168	<u>483.901 (7)</u> 483.901 (9)	3rd	Practicing medical physics without a license.
1169	484.013 (1) (c)	3rd	Preparing or dispensing optical devices without a prescription.
1170	484.053	3rd	Dispensing hearing aids without a license.
1171	494.0018 (2)	1st	Conviction of any violation of chapter 494 in which the total money

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1172	560.123(8)(b)1.	3rd	and property unlawfully obtained exceeded \$50,000 and there were five or more victims. Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business.
1173	560.125(5)(a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
1174	655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
1175	775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew

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1176	775.21 (10) (b)	3rd	<p>driver license or identification card; other registration violations.</p> <p>Sexual predator working where children regularly congregate.</p>
1177	775.21 (10) (g)	3rd	<p>Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.</p>
1178	782.051 (3)	2nd	<p>Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.</p>
1179	782.07 (1)	2nd	<p>Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).</p>
1180			

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1181	782.071	2nd	Killing of a human being or unborn child by the operation of a motor vehicle in a reckless manner (vehicular homicide).
1182	782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
1183	784.045 (1) (a) 1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
1184	784.045 (1) (a) 2.	2nd	Aggravated battery; using deadly weapon.
1185	784.045 (1) (b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
	784.048 (4)	3rd	Aggravated stalking; violation of injunction or court order.

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1186	784.048 (7)	3rd	Aggravated stalking; violation of court order.
1187	784.07 (2) (d)	1st	Aggravated battery on law enforcement officer.
1188	784.074 (1) (a)	1st	Aggravated battery on sexually violent predators facility staff.
1189	784.08 (2) (a)	1st	Aggravated battery on a person 65 years of age or older.
1190	784.081 (1)	1st	Aggravated battery on specified official or employee.
1191	784.082 (1)	1st	Aggravated battery by detained person on visitor or other detainee.
1192	784.083 (1)	1st	Aggravated battery on code inspector.

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1193	787.06(3)(a)2.	1st	Human trafficking using coercion for labor and services of an adult.
1194	787.06(3)(e)2.	1st	Human trafficking using coercion for labor and services by the transfer or transport of an adult from outside Florida to within the state.
1195	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
1196	790.16(1)	1st	Discharge of a machine gun under specified circumstances.
1197	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
1198	790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or

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1199			attempting to commit a felony.
	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
1200			
	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
1201			
	790.23	1st,PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
1202			
	794.08(4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
1203			

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1204	796.05 (1)	1st	Live on earnings of a prostitute; 2nd offense.
1205	796.05 (1)	1st	Live on earnings of a prostitute; 3rd and subsequent offense.
1206	800.04 (5) (c) 1.	2nd	Lewd or lascivious molestation; victim younger than 12 years of age; offender younger than 18 years of age.
1207	800.04 (5) (c) 2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years of age; offender 18 years of age or older.
1207	800.04 (5) (e)	1st	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years; offender 18 years or older; prior conviction

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			for specified sex offense.
1208	806.01 (2)	2nd	Maliciously damage structure by fire or explosive.
1209	810.02 (3) (a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
1210	810.02 (3) (b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
1211	810.02 (3) (d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
1212	810.02 (3) (e)	2nd	Burglary of authorized emergency vehicle.
1213	812.014 (2) (a) 1.	1st	Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing

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			other property damage; 1st degree grand theft.
1214	812.014 (2) (b) 2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
1215	812.014 (2) (b) 3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
1216	812.014 (2) (b) 4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
1217	812.0145 (2) (a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
1218	812.019 (2)	1st	Stolen property; initiates, organizes,

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			plans, etc., the theft of property and traffics in stolen property.
1219	812.131 (2) (a)	2nd	Robbery by sudden snatching.
1220	812.133 (2) (b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
1221	817.034 (4) (a) 1.	1st	Communications fraud, value greater than \$50,000.
1222	817.234 (8) (a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
1223	817.234 (9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
1224	817.234 (11) (c)	1st	Insurance fraud; property value

F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

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1229	827.03 (2) (b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
1230	827.04 (3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
1231	837.05 (2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
1232	838.015	2nd	Bribery.
1233	838.016	2nd	Unlawful compensation or reward for official behavior.
1234	838.021 (3) (a)	2nd	Unlawful harm to a public servant.
1235	838.22	2nd	Bid tampering.
1236	843.0855 (2)	3rd	Impersonation of a public officer or employee.

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1237	843.0855 (3)	3rd	Unlawful simulation of legal process.
1238	843.0855 (4)	3rd	Intimidation of a public officer or employee.
1239	847.0135 (3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
1240	847.0135 (4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
1241	872.06	2nd	Abuse of a dead human body.
1242	874.05 (2) (b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
1243	874.10	1st, PBL	Knowingly initiates, organizes, plans, finances, directs,

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1244	893.13(1)(c)1.	1st	manages, or supervises criminal gang-related activity.
1245	893.13(1)(e)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center. Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a

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			specified business site.
1246	893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
1247	893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
1248	893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
1249	893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
1250	893.135 (1)(c)2.a.	1st	Trafficking in hydrocodone, 14 grams or more, less than 28 grams.
1251	893.135 (1)(c)2.b.	1st	Trafficking in hydrocodone, 28 grams or more, less than

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1252			50 grams.
	893.135 (1)(c)3.a.	1st	Trafficking in oxycodone, 7 grams or more, less than 14 grams.
1253			
	893.135 (1)(c)3.b.	1st	Trafficking in oxycodone, 14 grams or more, less than 25 grams.
1254			
	893.135(1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
1255			
	893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
1256			
	893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
1257			
	893.135	1st	Trafficking in flunitrazepam, 4

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1258	(1) (g) 1.a.	1st	grams or more, less than 14 grams.
1259	893.135 (1) (h) 1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
1260	893.135 (1) (j) 1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
1261	893.135 (1) (k) 2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
1262	893.1351 (2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
1262	896.101 (5) (a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.

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1263	896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
1264	943.0435(4)(c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
1265	943.0435(8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
1266	943.0435(9)(a)	3rd	Sexual offender; failure to comply with reporting requirements.
1267	943.0435(13)	3rd	Failure to report or providing false information about a

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1268	943.0435(14)	3rd	<p>sexual offender; harbor or conceal a sexual offender.</p> <p>Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.</p>
1269	944.607(9)	3rd	<p>Sexual offender; failure to comply with reporting requirements.</p>
1270	944.607(10)(a)	3rd	<p>Sexual offender; failure to submit to the taking of a digitized photograph.</p>
1271	944.607(12)	3rd	<p>Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.</p>
1272			

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1273	944.607(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
1274	985.4815(10)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
1275	985.4815(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
1276	985.4815(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.

1277 Section 26. This act shall take effect July 1, 2016.



Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
 ADOPTED AS AMENDED _____ (Y/N)
 ADOPTED W/O OBJECTION _____ (Y/N)
 FAILED TO ADOPT _____ (Y/N)
 WITHDRAWN _____ (Y/N)
 OTHER _____

1 Committee/Subcommittee hearing bill: Health Quality
 2 Subcommittee
 3 Representative Gonzalez offered the following:
 4

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:
 7 Section 1. Subsections (10) and (12) of section 215.5602,
 8 Florida Statutes, are amended to read:

9 215.5602 James and Esther King Biomedical Research
 10 Program.—

11 (10) The council shall submit a fiscal-year progress
 12 report on the programs under its purview to the Governor, the
 13 State Surgeon General, the President of the Senate, and the
 14 Speaker of the House of Representatives by December 15. The
 15 report must include:

16 (a) For each A list of research project projects supported
 17 by grants or fellowships awarded under the program:—



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18 1.(b) A summary list of the research project and results
19 or expected results of the research recipients of program grants
20 or fellowships.

21 2.(e) The status of the research project, including
22 whether it has concluded or the estimated date of completion.

23 3. The amount of the grant or fellowship awarded and the
24 estimated or actual cost of the research project.

25 4. A list of principal investigators under the research
26 project.

27 5. The title, citation, and summary of findings of a
28 publication publications in a peer reviewed journal journals
29 involving resulting from the research supported by grants or
30 fellowships awarded under the program.

31 6.(d) The source and amount of any federal, state, or
32 local government grants or donations or private grants or
33 donations generated as a result of the research project.

34 7. The status of a patent, if any, generated from the
35 research project and an economic analysis of the impact of the
36 resulting patent.

37 8. A list of postsecondary educational institutions
38 involved in the research project, a description of each
39 postsecondary educational institution's involvement in the
40 research project, and the number of students receiving training
41 or performing research under the research project.



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42 **(b)** The state ranking and total amount of biomedical
43 research funding currently flowing into the state from the
44 National Institutes of Health.

45 ~~(e) New grants for biomedical research which were funded~~
46 ~~based on research supported by grants or fellowships awarded~~
47 ~~under the program.~~

48 **(c)**~~(f)~~ Progress towards programmatic goals, particularly
49 in the prevention, diagnosis, treatment, and cure of diseases
50 related to tobacco use, including cancer, cardiovascular
51 disease, stroke, and pulmonary disease.

52 **(d)**~~(g)~~ Recommendations to further the mission of the
53 programs.

54 (12) (a) Beginning in the 2011-2012 fiscal year and
55 thereafter, \$25 million from the revenue deposited into the
56 Health Care Trust Fund pursuant to ss. 210.011(9) and 210.276(7)
57 shall be reserved for research of tobacco-related or cancer-
58 related illnesses. Of the revenue deposited in the Health Care
59 Trust Fund pursuant to this section, \$25 million shall be
60 transferred to the Biomedical Research Trust Fund within the
61 Department of Health. Subject to annual appropriations in the
62 General Appropriations Act, \$5 million shall be appropriated to
63 the James and Esther King Biomedical Research Program, \$5
64 million shall be appropriated to the William G. "Bill" Bankhead,
65 Jr., and David Coley Cancer Research Program created under s.
66 381.922.



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67 (b) Beginning July 1, 2014, an entity which performs or is
68 associated with cancer research or care that receives a specific
69 appropriation for biomedical research, research-related
70 functions, operations or other supportive functions, or
71 expansion of operations in the General Appropriations Act
72 without statutory reporting requirements for the receipt of
73 those funds, must submit an annual fiscal-year progress report
74 to the President of the Senate and the Speaker of the House of
75 Representatives by December 15. The report must:

76 1. Describe the general use of the funds.

77 2. Summarize ~~Specify~~ the research, if any, funded by the
78 appropriation, and provide the:

79 a. Status of the research, including whether the research
80 has concluded.

81 b. Results or expected results of the research.

82 c. Names of principal investigators performing the
83 research.

84 d. Title, citation, and summary of findings of a
85 publication in a peer reviewed journal resulting from the
86 research.

87 e. Status of a patent, if any, generated from the research
88 and an economic analysis of the impact of the resulting patent.

89 f. List of postsecondary educational institutions involved
90 in the research, a description of each postsecondary educational
91 institution's involvement in the research, and the number of
92 students receiving training or performing research.

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93 3. Describe any fixed capital outlay project funded by the
94 appropriation, the need for the project, how the project will be
95 utilized, and the timeline for and status of the project, if
96 applicable.

97 4. Identify any federal, state, or local government grants
98 or donations or private grants or donations generated as a
99 result of the appropriation or activities funded by the
100 appropriation, if applicable and traceable.

101 Section 2. Subsection (3) of section 381.0034, Florida
102 Statutes, is amended to read:

103 381.0034 Requirement for instruction on HIV and AIDS.—

104 (3) The department shall require, as a condition of
105 granting a license under chapter 467 or part III of chapter 483
106 ~~the chapters specified in subsection (1)~~, that an applicant
107 making initial application for licensure complete an educational
108 course acceptable to the department on human immunodeficiency
109 virus and acquired immune deficiency syndrome. Upon submission
110 of an affidavit showing good cause, an applicant who has not
111 taken a course at the time of licensure must ~~shall, upon an~~
112 ~~affidavit showing good cause~~, be allowed 6 months to complete
113 this requirement.

114 Section 3. Subsection (4) of section 381.82, Florida
115 Statutes, is amended and subsection (8) is created to read:

116 381.82 Ed and Ethel Moore Alzheimer's Disease Research
117 Program.—



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118 (4) The board shall submit a fiscal-year progress report
119 on the programs under its purview annually to the Governor, the
120 President of the Senate, the Speaker of the House of
121 Representatives, and the State Surgeon General by February 15.
122 The report must include:

123 (a) For each A list of research project projects supported
124 by grants or fellowships awarded under the program:-

125 1.(b) A summary list of the research project and results
126 or expected results of the research recipients of program grants
127 or fellowships.

128 2.(e) The status of the research project, including
129 whether it has concluded or the estimated date of completion.

130 3. The amount of the grant or fellowship awarded and the
131 estimated or actual cost of the research project.

132 4. A list of principal investigators under the research
133 project.

134 5. The title, citation, and summary of findings of a
135 publication publications in a peer-reviewed journal journals
136 involving resulting from the research supported by grants or
137 fellowships awarded under the program.

138 6.(d) The source and amount of any federal, state, or
139 local government grants or donations or private grants or
140 donations generated as a result of the research project.

141 7. The status of a patent, if any, generated from the
142 research project and an economic analysis of the impact of the
143 resulting patent.

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144 8. A list of postsecondary educational institutions
145 involved in the research project, a description of each
146 postsecondary educational institution's involvement in the
147 research project, and the number of students receiving training
148 or performing research under the research project.

149 (b) The state ranking and total amount of Alzheimer's
150 disease research funding currently flowing into the state from
151 the National Institutes of Health.

152 ~~(e) New grants for Alzheimer's disease research which were~~
153 ~~funded based on research supported by grants or fellowships~~
154 ~~awarded under the program.~~

155 (c)~~(f)~~ Progress toward programmatic goals, particularly in
156 the prevention, diagnosis, treatment, and cure of Alzheimer's
157 disease.

158 (d)~~(g)~~ Recommendations to further the mission of the
159 program.

160 (8) Notwithstanding s. 216.301 and pursuant to s. 216.351,
161 the balance of any appropriation from the General Revenue Fund
162 for the Ed and Ethel Moore Alzheimer's Disease Research Program
163 which is not disbursed but which is obligated pursuant to
164 contract or committed to be expended by June 30 of the fiscal
165 year in which the funds are appropriated may be carried forward
166 for up to 5 years after the effective date of the original
167 appropriation.

168 Section 4. Subsection (6) is added to section 381.922,
169 Florida Statutes, to read:

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170 381.922 William G. "Bill" Bankhead, Jr., and David Coley
171 Cancer Research Program.—

172 (6) The Biomedical Research Advisory Council shall submit
173 a report relating to grants awarded under the program to the
174 Governor, the President of the Senate, and the Speaker of the
175 House of Representatives by December 15 each year. The report
176 must include:

177 (a) For each research project supported by grants or
178 fellowships awarded under the program:

179 1. A summary of the research project and results or
180 expected results of the research.

181 2. The status of the research project, including whether
182 it has concluded or the estimated date of completion.

183 3. The amount of the grant or fellowship awarded and the
184 estimated or actual cost of the research project.

185 4. A list of principal investigators under the research
186 project.

187 5. The title, citation, and summary of findings of a
188 publication in a peer-reviewed journal resulting from the
189 research.

190 6. The source and amount of any federal, state, or local
191 government grants or donations or private grants or donations
192 generated as a result of the research project.

193 7. The status of a patent, if any, generated from the
194 research project and an economic analysis of the impact of the
195 resulting patent.



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196 8. A list of postsecondary educational institutions
197 involved in the research project, a description of each
198 postsecondary educational institution's involvement in the
199 research project, and the number of students receiving training
200 or performing research under the research project.

201 (b) The state ranking and total amount of cancer research
202 funding currently flowing into the state from the National
203 Institutes of Health.

204 (c) Progress toward programmatic goals, particularly in
205 the prevention, diagnosis, treatment, and cure of cancer.

206 (d) Recommendations to further the mission of the program.

207 Section 5. Subsection (7) of section 456.013, Florida
208 Statutes, is amended to read:

209 456.013 Department; general licensing provisions.—

210 (7) The boards, or the department when there is no board,
211 shall require the completion of a 2-hour course relating to
212 prevention of medical errors as part of the biennial licensure
213 ~~and~~ renewal process. The 2-hour course counts toward ~~shall count~~
214 ~~towards~~ the total number of continuing education hours required
215 for the profession. The course must ~~shall~~ be approved by the
216 board or department, as appropriate, and must ~~shall~~ include a
217 study of root-cause analysis, error reduction and prevention,
218 and patient safety. In addition, the course approved by the
219 Board of Medicine and the Board of Osteopathic Medicine must
220 ~~shall~~ include information relating to the five most misdiagnosed
221 conditions during the previous biennium, as determined by the

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222 board. If the course is being offered by a facility licensed
223 pursuant to chapter 395 for its employees, the board may approve
224 up to 1 hour of the 2-hour course to be specifically related to
225 error reduction and prevention methods used in that facility.

226 Section 6. Paragraph (a) of subsection (3) and subsection
227 (4) of section 456.024, Florida Statutes, are amended to read:

228 456.024 Members of Armed Forces in good standing with
229 administrative boards or the department; spouses; licensure.—

230 (3)(a) A person is eligible for licensure as a health care
231 practitioner in this state if he or she is:

232 1. A person who serves or has served as a health care
233 practitioner in the United States Armed Forces, United States
234 Reserve Forces, or the National Guard;

235 2. A ~~or~~ a person who serves or has served on active duty
236 with the United States Armed Forces as a health care
237 practitioner in the United States Public Health Service; or

238 3. A spouse of a person who serves on active duty in the
239 United States Armed Forces and is a health care practitioner in
240 another state, the District of Columbia, or a possession or
241 territory of the United States is eligible for licensure in this

242 state. The department shall develop an application form, and
243 each board, or the department if there is no board, shall waive
244 the application fee, licensure fee, and unlicensed activity fee
245 for such applicants. For purposes of this subsection, "health
246 care practitioner" means a health care practitioner as defined



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247 in s. 456.001 and a person licensed under part III of chapter
248 401 or part IV of chapter 468.

249 (b)-(a) The board, or department if there is no board,
250 shall issue a license to practice in this state to a person who:

251 1. Submits a complete application.

252 2. If a member of the military, submits proof he or she
253 has received ~~Receives~~ an honorable discharge within 6 months
254 before, or will receive an honorable discharge within 6 months
255 after, the date of submission of the application.

256 3.a. Holds an active, unencumbered license issued by
257 another state, the District of Columbia, or a possession or
258 territory of the United States and who has not had disciplinary
259 action taken against him or her in the 5 years preceding the
260 date of submission of the application;

261 b. Is a military health care practitioner in a profession
262 for which licensure in a state or jurisdiction is not required
263 to practice in the United States Armed Services, if the
264 applicant submits to the department evidence of military
265 training or experience substantially equivalent to the
266 requirements for licensure in this state in that profession, and
267 evidence that the applicant has obtained a passing score on the
268 appropriate examination of a national or regional standards
269 organization if required for licensure in this state; or

270 c. Is a spouse of a person serving in the United States
271 Armed Forces and is a health care practitioner in a profession
272 for which licensure in another state or jurisdiction may not be



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273 required, if the applicant submits to the department evidence of
274 training or experience substantially equivalent to the
275 requirements for licensure in this state in that profession, and
276 evidence that the applicant has obtained a passing score on the
277 appropriate examination of a national or regional standards
278 organization if required for licensure in this state.

279 4. Attests that he or she is not, at the time of
280 submission, the subject of a disciplinary proceeding in a
281 jurisdiction in which he or she holds a license or by the United
282 States Department of Defense for reasons related to the practice
283 of the profession for which he or she is applying.

284 5. Actively practiced the profession for which he or she
285 is applying for the 3 years preceding the date of submission of
286 the application.

287 6. Submits a set of fingerprints for a background
288 screening pursuant to s. 456.0135, if required for the
289 profession for which he or she is applying.

290
291 The department shall verify information submitted by the
292 applicant under this subsection using the National Practitioner
293 Data Bank.

294 ~~(4) (a) The board, or the department if there is no board,~~
295 ~~may issue a temporary professional license to the spouse of an~~
296 ~~active duty member of the Armed Forces of the United States who~~
297 ~~submits to the department:~~



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- 298 1. ~~A completed application upon a form prepared and~~
299 ~~furnished by the department in accordance with the board's~~
300 ~~rules;~~
- 301 2. ~~The required application fee;~~
- 302 3. ~~Proof that the applicant is married to a member of the~~
303 ~~Armed Forces of the United States who is on active duty;~~
- 304 4. ~~Proof that the applicant holds a valid license for the~~
305 ~~profession issued by another state, the District of Columbia, or~~
306 ~~a possession or territory of the United States, and is not the~~
307 ~~subject of any disciplinary proceeding in any jurisdiction in~~
308 ~~which the applicant holds a license to practice a profession~~
309 ~~regulated by this chapter;~~
- 310 5. ~~Proof that the applicant's spouse is assigned to a duty~~
311 ~~station in this state pursuant to the member's official active~~
312 ~~duty military orders; and~~
- 313 6. ~~Proof that the applicant would otherwise be entitled to~~
314 ~~full licensure under the appropriate practice act, and is~~
315 ~~eligible to take the respective licensure examination as~~
316 ~~required in Florida.~~
- 317 (b) ~~The applicant must also submit to the Department of~~
318 ~~Law Enforcement a complete set of fingerprints. The Department~~
319 ~~of Law Enforcement shall conduct a statewide criminal history~~
320 ~~check and forward the fingerprints to the Federal Bureau of~~
321 ~~Investigation for a national criminal history check.~~
- 322 (c) ~~Each board, or the department if there is no board,~~
323 ~~shall review the results of the state and federal criminal~~

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324 ~~history checks according to the level 2 screening standards in~~
325 ~~s. 435.04 when granting an exemption and when granting or~~
326 ~~denying the temporary license.~~

327 ~~(d) The applicant shall pay the cost of fingerprint~~
328 ~~processing. If the fingerprints are submitted through an~~
329 ~~authorized agency or vendor, the agency or vendor shall collect~~
330 ~~the required processing fees and remit the fees to the~~
331 ~~Department of Law Enforcement.~~

332 ~~(e) The department shall set an application fee, which may~~
333 ~~not exceed the cost of issuing the license.~~

334 ~~(f) A temporary license expires 12 months after the date~~
335 ~~of issuance and is not renewable.~~

336 ~~(g) An applicant for a temporary license under this~~
337 ~~subsection is subject to the requirements under s. 456.013(3)(a)~~
338 ~~and (e).~~

339 ~~(h) An applicant shall be deemed ineligible for a~~
340 ~~temporary license pursuant to this section if the applicant:~~

341 ~~1. Has been convicted of or pled nolo contendere to,~~
342 ~~regardless of adjudication, any felony or misdemeanor related to~~
343 ~~the practice of a health care profession;~~

344 ~~2. Has had a health care provider license revoked or~~
345 ~~suspended from another of the United States, the District of~~
346 ~~Columbia, or a United States territory;~~

347 ~~3. Has been reported to the National Practitioner Data~~
348 ~~Bank, unless the applicant has successfully appealed to have his~~
349 ~~or her name removed from the data bank; or~~

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350 ~~4. Has previously failed the Florida examination required~~
351 ~~to receive a license to practice the profession for which the~~
352 ~~applicant is seeking a license.~~

353 ~~(i) The board, or department if there is no board, may~~
354 ~~revoke a temporary license upon finding that the individual~~
355 ~~violated the profession's governing practice act.~~

356 ~~(j) An applicant who is issued a temporary professional~~
357 ~~license to practice as a dentist pursuant to this section must~~
358 ~~practice under the indirect supervision, as defined in s.~~
359 ~~466.003, of a dentist licensed pursuant to chapter 466.~~

360 Section 7. Section 456.0241, Florida Statutes, is created
361 to read:

362 456.0241 Temporary certificate for active duty military
363 health care practitioners.-

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

365 (a) "Military health care practitioner" means a person
366 practicing as a health care practitioner as defined in s.
367 456.001, as a person licensed under part III of chapter 401, or
368 as a person licensed under part IV of chapter 468 who is serving
369 on active duty in the United States Armed Forces, United States
370 Reserve Forces, or National Guard, or serving on active duty in
371 the United States Armed Forces and serving in the United States
372 Public Health Service.

373 (b) "Military platform" means a military training
374 agreement with a nonmilitary health care provider, which is
375 designed to develop and support medical, surgical, or other



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376 health care treatment opportunities in the nonmilitary health
377 care provider setting to allow a military health care
378 practitioner to develop and maintain technical proficiency to
379 meet the present and future health care needs of the United
380 States Armed Forces. Such agreements may include Training
381 Affiliation Agreements and External Resourcing Sharing
382 Agreements.

383 (2) The department may issue a temporary certificate to an
384 active duty military health care practitioner to practice in a
385 regulated profession, as defined in s. 456.001, if the
386 applicant:

387 (a) Submits proof he or she will be practicing pursuant to
388 a military platform.

389 (b) Submits a complete application and a nonrefundable
390 application fee.

391 (c) Holds a valid and unencumbered license to practice as
392 a health care professional in another state, the District of
393 Columbia, or a possession or territory of the United States or
394 is a military health care practitioner in a profession for which
395 licensure in a state or jurisdiction is not required for
396 practice in the United States Armed Services and who provides
397 evidence of military training and experience substantially
398 equivalent to the requirements for licensure in this state in
399 that profession.

400 (d) Attests that he or she is not, at the time of
401 submission, the subject of a disciplinary proceeding in a

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402 jurisdiction in which he or she holds a license, or by the
403 United States Department of Defense, for reasons related to the
404 practice of the profession for which he or she is applying.

405 (e) Has been determined to be competent in the profession
406 for which they are applying for a temporary certificate.

407 (f) Submits a set of fingerprints for a background
408 screening pursuant to s. 456.0135, if required for the
409 profession for which he or she is applying for a temporary
410 certificate.

411
412 The department shall verify information submitted by the
413 applicant under this subsection using the National Practitioner
414 Data Bank.

415 (4) A temporary certificate issued under this section
416 expires 6 months after issuance, but may be renewed upon proof
417 of continuing orders in this state and evidence that the
418 military health care practitioner continues to be a military
419 platform participant.

420 (5) A military health care practitioner applying under
421 this section is exempt from the requirements of ss. 456.039-
422 456.046. All other provisions of chapter 456 apply.

423 (6) An applicant for a temporary certificate under this
424 section shall be deemed ineligible if the applicant:

425 (a) Has been convicted of or pled nolo contendere to,
426 regardless of adjudication, any felony or misdemeanor related to
427 the practice of a health care profession;

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428 (b) Has had a health care provider license revoked or
429 suspended in another state, the District of Columbia, or a
430 possession or territory of the United States;

431 (c) Has failed the Florida examination required to receive
432 a license to practice the profession for which the applicant is
433 seeking a temporary certificate;

434 (d) Is under investigation in another jurisdiction for an
435 act that would constitute a violation of the applicable
436 licensing chapter or chapter 456 until such time as the
437 investigation is complete and the military health care
438 practitioner is found innocent of all charges.

439 (7) The department shall, by rule, set an application fee
440 not to exceed \$50 and a renewal fee not to exceed \$50.

441 (8) Application shall be made on a form prepared and
442 furnished by the department.

443 (9) The department shall adopt rules as needed to
444 implement the provisions of this section.

445 Section 8. Present subsections (3) through (11) of section
446 456.025, Florida Statutes, are redesignated as subsections (2)
447 through (10), respectively, and present subsections (2), (3),
448 (7), and (8) of that section are amended, to read:

449 456.025 Fees; receipts; disposition.-

450 ~~(2) The chairpersons of the boards and councils listed in~~
451 ~~s. 20.43(3)(g) shall meet annually at division headquarters to~~
452 ~~review the long range policy plan required by s. 456.005 and~~
453 ~~current and proposed fee schedules. The chairpersons shall make~~

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454 ~~recommendations for any necessary statutory changes relating to~~
455 ~~fees and fee caps. Such recommendations shall be compiled by the~~
456 ~~Department of Health and be included in the annual report to the~~
457 ~~Legislature required by s. 456.026 as well as be included in the~~
458 ~~long range policy plan required by s. 456.005.~~

459 (2)(3) Each board within the jurisdiction of the
460 department, or the department when there is no board, shall
461 determine by rule the amount of license fees for the profession
462 it regulates, based upon long-range estimates prepared by the
463 department of the revenue required to implement laws relating to
464 the regulation of professions by the department and the board.
465 Each board, or the department if there is no board, shall ensure
466 that license fees are adequate to cover all anticipated costs
467 and to maintain a reasonable cash balance, as determined by rule
468 of the agency, with advice of the applicable board. ~~If~~
469 ~~sufficient action is not taken by a board within 1 year after~~
470 ~~notification by the department that license fees are projected~~
471 ~~to be inadequate, the department shall set license fees on~~
472 ~~behalf of the applicable board to cover anticipated costs and to~~
473 ~~maintain the required cash balance. The department shall include~~
474 ~~recommended fee cap increases in its annual report to the~~
475 ~~Legislature. Further, it is the intent of the Legislature~~
476 ~~legislative intent that a no regulated profession not operate~~
477 ~~with a negative cash balance. If, however, a profession's fees~~
478 ~~are at their statutory fee cap and the requirements of~~
479 ~~subsections (1) and (4) are met, a profession may operate at a~~

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480 ~~deficit until the deficit is eliminated The department may~~
481 ~~provide by rule for advancing sufficient funds to any profession~~
482 ~~operating with a negative cash balance. The advancement may be~~
483 ~~for a period not to exceed 2 consecutive years, and the~~
484 ~~regulated profession must pay interest. Interest shall be~~
485 ~~calculated at the current rate earned on investments of a trust~~
486 ~~fund used by the department to implement this chapter. Interest~~
487 ~~earned shall be allocated to the various funds in accordance~~
488 ~~with the allocation of investment earnings during the period of~~
489 ~~the advance.~~

490 (6) ~~(7)~~ Each board, or the department if there is no board,
491 shall establish~~7~~ by rule~~7~~, a fee of up to not to exceed \$250 for
492 anyone seeking ~~approval~~ to provide continuing education courses
493 or programs and ~~shall establish by rule~~ a biennial renewal fee
494 of up to not to exceed \$250 for the renewal of an approval to
495 provide providership of such courses. The fees collected ~~from~~
496 ~~continuing education providers~~ shall be used for the purposes of
497 reviewing course provider applications, monitoring the integrity
498 of the courses provided, covering legal expenses incurred as a
499 result of not granting or renewing an approval ~~a providership~~,
500 and developing and maintaining an electronic continuing
501 education tracking system pursuant to s. 456.0361. ~~The~~
502 ~~department shall implement an electronic continuing education~~
503 ~~tracking system for each new biennial renewal cycle for which~~
504 ~~electronic renewals are implemented after the effective date of~~
505 ~~this act and shall integrate such system into the licensure and~~



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506 ~~renewal system.~~ All approved continuing education providers
507 shall provide information on course attendance to the department
508 necessary to implement the electronic tracking system. The
509 department shall, by rule, specify the form and procedures by
510 which the information is to be submitted.

511 (7)(8) All moneys collected by the department from fees or
512 fines or from costs awarded to the agency by a court shall be
513 paid into a trust fund used by the department to implement this
514 chapter. The Legislature shall appropriate funds from this trust
515 fund sufficient to administer ~~carry out~~ this chapter and the
516 provisions of law with respect to professions regulated by the
517 Division of Medical Quality Assurance within the department and
518 the boards. The department may contract with public and private
519 entities to receive and deposit revenue pursuant to this
520 section. The department shall maintain separate accounts in the
521 trust fund used by the department to implement this chapter for
522 every profession within the department. To the maximum extent
523 possible, the department shall directly charge all expenses to
524 the account of each regulated profession. For the purpose of
525 this subsection, direct charge expenses include, but are not
526 limited to, costs for investigations, examinations, and legal
527 services. For expenses that cannot be charged directly, the
528 department shall provide for the proportionate allocation among
529 the accounts of expenses incurred by the department in the
530 performance of its duties with respect to each regulated
531 profession. If a profession has established renewal fees that



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532 meet the requirements of subsection (1), has fees that are at
533 the statutory fee cap, and has been operating in a deficit for 2
534 or more fiscal years, the department may waive allocated
535 administrative and operational indirect costs until such time as
536 the profession has a positive cash balance. The costs related to
537 administration and operations include, but are not limited to,
538 the costs of the director's office and the costs of system
539 support, communications, central records, and other such
540 administrative functions. Such waived costs shall be allocated
541 to the other professions that must meet the requirements of this
542 section, and cash in the unlicensed activity account under s.
543 456.065 of the profession whose costs have been waived shall be
544 transferred to the operating account in an amount not to exceed
545 the amount of the deficit. The regulation by the department of
546 professions, as defined in this chapter, ~~must shall~~ be financed
547 solely from revenue collected by the department ~~it~~ from fees and
548 other charges and deposited in the Medical Quality Assurance
549 Trust Fund, and all such revenue is hereby appropriated to the
550 department, which. ~~However, it is legislative intent that each~~
551 ~~profession shall operate within its anticipated fees. The~~
552 ~~department may not expend funds from the account of a profession~~
553 ~~to pay for the expenses incurred on behalf of another~~
554 ~~profession, except that the Board of Nursing must pay for any~~
555 ~~costs incurred in the regulation of certified nursing~~
556 ~~assistants. The department shall maintain adequate records to~~
557 support its allocation of agency expenses. The department shall

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558 provide any board with reasonable access to these records upon
559 request. On or before October 1 of each year, the department
560 shall provide each board an annual report of revenue and direct
561 and allocated expenses related to the operation of that
562 profession. The board shall use these reports and the
563 department's adopted long-range plan to determine the amount of
564 license fees. ~~A condensed version of this information, with the~~
565 ~~department's recommendations, shall be included in the annual~~
566 ~~report to the Legislature prepared under s. 456.026.~~

567 Section 9. Section 456.0361, Florida Statutes, is created
568 to read:

569 456.0361 Compliance with continuing education
570 requirements.-

571 (1) The department shall establish an electronic
572 continuing education tracking system to monitor licensee
573 compliance with applicable continuing education requirements and
574 to determine whether a licensee is in full compliance with the
575 requirements at the time of his or her application for license
576 renewal. The tracking system shall be integrated into the
577 department's licensure and renewal process.

578 (2) The department may not renew a license until the
579 licensee complies with all applicable continuing education
580 requirements. This subsection does not prohibit the department
581 or the boards from imposing additional penalties under the
582 applicable professional practice act or applicable rules for
583 failure to comply with continuing education requirements.



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584 (3) The department may adopt rules to implement this
585 section.

586 Section 10. Subsection (20) of section 456.057, Florida
587 Statutes, is amended to read:

588 456.057 Ownership and control of patient records; report
589 or copies of records to be furnished; disclosure of
590 information.—

591 (20) The board with department approval, or department
592 when there is no board, may temporarily or permanently appoint a
593 person or an entity as a custodian of medical records in the
594 event of the death of a practitioner, the mental or physical
595 incapacitation of a ~~the~~ practitioner, or the abandonment of
596 medical records by a practitioner. Such ~~The~~ custodian ~~appointed~~
597 shall comply with ~~all provisions of~~ this section. The department
598 may contract with a third party to provide these services under
599 the confidentiality and disclosure requirements of this section,
600 ~~including the release of patient records.~~

601 Section 11. Subsection (2) of section 456.0635, Florida
602 Statutes, is amended to read:

603 456.0635 Health care fraud; disqualification for license,
604 certificate, or registration.—

605 (2) Each board within the jurisdiction of the department,
606 or the department if there is no board, shall refuse to admit a
607 candidate to any examination and refuse to issue a license,
608 certificate, or registration to any applicant if the candidate



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609 or applicant or any principal, officer, agent, managing
610 employee, or affiliated person of the applicant:

611 (a) Has been convicted of, or entered a plea of guilty or
612 nolo contendere to, regardless of adjudication, a felony under
613 chapter 409, chapter 817, or chapter 893, or a similar felony
614 offense committed in another state or jurisdiction, unless the
615 candidate or applicant has successfully completed a drug court
616 program for that felony and provides proof that the plea has
617 been withdrawn or the charges have been dismissed. Any such
618 conviction or plea shall exclude the applicant or candidate from
619 licensure, examination, certification, or registration unless
620 the sentence and any subsequent period of probation for such
621 conviction or plea ended:

622 1. For felonies of the first or second degree, more than
623 15 years before the date of application.

624 2. For felonies of the third degree, more than 10 years
625 before the date of application, except for felonies of the third
626 degree under s. 893.13(6)(a).

627 3. For felonies of the third degree under s. 893.13(6)(a),
628 more than 5 years before the date of application;

629 (b) Has been convicted of, or entered a plea of guilty or
630 nolo contendere to, regardless of adjudication, a felony under
631 21 U.S.C. ss. 801-970, or 42 U.S.C. ss. 1395-1396, unless the
632 sentence and any subsequent period of probation for such
633 conviction or plea ended more than 15 years before the date of
634 the application;

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635 (c) Has been terminated for cause from the Florida
636 Medicaid program pursuant to s. 409.913, unless the candidate or
637 applicant has been in good standing with the Florida Medicaid
638 program for the most recent 5 years;

639 (d) Has been terminated for cause, pursuant to the appeals
640 procedures established by the state, from any other state
641 Medicaid program, unless the candidate or applicant has been in
642 good standing with a state Medicaid program for the most recent
643 5 years and the termination occurred at least 20 years before
644 the date of the application; or

645 (e) Is currently listed on the United States Department of
646 Health and Human Services Office of Inspector General's List of
647 Excluded Individuals and Entities.

648
649 ~~This subsection does not apply to candidates or applicants for~~
650 ~~initial licensure or certification who were enrolled in an~~
651 ~~educational or training program on or before July 1, 2009, which~~
652 ~~was recognized by a board or, if there is no board, recognized~~
653 ~~by the department, and who applied for licensure after July 1,~~
654 ~~2012.~~

655 Section 12. Subsection (3) of section 457.107, Florida
656 Statutes, is amended to read:

657 457.107 Renewal of licenses; continuing education.-

658 (3) The board shall ~~by rule prescribe~~ by rule continuing
659 education requirements of up to, ~~not to exceed~~ 30 hours
660 biennially, as a condition for renewal of a license. All



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661 education programs that contribute to the advancement,
662 extension, or enhancement of professional skills and knowledge
663 related to the practice of acupuncture, whether conducted by a
664 nonprofit or profitmaking entity, are eligible for approval. The
665 continuing professional education requirements must be in
666 acupuncture or oriental medicine subjects, including, but not
667 limited to, anatomy, biological sciences, adjunctive therapies,
668 sanitation and sterilization, emergency protocols, and diseases.
669 The board ~~may~~ shall have the authority to set a fee of up to,
670 ~~not to exceed~~ \$100, for each continuing education provider. The
671 licensee shall retain in his or her records the certificates of
672 completion of continuing professional education requirements ~~to~~
673 ~~prove compliance with this subsection. The board may request~~
674 ~~such documentation without cause from applicants who are~~
675 ~~selected at random.~~ All national and state acupuncture and
676 oriental medicine organizations and acupuncture and oriental
677 medicine schools are approved to provide continuing professional
678 education in accordance with this subsection.

679 Section 13. Paragraph (e) of subsection (4) of section
680 458.347, Florida Statutes, is amended to read:

681 458.347 Physician assistants.—

682 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

683 (e) A supervisory physician may delegate to a fully
684 licensed physician assistant the authority to prescribe or
685 dispense any medication used in the supervisory physician's
686 practice unless such medication is listed on the formulary



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687 created pursuant to paragraph (f). A fully licensed physician
688 assistant may only prescribe or dispense such medication under
689 the following circumstances:

690 1. A physician assistant must clearly identify to the
691 patient that he or she is a physician assistant and-
692 ~~Furthermore, the physician assistant must~~ inform the patient
693 that the patient has the right to see the physician before a
694 ~~prior to any~~ prescription is being prescribed or dispensed by
695 the physician assistant.

696 2. The supervisory physician must notify the department of
697 his or her intent to delegate, on a department-approved form,
698 before delegating such authority and ~~notify the department of~~
699 any change in prescriptive privileges of the physician
700 assistant. Authority to dispense may be delegated only by a
701 supervising physician who is registered as a dispensing
702 practitioner in compliance with s. 465.0276.

703 3. The physician assistant must complete ~~file with the~~
704 ~~department a signed affidavit that he or she has completed a~~
705 minimum of 10 continuing medical education hours in the
706 specialty practice in which the physician assistant has
707 prescriptive privileges with each licensure renewal application.

708 4. The department may issue a prescriber number to the
709 physician assistant granting authority for the prescribing of
710 medicinal drugs authorized within this paragraph upon completion
711 of the ~~foregoing~~ requirements of this paragraph. The physician



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712 assistant ~~is shall~~ not be required to independently register
713 pursuant to s. 465.0276.

714 5. The prescription must be written in a form that
715 complies with chapter 499 and, in addition to the supervisory
716 physician's name, address, and telephone number, must contain,
717 ~~in addition to the supervisory physician's name, address, and~~
718 ~~telephone number,~~ the physician assistant's prescriber number.
719 Unless it is a drug or drug sample dispensed by the physician
720 assistant, the prescription must be filled in a pharmacy
721 permitted under chapter 465 and must be dispensed in that
722 pharmacy by a pharmacist licensed under chapter 465. The
723 inclusion appearance of the prescriber number creates a
724 presumption that the physician assistant is authorized to
725 prescribe the medicinal drug and the prescription is valid.

726 6. The physician assistant must note the prescription or
727 dispensing of medication in the appropriate medical record.

728 Section 14. Subsection (3) of section 463.007, Florida
729 Statutes, is amended to read:

730 463.007 Renewal of license; continuing education.—

731 (3) As a condition of license renewal, a licensee must
732 ~~Unless otherwise provided by law, the board shall require~~
733 ~~licensees to periodically demonstrate his or her their~~
734 ~~professional competence, as a condition of renewal of a license,~~
735 by completing up to 30 hours of continuing education during the
736 2-year period preceding license renewal. For certified
737 optometrists, the 30-hour continuing education requirement



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738 ~~includes shall include~~ 6 or more hours of approved transcript-
739 quality coursework in ocular and systemic pharmacology and the
740 diagnosis, treatment, and management of ocular and systemic
741 conditions and diseases during the 2-year period preceding
742 application for license renewal.

743 Section 15. Subsection (7) of section 464.203, Florida
744 Statutes, is amended to read:

745 464.203 Certified nursing assistants; certification
746 requirement.-

747 (7) A certified nursing assistant shall complete 24 ~~12~~
748 hours of inservice training during each biennium ~~calendar year~~.
749 The certified nursing assistant shall maintain ~~be responsible~~
750 ~~for maintaining~~ documentation demonstrating compliance with
751 these provisions. ~~The Council on Certified Nursing Assistants,~~
752 ~~in accordance with s. 464.2085(2)(b), shall propose rules to~~
753 ~~implement this subsection.~~

754 Section 16. Section 464.2085, Florida Statutes, is
755 repealed.

756 Section 17. Paragraph (b) of subsection (1) and subsection
757 (3) of section 465.0276, Florida Statutes, are amended to read:

758 465.0276 Dispensing practitioner.-

759 (1)

760 (b) A practitioner registered under this section may not
761 dispense a controlled substance listed in Schedule II or
762 Schedule III as provided in s. 893.03. This paragraph does not
763 apply to:



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764 1. The dispensing of complimentary packages of medicinal
765 drugs which are labeled as a drug sample or complimentary drug
766 as defined in s. 499.028 to the practitioner's own patients in
767 the regular course of her or his practice without the payment of
768 a fee or remuneration of any kind, whether direct or indirect,
769 as provided in subsection (4) ~~subsection (5)~~.

770 2. The dispensing of controlled substances in the health
771 care system of the Department of Corrections.

772 3. The dispensing of a controlled substance listed in
773 Schedule II or Schedule III in connection with the performance
774 of a surgical procedure. The amount dispensed pursuant to the
775 subparagraph may not exceed a 14-day supply. This exception does
776 not allow for the dispensing of a controlled substance listed in
777 Schedule II or Schedule III more than 14 days after the
778 performance of the surgical procedure. For purposes of this
779 subparagraph, the term "surgical procedure" means any procedure
780 in any setting which involves, or reasonably should involve:

781 a. Perioperative medication and sedation that allows the
782 patient to tolerate unpleasant procedures while maintaining
783 adequate cardiorespiratory function and the ability to respond
784 purposefully to verbal or tactile stimulation and makes intra-
785 and postoperative monitoring necessary; or

786 b. The use of general anesthesia or major conduction
787 anesthesia and preoperative sedation.

788 4. The dispensing of a controlled substance listed in
789 Schedule II or Schedule III pursuant to an approved clinical

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790 trial. For purposes of this subparagraph, the term "approved
791 clinical trial" means a clinical research study or clinical
792 investigation that, in whole or in part, is state or federally
793 funded or is conducted under an investigational new drug
794 application that is reviewed by the United States Food and Drug
795 Administration.

796 5. The dispensing of methadone in a facility licensed
797 under s. 397.427 where medication-assisted treatment for opiate
798 addiction is provided.

799 6. The dispensing of a controlled substance listed in
800 Schedule II or Schedule III to a patient of a facility licensed
801 under part IV of chapter 400.

802 ~~(3) The department shall inspect any facility where a~~
803 ~~practitioner dispenses medicinal drugs pursuant to subsection~~
804 ~~(2) in the same manner and with the same frequency as it~~
805 ~~inspects pharmacies for the purpose of determining whether the~~
806 ~~practitioner is in compliance with all statutes and rules~~
807 ~~applicable to her or his dispensing practice.~~

808 Section 18. Subsection (3) of section 466.0135, Florida
809 Statutes, is amended to read:

810 466.0135 Continuing education; dentists.-

811 (3) A ~~In applying for license renewal, the dentist shall~~
812 complete ~~submit a sworn affidavit, on a form acceptable to the~~
813 ~~department, attesting that she or he has completed the required~~
814 continuing education as provided ~~required~~ in this section in
815 ~~accordance with the guidelines and provisions of this section~~

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816 ~~and listing the date, location, sponsor, subject matter, and~~
817 ~~hours of completed continuing education courses. An~~ The
818 applicant shall retain in her or his records any ~~such~~ receipts,
819 vouchers, or certificates as may be necessary to document
820 completion of such ~~the~~ continuing education courses ~~listed in~~
821 ~~accordance with this subsection. With cause, the board may~~
822 ~~request such documentation by the applicant, and the board may~~
823 ~~request such documentation from applicants selected at random~~
824 ~~without cause.~~

825 Section 19. Section 466.014, Florida Statutes, is amended
826 to read:

827 466.014 Continuing education; dental hygienists.—In
828 addition to the other requirements for relicensure for dental
829 hygienists set out in this chapter ~~act~~, the board shall require
830 each licensed dental hygienist to complete at least ~~not less~~
831 ~~than~~ 24 hours but not ~~or~~ more than 36 hours of continuing
832 professional education in dental subjects, biennially, in
833 programs prescribed or approved by the board or in equivalent
834 programs of continuing education. Programs of continuing
835 education approved by the board are ~~shall be~~ programs of
836 learning which, in the opinion of the board, contribute directly
837 to the dental education of the dental hygienist. The board shall
838 adopt rules and guidelines to administer and enforce ~~the~~
839 ~~provisions of this section. In applying for license renewal, the~~
840 ~~dental hygienist shall submit a sworn affidavit, on a form~~
841 ~~acceptable to the department, attesting that she or he has~~

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842 ~~completed the continuing education required in this section in~~
843 ~~accordance with the guidelines and provisions of this section~~
844 ~~and listing the date, location, sponsor, subject matter, and~~
845 ~~hours of completed continuing education courses. An The~~
846 applicant shall retain in her or his records any such receipts,
847 vouchers, or certificates ~~as may be necessary to document~~
848 completion of such the continuing education courses ~~listed in~~
849 ~~accordance with this section. With cause, the board may request~~
850 ~~such documentation by the applicant, and the board may request~~
851 ~~such documentation from applicants selected at random without~~
852 ~~cause. Compliance with the continuing education requirements is~~
853 ~~shall be~~ mandatory for issuance of the renewal certificate. The
854 board may ~~shall have the authority to~~ excuse licensees, as a
855 group or as individuals, from all or part of the continuing
856 educational requirements if, or any part thereof, in the event
857 an unusual circumstance, emergency, or hardship has prevented
858 compliance with this section.

859 Section 20. Subsection (5) of section 466.032, Florida
860 Statutes, is amended to read:

861 466.032 Registration.—

862 (5) A ~~The~~ dental laboratory owner or at least one employee
863 of any dental laboratory renewing registration on or after July
864 1, 2010, shall complete 18 hours of continuing education
865 biennially. Programs of continuing education must ~~shall~~ be
866 programs of learning that contribute directly to the education
867 of the dental technician and may include, but are not limited



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868 to, attendance at lectures, study clubs, college courses, or
869 scientific sessions of conventions and research.

870 (a) The aim of continuing education for dental technicians
871 is to improve dental health care delivery to the public as such
872 is impacted through the design, manufacture, and use of
873 artificial human oral prosthetics and related restorative
874 appliances.

875 (b) Continuing education courses shall address one or more
876 of the following areas of professional development, including,
877 but not limited to:

878 1. Laboratory and technological subjects, including, but
879 not limited to, laboratory techniques and procedures, materials,
880 and equipment; and

881 2. Subjects pertinent to oral health, infection control,
882 and safety.

883 (c) Programs that meet ~~meeting~~ the general requirements of
884 continuing education may be developed and offered to dental
885 technicians by the Florida Dental Laboratory Association and the
886 Florida Dental Association. Other organizations, schools, or
887 agencies may also be approved to develop and offer continuing
888 education in accordance with specific criteria established by
889 the department.

890 ~~(d) Any dental laboratory renewing a registration on or~~
891 ~~after July 1, 2010, shall submit a sworn affidavit, on a form~~
892 ~~approved by the department, attesting that either the dental~~
893 ~~laboratory owner or one dental technician employed by the~~

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894 ~~registered dental laboratory has completed the continuing~~
895 ~~education required in this subsection in accordance with the~~
896 ~~guidelines and provisions of this subsection and listing the~~
897 ~~date, location, sponsor, subject matter, and hours of completed~~
898 ~~continuing education courses. The dental laboratory shall retain~~
899 ~~in its records such receipts, vouchers, or certificates as may~~
900 ~~be necessary to document completion of the continuing education~~
901 ~~courses listed in accordance with this subsection. With cause,~~
902 ~~the department may request that the documentation be provided by~~
903 ~~the applicant. The department may also request the documentation~~
904 ~~from applicants selected at random without cause.~~

905 (d)(e)1. This subsection does not apply to a dental
906 laboratory that is physically located within a dental practice
907 operated by a dentist licensed under this chapter.

908 2. A dental laboratory in another state or country which
909 provides service to a dentist licensed under this chapter is not
910 required to register with the state and may continue to provide
911 services to such dentist with a proper prescription. However, a
912 dental laboratory in another state or country, ~~however~~, may
913 voluntarily comply with this subsection.

914 Section 21. Section 468.1201, Florida Statutes, is
915 repealed.

916 Section 22. Paragraph (a) of subsection (3), subsections
917 (4) and (5), paragraphs (a) and (e) of subsection (6), and
918 subsection (7) of section 483.901, Florida Statutes, are



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919 amended, and paragraph (k) is added to subsection (6) of that
920 section, to read:

921 483.901 Medical physicists; definitions; licensure.-

922 (3) DEFINITIONS.-As used in this section, the term:

923 ~~(a) "Council" means the Advisory Council of Medical~~
924 ~~Physicists in the Department of Health.~~

925 ~~(4) COUNCIL. The Advisory Council of Medical Physicists is~~
926 ~~created in the Department of Health to advise the department in~~
927 ~~regulating the practice of medical physics in this state.~~

928 ~~(a) The council shall be composed of nine members~~
929 ~~appointed by the State Surgeon General as follows:~~

930 1. ~~A licensed medical physicist who specializes in~~
931 ~~diagnostic radiological physics.~~

932 2. ~~A licensed medical physicist who specializes in~~
933 ~~therapeutic radiological physics.~~

934 3. ~~A licensed medical physicist who specializes in medical~~
935 ~~nuclear radiological physics.~~

936 4. ~~A physician who is board certified by the American~~
937 ~~Board of Radiology or its equivalent.~~

938 5. ~~A physician who is board certified by the American~~
939 ~~Osteopathic Board of Radiology or its equivalent.~~

940 6. ~~A chiropractic physician who practices radiology.~~

941 7. ~~Three consumer members who are not, and have never~~
942 ~~been, licensed as a medical physicist or licensed in any closely~~
943 ~~related profession.~~



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944 ~~(b) The State Surgeon General shall appoint the medical~~
945 ~~physicist members of the council from a list of candidates who~~
946 ~~are licensed to practice medical physics.~~

947 ~~(c) The State Surgeon General shall appoint the physician~~
948 ~~members of the council from a list of candidates who are~~
949 ~~licensed to practice medicine in this state and are board~~
950 ~~certified in diagnostic radiology, therapeutic radiology, or~~
951 ~~radiation oncology.~~

952 ~~(d) The State Surgeon General shall appoint the public~~
953 ~~members of the council.~~

954 ~~(e) As the term of each member expires, the State Surgeon~~
955 ~~General shall appoint the successor for a term of 4 years. A~~
956 ~~member shall serve until the member's successor is appointed,~~
957 ~~unless physically unable to do so.~~

958 ~~(f) An individual is ineligible to serve more than two~~
959 ~~full consecutive 4 year terms.~~

960 ~~(g) If a vacancy on the council occurs, the State Surgeon~~
961 ~~General shall appoint a member to serve for a 4 year term.~~

962 ~~(h) A council member must be a United States citizen and~~
963 ~~must have been a resident of this state for 2 consecutive years~~
964 ~~immediately before being appointed.~~

965 ~~1. A member of the council who is a medical physicist must~~
966 ~~have practiced for at least 6 years before being appointed or be~~
967 ~~board certified for the specialty in which the member practices.~~

968 ~~2. A member of the council who is a physician must be~~
969 ~~licensed to practice medicine in this state and must have~~



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970 ~~practiced diagnostic radiology or radiation oncology in this~~
971 ~~state for at least 2 years before being appointed.~~

972 ~~3. The public members of the council must not have a~~
973 ~~financial interest in any endeavor related to the practice of~~
974 ~~medical physics.~~

975 ~~(i) A council member may be removed from the council if~~
976 ~~the member:~~

977 ~~1. Did not have the required qualifications at the time of~~
978 ~~appointment;~~

979 ~~2. Does not maintain the required qualifications while~~
980 ~~serving on the council; or~~

981 ~~3. Fails to attend the regularly scheduled council~~
982 ~~meetings in a calendar year as required by s. 456.011.~~

983 ~~(j) Members of the council may not receive compensation~~
984 ~~for their services; however, they are entitled to reimbursement,~~
985 ~~from funds deposited in the Medical Quality Assurance Trust~~
986 ~~Fund, for necessary travel expenses as specified in s. 112.061~~
987 ~~for each day they engage in the business of the council.~~

988 ~~(k) At the first regularly scheduled meeting of each~~
989 ~~calendar year, the council shall elect a presiding officer and~~
990 ~~an assistant presiding officer from among its members. The~~
991 ~~council shall meet at least once each year and at other times in~~
992 ~~accordance with department requirements.~~

993 ~~(l) The department shall provide administrative support to~~
994 ~~the council for all licensing activities.~~

995 ~~(m) The council may conduct its meetings electronically.~~



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996 ~~(5) POWERS OF COUNCIL. The council shall:~~

997 ~~(a) Recommend rules to administer this section.~~

998 ~~(b) Recommend practice standards for the practice of~~
999 ~~medical physics which are consistent with the Guidelines for~~
1000 ~~Ethical Practice for Medical Physicists prepared by the American~~
1001 ~~Association of Physicists in Medicine and disciplinary~~
1002 ~~guidelines adopted under s. 456.079.~~

1003 ~~(c) Develop and recommend continuing education~~
1004 ~~requirements for licensed medical physicists.~~

1005 ~~(4)(6)~~ LICENSE REQUIRED.—An individual may not engage in
1006 the practice of medical physics, including the specialties of
1007 diagnostic radiological physics, therapeutic radiological
1008 physics, medical nuclear radiological physics, or medical health
1009 physics, without a license issued by the department for the
1010 appropriate specialty.

1011 (a) The department shall adopt rules to administer this
1012 section which specify license application and renewal fees,
1013 continuing education requirements, and standards for practicing
1014 medical physics. ~~The council shall recommend to the department~~
1015 ~~continuing education requirements that shall be a condition of~~
1016 ~~license renewal.~~ The department shall require a minimum of 24
1017 hours per biennium of continuing education offered by an
1018 organization ~~recommended by the council and approved by the~~
1019 ~~department. The department, upon recommendation of the council,~~
1020 may adopt rules to specify continuing education requirements for
1021 persons who hold a license in more than one specialty.

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1022 (e) Upon ~~On~~ receipt of an application and fee as specified
1023 in this section, the department may issue a license to practice
1024 medical physics in this state ~~on or after October 1, 1997,~~ to a
1025 person who is board certified in the medical physics specialty
1026 in which the applicant applies to practice by the American Board
1027 of Radiology for diagnostic radiological physics, therapeutic
1028 radiological physics, or medical nuclear radiological physics;
1029 by the American Board of Medical Physics for diagnostic
1030 radiological physics, therapeutic radiological physics, or
1031 medical nuclear radiological physics; or by the American Board
1032 of Health Physics or an equivalent certifying body approved by
1033 the department.

1034 (k) Upon proof of a completed residency program and
1035 receipt of the fee set forth by rule, the department may issue a
1036 temporary license for no more than 1 year. The department may
1037 adopt by rule requirements for temporary licensure and renewal
1038 of temporary licenses.

1039 ~~(5)-(7)~~ FEES.—The fee for the initial license application
1040 shall be \$500 and is nonrefundable. The fee for license renewal
1041 may not be more than \$500. These fees may cover only the costs
1042 incurred by the department ~~and the council~~ to administer this
1043 section. By July 1 each year, the department shall determine
1044 ~~advise the council~~ if the fees are insufficient to administer
1045 this section.

1046 Section 23. Subsection (2) of section 484.047, Florida
1047 Statutes, is amended to read:

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1048 484.047 Renewal of license.—

1049 (2) In addition to the other requirements for renewal
1050 provided in this section and by the board, the department shall
1051 renew a license upon receipt of the renewal application and, the
1052 renewal fee, ~~and a written statement affirming compliance with~~
1053 ~~all other requirements set forth in this section and by the~~
1054 ~~board.~~ A licensee must maintain, if applicable, a certificate
1055 from a manufacturer or independent testing agent certifying that
1056 the testing room meets the requirements of s. 484.0501(6) and,
1057 if applicable, a certificate from a manufacturer or independent
1058 testing agent stating that all audiometric testing equipment
1059 used by the licensee has been calibrated acoustically to
1060 American National Standards Institute standards on an annual
1061 basis ~~acoustically to American National Standards Institute~~
1062 ~~standard specifications.~~ Possession of any applicable
1063 certificate is ~~the certificates shall be~~ a prerequisite to
1064 renewal.

1065 Section 24. Subsections (1) and (4) of section 486.109,
1066 Florida Statutes, are amended to read:

1067 486.109 Continuing education.—

1068 (1) The board shall require licensees to periodically
1069 demonstrate their professional competence as a condition of
1070 renewal of a license by completing 24 hours of continuing
1071 education biennially.

1072 (4) Each licensee shall maintain ~~be responsible for~~
1073 ~~maintaining~~ sufficient records ~~in a format as determined by rule~~

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1074 which shall be subject to a random audit by the department to
1075 demonstrate assure compliance with this section.

1076 Section 25. Paragraph (a) of subsection (15) of section
1077 499.028, Florida Statutes, is amended to read:

1078 499.028 Drug samples or complimentary drugs; starter
1079 packs; permits to distribute.-

1080 (15) A person may not possess a prescription drug sample
1081 unless:

1082 (a) The drug sample was prescribed to her or him as
1083 evidenced by the label required in s. 465.0276(4) s-
1084 465.0276(5).

1085 Section 26. Paragraph (g) of subsection (3) of section
1086 921.0022, Florida Statutes, is amended to read:

1087 921.0022 Criminal Punishment Code; offense severity
1088 ranking chart.-

1089 (3) OFFENSE SEVERITY RANKING CHART

1090 (g) LEVEL 7

1091

Florida Statute	Felony Degree	Description
316.027(2)(c)	1st	Accident involving death, failure to stop; leaving scene.
316.193(3)(c)2.	3rd	DUI resulting in

1092

1093



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Bill No. HB 941 (2016)

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1094

316.1935(3)(b)

1st

serious bodily
injury.
Causing serious bodily
injury or death to
another person; driving
at high speed or with
wanton disregard for
safety while fleeing or
attempting to elude law
enforcement officer who
is in a patrol vehicle
with siren and lights
activated.

1095

327.35(3)(c)2.

3rd

Vessel BUI resulting
in serious bodily
injury.

1096

402.319(2)

2nd

Misrepresentation and negligence
or intentional act resulting in
great bodily harm, permanent
disfiguration, permanent
disability, or death.

1097

409.920

3rd

Medicaid provider

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1098	(2) (b) 1.a.		fraud; \$10,000 or less.
	409.920	2nd	Medicaid provider
	(2) (b) 1.b.		fraud; more than \$10,000, but less than \$50,000.
1099			
	456.065 (2)	3rd	Practicing a health care profession without a license.
1100			
	456.065 (2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
1101			
	458.327 (1)	3rd	Practicing medicine without a license.
1102			
	459.013 (1)	3rd	Practicing osteopathic medicine without a license.
1103			
	460.411 (1)	3rd	Practicing chiropractic medicine without a license.
1104			
	461.012 (1)	3rd	Practicing podiatric

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			medicine without a license.
1105	462.17	3rd	Practicing naturopathy without a license.
1106	463.015(1)	3rd	Practicing optometry without a license.
1107	464.016(1)	3rd	Practicing nursing without a license.
1108	465.015(2)	3rd	Practicing pharmacy without a license.
1109	466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
1110	467.201	3rd	Practicing midwifery without a license.
1111	468.366	3rd	Delivering respiratory care services without a license.
1112	483.828(1)	3rd	Practicing as clinical

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1113			laboratory personnel without a license.
	<u>483.901(7)</u> 483.901(9)	3rd	Practicing medical physics without a license.
1114			
	484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.
1115			
	484.053	3rd	Dispensing hearing aids without a license.
1116			
	494.0018(2)	1st	Conviction of any violation of chapter 494 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
1117			
	560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money



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services business.

1118

560.125(5)(a)

3rd

Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.

1119

655.50(10)(b)1.

3rd

Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.

1120

775.21(10)(a)

3rd

Sexual predator; failure to register; failure to renew driver license or identification card; other registration violations.

1121

775.21(10)(b)

3rd

Sexual predator working where children regularly congregate.

1122

775.21(10)(g)

3rd

Failure to report or providing false



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information about a
sexual predator; harbor
or conceal a sexual
predator.

1123

782.051(3)

2nd

Attempted felony murder of
a person by a person other
than the perpetrator or the
perpetrator of an attempted
felony.

1124

782.07(1)

2nd

Killing of a human being by the
act, procurement, or culpable
negligence of another
(manslaughter).

1125

782.071

2nd

Killing of a human being or
unborn child by the operation
of a motor vehicle in a
reckless manner (vehicular
homicide).

1126

782.072

2nd

Killing of a human being by
the operation of a vessel in
a reckless manner (vessel
homicide).



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1127	784.045 (1) (a) 1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
1128	784.045 (1) (a) 2.	2nd	Aggravated battery; using deadly weapon.
1129	784.045 (1) (b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
1130	784.048 (4)	3rd	Aggravated stalking; violation of injunction or court order.
1131	784.048 (7)	3rd	Aggravated stalking; violation of court order.
1132	784.07 (2) (d)	1st	Aggravated battery on law enforcement officer.
1133	784.074 (1) (a)	1st	Aggravated battery on sexually violent predators facility



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staff.

1134

784.08 (2) (a)

1st

Aggravated battery on a person 65 years of age or older.

1135

784.081 (1)

1st

Aggravated battery on specified official or employee.

1136

784.082 (1)

1st

Aggravated battery by detained person on visitor or other detainee.

1137

784.083 (1)

1st

Aggravated battery on code inspector.

1138

787.06 (3) (a) 2.

1st

Human trafficking using coercion for labor and services of an adult.

1139

787.06 (3) (e) 2.

1st

Human trafficking using coercion for labor and services by the transfer or transport of an adult from outside Florida to



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within the state.

1140	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
1141	790.16(1)	1st	Discharge of a machine gun under specified circumstances.
1142	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
1143	790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
1144	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
1145	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction



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			while committing or attempting to commit a felony.
1146	790.23	1st,PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
1147	794.08 (4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
1148	796.05 (1)	1st	Live on earnings of a prostitute; 2nd offense.
1149	796.05 (1)	1st	Live on earnings of a prostitute; 3rd and subsequent offense.
1150	800.04 (5) (c) 1.	2nd	Lewd or lascivious molestation; victim younger than 12 years of

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			age; offender younger than 18 years of age.
1151	800.04 (5) (c) 2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years of age; offender 18 years of age or older.
1152	800.04 (5) (e)	1st	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years; offender 18 years or older; prior conviction for specified sex offense.
1153	806.01 (2)	2nd	Maliciously damage structure by fire or explosive.
1154	810.02 (3) (a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
1155	810.02 (3) (b)	2nd	Burglary of unoccupied



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			dwelling; unarmed; no assault or battery.
1156	810.02 (3) (d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
1157	810.02 (3) (e)	2nd	Burglary of authorized emergency vehicle.
1158	812.014 (2) (a) 1.	1st	Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
1159	812.014 (2) (b) 2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
1160	812.014 (2) (b) 3.	2nd	Property stolen,



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1161			emergency medical equipment; 2nd degree grand theft.
1161	812.014 (2) (b) 4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
1162	812.0145 (2) (a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
1163	812.019 (2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
1164	812.131 (2) (a)	2nd	Robbery by sudden snatching.
1165	812.133 (2) (b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.



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1166	817.034(4)(a)1.	1st	Communications fraud, value greater than \$50,000.
1167	817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
1168	817.234(9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
1169	817.234(11)(c)	1st	Insurance fraud; property value \$100,000 or more.
1170	817.2341 (2)(b) & (3)(b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.



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1171	817.535 (2) (a)	3rd	Filing false lien or other unauthorized document.
1172	825.102 (3) (b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
1173	825.103 (3) (b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$10,000 or more, but less than \$50,000.
1174	827.03 (2) (b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
1175	827.04 (3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
1176	837.05 (2)	3rd	Giving false information

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			about alleged capital felony to a law enforcement officer.
1177			
	838.015	2nd	Bribery.
1178			
	838.016	2nd	Unlawful compensation or reward for official behavior.
1179			
	838.021(3)(a)	2nd	Unlawful harm to a public servant.
1180			
	838.22	2nd	Bid tampering.
1181			
	843.0855(2)	3rd	Impersonation of a public officer or employee.
1182			
	843.0855(3)	3rd	Unlawful simulation of legal process.
1183			
	843.0855(4)	3rd	Intimidation of a public officer or employee.
1184			
	847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.



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1185	847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
1186	872.06	2nd	Abuse of a dead human body.
1187	874.05(2)(b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
1188	874.10	1st, PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
1189	893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000

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feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.

1190

893.13(1)(e)1.

1st

Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site.

1191

893.13(4)(a)

1st

Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).

1192

893.135(1)(a)1.

1st

Trafficking in cannabis, more than 25 lbs., less than 2,000



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lbs.

1193	893.135 (1) (b) 1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
1194	893.135 (1) (c) 1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
1195	893.135 (1) (c) 2.a.	1st	Trafficking in hydrocodone, 14 grams or more, less than 28 grams.
1196	893.135 (1) (c) 2.b.	1st	Trafficking in hydrocodone, 28 grams or more, less than 50 grams.
1197	893.135 (1) (c) 3.a.	1st	Trafficking in oxycodone, 7 grams or more, less than 14 grams.
1198	893.135 (1) (c) 3.b.	1st	Trafficking in oxycodone, 14 grams or more, less than 25 grams.
1199			

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1200	893.135(1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
1201	893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
1202	893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
1203	893.135 (1)(g)1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
1204	893.135 (1)(h)1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
	893.135 (1)(j)1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or



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			more, less than 5 kilograms.
1205	893.135 (1)(k)2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
1206	893.1351(2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
1207	896.101(5)(a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
1208	896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
1209	943.0435(4)(c)	2nd	Sexual offender vacating



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			permanent residence; failure to comply with reporting requirements.
1210	943.0435(8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
1211	943.0435(9)(a)	3rd	Sexual offender; failure to comply with reporting requirements.
1212	943.0435(13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
1213	943.0435(14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.



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1214	944.607(9)	3rd	Sexual offender; failure to comply with reporting requirements.
1215	944.607(10)(a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
1216	944.607(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
1217	944.607(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
1218	985.4815(10)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.



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1233 perform or are associated with cancer research or care
1234 and that receive a specific appropriation; amending s.
1235 381.0034, F.S.; deleting the requirement that
1236 applicants making initial application for certain
1237 licensure complete certain courses; amending s.
1238 381.82, F.S.; revising the reporting requirements for
1239 the Alzheimer's Disease Research Grant Advisory Board
1240 under the Ed and Ethel Moore Alzheimer's Disease
1241 Research Program; providing for the carryforward of
1242 any unexpended balance of an appropriation for the Ed
1243 and Ethel Moore Alzheimer's Disease Research Program;
1244 amending s. 381.922, F.S.; creating reporting
1245 requirements for the Biomedical Research Advisory
1246 Council under the William G. "Bill" Bankhead, Jr. and
1247 David Coley Cancer Research Program; amending s.
1248 456.013, F.S.; revising course requirements for
1249 renewing a certain license; amending s. 456.024, F.S.;
1250 revising the eligibility criteria for a military
1251 health care practitioner to be issued a license to
1252 practice as a health care practitioner in this state;
1253 authorizing a spouse of an active duty military member
1254 to be licensed as a health care practitioner in this
1255 state if certain criteria are met; deleting temporary
1256 professional licensure for spouses of active duty
1257 members of the Armed Forces of the United States;
1258 creating s. 456.0241, F.S., providing for the issuance

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1259 of a temporary certificate under certain conditions
1260 for certain military health care practitioners to
1261 provide or receive educational training or to provide
1262 medical or surgical treatment or other appropriate
1263 health care services; providing definitions; providing
1264 eligibility requirements for the issuance of the
1265 temporary certificate; providing for the automatic
1266 expiration of the temporary certificate unless
1267 renewed; setting an application fee; authorizing the
1268 department to adopt rules; amending s. 456.025, F.S.;
1269 deleting the requirement for an annual meeting of
1270 chairpersons of Division of Medical Quality Assurance
1271 boards and professions; deleting the requirement that
1272 certain recommendations be included in a report to the
1273 Legislature; deleting a requirement that the
1274 Department of Health set license fees and recommend
1275 fee cap increases in certain circumstances; providing
1276 that a profession may operate at a deficit for a
1277 certain time period; deleting a provision authorizing
1278 the department to advance funds under certain
1279 circumstances; deleting a requirement that the
1280 department implement an electronic continuing
1281 education tracking system; authorizing the department
1282 to waive specified costs under certain circumstances;
1283 revising legislative intent; deleting a prohibition
1284 against the expenditure of funds by the department

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1285 from the account of a profession to pay for the
1286 expenses of another profession; deleting a requirement
1287 that the department include certain information in an
1288 annual report to the Legislature; creating s.
1289 456.0361, F.S.; requiring the department to establish
1290 an electronic continuing education tracking system;
1291 prohibiting the department from renewing a license
1292 unless the licensee has complied with all continuing
1293 education requirements; authorizing the department to
1294 adopt rules; amending s. 456.057, F.S.; revising a
1295 provision for a person or an entity appointed by the
1296 board to be approved by the department; authorizing
1297 the department to contract with a third party to
1298 provide record custodian services; amending s.
1299 456.0635, F.S.; deleting a provision on applicability
1300 relating to the issuance of licenses; amending s.
1301 457.107, F.S.; deleting a provision authorizing the
1302 Board of Acupuncture to request certain documentation
1303 from applicants; amending s. 458.347, F.S.; deleting a
1304 requirement that a physician assistant file a signed
1305 affidavit with the department; amending s. 463.007,
1306 F.S.; making technical changes; amending s. 464.203,
1307 F.S.; revising inservice training requirements for
1308 certified nursing assistants; deleting a rulemaking
1309 requirement; repealing s. 464.2085, F.S., relating to
1310 the Council on Certified Nursing Assistants; amending

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1311 s. 465.0276, F.S.; deleting a requirement that the
1312 department inspect certain facilities; amending s.
1313 466.0135, F.S.; deleting a requirement that a dentist
1314 file a signed affidavit with the department; deleting
1315 a provision authorizing the Board of Dentistry to
1316 request certain documentation from applicants;
1317 amending s. 466.014, F.S.; deleting a requirement that
1318 a dental hygienist file a signed affidavit with the
1319 department; deleting a provision authorizing the board
1320 to request certain documentation from applicants;
1321 amending s. 466.032, F.S.; deleting a requirement that
1322 a dental laboratory file a signed affidavit with the
1323 department; deleting a provision authorizing the
1324 department to request certain documentation from
1325 applicants; repealing s. 468.1201, F.S., relating to a
1326 requirement for instruction on human immunodeficiency
1327 virus and acquired immune deficiency syndrome;
1328 amending s. 483.901, F.S.; deleting provisions
1329 relating to the Advisory Council of Medical Physicists
1330 in the department; authorizing the department to issue
1331 temporary licenses in certain circumstances;
1332 authorizing the department to adopt rules; amending s.
1333 484.047, F.S.; deleting a requirement for a written
1334 statement from an applicant in certain circumstances;
1335 amending s. 486.109, F.S.; deleting a provision
1336 authorizing the department to conduct a random audit

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1337 | for certain information; amending ss. 499.028 and
1338 | 921.0022, F.S.; conforming cross-references; providing
1339 | an effective date.
1340 |



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COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Health Quality

2 Subcommittee

3 Representative Pigman offered the following:

4

5 **Amendment to Amendment (339105) by Representative Gonzalez**
6 **(with title amendment)**

7 Between lines 206 and 207 of the amendment, insert:

8 Section 5. Subsections (8) and (12) of section 401.27,
9 Florida Statutes, are amended to read:

10 401.27 Personnel; standards and certification.-

11 (8) Each emergency medical technician certificate and each
12 paramedic certificate will expire automatically and may be
13 renewed if the holder meets the qualifications for renewal as
14 established by the department. A certificate that is not renewed
15 at the end of the 2-year period will automatically revert to an
16 inactive status for a period not to exceed two renewal periods
17 ~~180 days~~. Such certificate may be reactivated and renewed within



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18 the two renewal periods ~~180 days~~ if the certificateholder meets
19 all other qualifications for renewal, including completion of
20 education requirements and passage of the state certification
21 examination, and pays a \$25 late fee. Reactivation shall be in a
22 manner and on forms prescribed by department rule.

23 (12) An applicant for certification as an emergency
24 medical technician or paramedic who is trained outside the state
25 or military-trained must provide proof of current emergency
26 medical technician or paramedic certification or registration,
27 which is nationally-recognized and based upon successful
28 completion of a training program approved by the department as
29 equivalent to the most recent EMT-Basic or EMT-Paramedic
30 National Standard Curriculum or the National EMS Education
31 Standards of the United States Department of Transportation and
32 hold a current certificate of successful course completion in
33 cardiopulmonary resuscitation (CPR) or advanced cardiac life
34 support for emergency medical technicians or paramedics,
35 respectively, to be eligible for the certification. ~~examination.~~
36 ~~The applicant must successfully complete the certification~~
37 ~~examination within 2 years after the date of the receipt of his~~
38 ~~or her application by the department. After 2 years, the~~
39 ~~applicant must submit a new application, meet all eligibility~~
40 ~~requirements, and submit all fees to reestablish eligibility to~~
41 ~~take the certification examination.~~

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43



Amendment No.


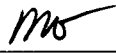
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T I T L E A M E N D M E N T

Remove line 1247 of the amendment and insert:
David Coley Cancer Research Program; amending s. 401.27, F.S.;
increasing the length of time a certificate can remain in an
inactive status; providing the process for reactivating and
renewing a certificate in an inactive status; authorizing
military-trained emergency medical technicians or paramedics to
apply for certification; deleting a requirement that emergency
medical technicians or paramedics who are trained outside the
state or are military-trained must successfully complete a
certification examination; amending s.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 943 Prenatal Services and Early Childhood Development
SPONSOR(S): Gonzalez
TIED BILLS: IDEN./SIM. BILLS: SB 7034

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Quality Subcommittee		Tuszynski 	O'Callaghan 
2) Health Care Appropriations Subcommittee			
3) Health & Human Services Committee			

SUMMARY ANALYSIS

The Individuals with Disabilities Education Act (IDEA) was originally enacted by Congress in 1975 to ensure that children with disabilities have the opportunity to receive a free and appropriate public education in the least restrictive environment. In September 2011, the U.S. Department of Education released its final implementing regulations for Part C of the IDEA, which were adopted to help improve services and outcomes for infants and toddlers with disabilities and to provide additional support and services for families of such infants and toddlers.

Part C of the IDEA (known as the Early Steps Program) provides services to families with infants and toddlers from birth to three years of age who have or are at risk of having developmental delays or disabilities. The federal government created grants to assist states in providing early intervention programs under Part C of the IDEA. The program has no financial eligibility requirements and is an entitlement to any eligible child.

Florida's Early Steps Program, named the Infants and Toddlers Early Intervention Program, is administered by Children's Medical Services within the Department of Health (DOH). The DOH contracts with hospitals and non-profit organizations across the state to screen children for eligibility and to coordinate and deliver services.

In 2014 and 2015, the U.S. Department of Education placed the Florida Early Steps Program on "needs assistance" status because of the program's failure to meet the 100% standard for any of the compliance indicators required under Part C of the IDEA. In response, DOH officials established an action plan and are currently in year two of its implementation to improve the timely delivery of Early Steps Program services.

The bill renames the Infants and Toddlers Early Intervention Program the Early Steps Program, repeals outdated sections of statute related to the program, and includes other revisions and updates to conform to the U.S. Department of Education's implementing regulations.

The bill requires DOH to expand the capabilities of its clearinghouse, which is a website containing information on early intervention services, among other things. The bill provides program goals, defines terms, and assigns duties to DOH as well as the local Early Steps Program offices. The bill sets eligibility requirements for the program. The bill also requires DOH to develop a statewide plan, create and enforce performance standards and submit an annual accountability report to the Governor, Legislature, and the Florida Interagency Coordinating Council for Infants and Toddlers (Council). The bill designates the Council as the state interagency coordination council required under federal law.

The bill provides procedures for the successful transition of children from the Early Steps Program to the local school districts.

There is an indeterminate, negative fiscal impact on state and local government. See Fiscal Comment.

The bill provides for an effective date of July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Individuals with Disabilities Education Act

The Individuals with Disabilities Education Act (IDEA) was originally enacted by Congress in 1975 to ensure that children with disabilities have the opportunity to receive a free and appropriate public education in the least restrictive environment.¹ In September 2011, the U.S. Department of Education released its final implementing regulations for Part C of the IDEA, which were adopted to help improve services and outcomes for infants and toddlers with disabilities and to provide additional support and services for families of such infants and toddlers.²

The Early Steps Program

Part C of the IDEA (the Early Steps Program) provides services to families with infants and toddlers from birth to three years of age who have or are at risk of having developmental delays or disabilities.³ The federal government created grants to assist states in providing early intervention programs under Part C of the IDEA.⁴ The program has no financial eligibility requirements and is an entitlement to any eligible child.⁵

Part 303 of Section 34 Code of Federal Regulations

Part 303 of Section 34, Code of Federal Regulations, governs early intervention programs for infants and toddlers with disabilities. These federal rules provide the purpose of the early intervention program, the activities that may be supported by the federal IDEA grant, the children that are eligible to be served, the types of services available, the definition of service coordination activities, and for the use of service coordinators.⁶

Subpart A

This subpart details the purpose of the early intervention program for infants and toddlers with disabilities, provides eligibility criteria, and includes definitions.

The purpose of the program is to develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system that provides early intervention services for infants and toddlers with disabilities and their families.⁷

Early intervention skills for this population focus on 5 areas:

- Physical (reaching, rolling, crawling, and walking);
- Cognitive (thinking, learning, and solving problems);
- Communication (talking, listening, and understanding);

¹ U.S. Department of Education, Office of Special Education and Rehabilitative Services, *The IDEA 35th Anniversary*, available at: <http://www2.ed.gov/about/offices/list/osers/idea35/index.html> (last accessed on 1/14/16).

² U.S. Department of Education, *IDEA 2004: Building the Legacy*, available at: <http://idea.ed.gov/part-c/search/new> (last accessed on 1/17/16).

³ See 34 C.F.R. s. 303.1

⁴ 34 C.F.R. s. 303.100

⁵ 34 C.F.R. s. 303.101(a)(1)

⁶ 34 C.F.R. s. 303.1

⁷ *Id.*

- Social/emotional (playing and feeling secure and happy); and
- Adaptive/self-help (eating and dressing).⁸

Subpart B

This subpart details state eligibility and the minimum components a statewide system must include, such as:

- A rigorous definition of “developmental delay;”⁹
- Evaluation, assessment, and nondiscriminatory procedures;¹⁰
- Individualized family service plans (IFSPs);¹¹
- A comprehensive “child find” system;¹²
- A public awareness program;
- A state interagency coordinating council;¹³ and
- Early intervention services in natural environments.¹⁴

States must establish qualifications for personnel providing early intervention services to eligible children and families.¹⁵ States must have standards to ensure that necessary personnel carry out the purposes of the program and are appropriately and adequately prepared and trained.¹⁶

Subpart C

This subpart details the application requirements, assurances, and processes the state must follow to apply for the federal grant.

Subpart D

This subpart provides detail for pre-referral procedures, referral procedures, post-referral procedures, and IFSPs. Pre-referral procedures include a public awareness program¹⁷ and a comprehensive “child find” system.¹⁸ The child find system must include a system for making referrals that include timelines, and ensures rigorous standards for appropriately identifying infants and toddlers with disabilities for early intervention services.¹⁹

At-risk infants and toddlers are referred through the state’s child find system by primary referral sources such as:

- Hospitals;
- Physicians;
- Child care programs;
- Schools; and
- Other public agencies.²⁰

⁸ Center for Parent Information and Resources, *Overview of Early Intervention - What is Early Intervention?* available at: <http://www.parentcenterhub.org/repository/ei-overview/> (last accessed 1/15/2016).

⁹ 34 C.F.R. s. 303.111

¹⁰ 34 C.F.R. s. 303.113

¹¹ 34 C.F.R. s. 303.114

¹² 34 C.F.R. s. 303.115

¹³ 34 C.F.R. s. 303.125

¹⁴ 34 C.F.R. s. 303.126

¹⁵ 34 C.F.R. s. 303.119

¹⁶ Id.

¹⁷ 34 C.F.R. s. 303.301

¹⁸ 34 C.F.R. s. 303.302

¹⁹ 34 C.F.R. s. 303.302(a)

²⁰ 34 C.F.R. s. 303.303(c)

Within 45 days of a referral, any post-referral screening, evaluation, assessment, and the initial IFSP meeting must be completed. These post-referral services are comprehensive, multidisciplinary evaluations of children and an identification of family needs.²¹ States must also develop policies and procedures for IFSPs.²²

The federal law allows for early intervention services for an eligible child and the child's family to begin before the completion of the evaluation and assessment under certain conditions.²³ While each agency or person involved in the provision of early intervention services is responsible for making good faith efforts to assist the eligible child in achieving the outcomes in the IFSP, the law states that any agency or person cannot be held accountable if an eligible child does not achieve the growth projected in the child's IFSP.²⁴

Subpart E

This subpart details the procedural safeguards concerning confidentiality, consent, notice, and dispute resolution procedures.²⁵ Each state must ensure that the parents of a child are afforded the right to confidentiality of personally identifiable information, including the right to written notice of, and written consent to, the exchange of that information among agencies, consistent with federal and state laws.²⁶ Parents must give written consent before the Early Steps Program may evaluate, assess, and provide early intervention services to a child.²⁷ In the event parents do not give consent, reasonable efforts should be made to ensure the parent is aware of the nature of the evaluation, assessment and services available and understands that without consent the child will not be able to receive the evaluation, assessment or services.²⁸

The federal rules require that a service provider give written notice to parents before the provider initiates or changes the identification, evaluation, or placement of the child, or provides the appropriate early intervention services to the child and the child's family.²⁹ Procedures to resolve disputes through a mediation process, at a minimum, must be available whenever a parent requests a hearing.³⁰ The mediation process is voluntary, must be conducted by a qualified mediator, and cannot be used to deny or delay a parent's right to a due process hearing.³¹ During the mediation, the child must continue to receive early intervention services currently being provided.³² If the complaint involves an application for initial services, the child must receive any services that are not in dispute.³³

Subpart F

This subpart details the use of funds. State policy must specify which functions and services will be provided at no cost to all parents and which will be subject to a system of payments.³⁴ The inability of parents of an eligible child to pay for services must not result in a denial of services to the child or the

²¹ See 34 C.F.R. s. 303.321

²² 34 C.F.R. s. 303.340 – a written plan for providing early intervention services to an infant or toddler with a disability under this part and the infant's or toddler's family that—

(a) is based on the evaluation and assessment described in s. 303.321;

(b) includes the content specified in s. 303.344;

(c) is implemented as soon as possible once parental consent for the early intervention services in the IFSP is obtained (consistent with s. 303.420); and

(d) is developed in accordance with the IFSP procedures in ss. 303.342, 303.343, and 303.345.

²³ 34 C.F.R. s. 303.345

²⁴ 34 C.F.R. s. 303.346

²⁵ 34 C.F.R. s. 303.400

²⁶ 34 C.F.R. s. 303.401

²⁷ 34 C.F.R. s. 303.404

²⁸ Id.

²⁹ 34 C.F.R. s. 303.421

³⁰ 34 C.F.R. s. 303.431

³¹ Id.

³² 34 C.F.R. s. 303.430(e)

³³ Id.

³⁴ 34 C.F.R. s. 303.520

child's family.³⁵ States may establish a schedule of sliding fees for early intervention services but some functions such as evaluation and assessment, and service coordination are not subject to fees.³⁶

Funds provided by the federal grant may be used only for early intervention services for an eligible child who is not entitled to these services under any other federal, state, local or private source.³⁷ Interim payments to avoid delay in providing needed services to an eligible child are allowed but the agency that has ultimate responsibility for the payment must reimburse the program.³⁸

Subpart G

Each state that receives financial assistance for the program must establish a State Interagency Coordinating Council (Council).³⁹ The Council must be appointed by the Governor and membership must reasonably represent the population of the state.⁴⁰ The Council is to:

- Advise and assist the lead agency regarding the provision of appropriate services for children with disabilities from birth through age five;
- Advise appropriate agencies in the state with respect to integration of services for infants and toddlers with disabilities and at-risk infants and toddlers and their families, regardless of whether at-risk infants and toddlers are eligible; and
- Coordinate and collaborate with the State Advisory Council on Early Childhood Education and Care.⁴¹

Subpart H

This subpart details the monitoring, enforcement, and reporting requirements. Each State must have in place a performance plan and review it every six years.⁴² The plan must include data collection that is reported annually.⁴³

The federal government has three enforcement categories for assistance to the states:

- Needs Assistance – when it is determined that, for two consecutive years, a state has needed assistance in implementing the requirements of Part C of IDEA;
- Needs Intervention – when it is determined that for three or more consecutive years, a state has needed assistance in implementing the requirements of Part C of IDEA; and
- Needs Substantial Intervention – when it is determined that a state needs substantial intervention or there is a substantial failure to comply with Part C of IDEA.

States must also have various components under 20 U.S.C. 1435, within their statewide system, which broadly covers administrative, oversight and regulatory functions, such as:

- Policies to ensure appropriate delivery of early intervention services to infants, toddlers and their families;
- IFSPs for each infant or toddler with a disability;
- A properly functioning administrative structure that identifies eligible infants and toddlers using a rigorous definition of “developmental delay,” makes referrals, centrally collects information,

³⁵ Id.

³⁶ 34 C.F.R. s. 303.521

³⁷ 34 C.F.R. s.303.510

³⁸ Id.

³⁹ 34 C.F.R. s. 303.600

⁴⁰ Id.

⁴¹ 34 C.F.R. s. 303.605

⁴² 34 C.F.R. s. 303.701

⁴³ 34 C.F.R. s. 303.702

provides directory of services and resources, incorporates data, and has a comprehensive system for personnel development;

- A single line of responsibility in a lead agency designated by the Governor, including financial responsibility, provision of services, resolution of disputes, and development of procedures to ensure timeliness of services; and
- A State Interagency Coordination Council.

Infants and Toddlers Early Intervention Program

Florida's Infants and Toddlers Early Intervention Program (Early Steps Program), is administered by Children's Medical Services within the Department of Health (DOH).⁴⁴ DOH contracts with hospitals and non-profit organizations across the state for coordination and delivery of services.⁴⁵

The Office of Program Policy Analysis & Government Accountability has recently examined Florida's Early Steps Program, including program eligibility, service provision, issues related to payment, and recent administrative changes.⁴⁶ The conclusions of that research are as follows:

- Following a series of public hearings in 2010, DOH refined and narrowed the program's eligibility criteria. However, recent research findings suggest that considerable variation exists across the state in the percentage of children determined eligible. Stakeholders also have expressed concern that Florida's eligibility criteria may not capture some children who would benefit from early intervention services;
- Federal guidelines for early intervention services emphasize quality and timeliness of services. Various factors can influence timeliness and quality, including family circumstances, service delivery requirements, service coordination caseloads, provider availability, and transition planning;
- Federal rules require the Early Steps Program to be the payor of last resort. However, research has shown that the Local Early Steps (LES) offices use Early Steps Program funds to pay claims for children with insurance; and
- In the spring of 2015, DOH modified the Early Steps Program in response to a \$6.9 million funding deficit. Changes included restructuring LES contracts and other administrative efficiencies, including staffing reductions and elimination of the program's third party administrator. LES offices perceive a lack of communication and direction from the program office due to these recent staff reductions.⁴⁷

Florida was determined by the U.S. Secretary of Education to need assistance for 2014 and 2015 with implementation of the Early Steps Program. Florida has not met the 100% standard for any of the compliance indicators for those reporting years.⁴⁸ However, DOH officials established an action plan, and are currently in year two of implementation, to improve the timely delivery of Early Steps Program services.

DOH Clearinghouse

Bright Expectations is the name of DOH's clearinghouse, which is a website that provides resources and information on developmental disabilities for pregnant women, health care providers, parents and families. More specifically, this website provides information on evaluation and intervention services,

⁴⁴ S. 391.308, F.S..

⁴⁵ Office of Program Policy Analysis & Government Accountability. Florida Legislature, *Early Steps Has Revised Reimbursement Rates but Needs to Assess Impact of Expanded Outreach on Child Participation*, Report No. 08-44, (July 2008) <http://www.opaga.state.fl.us/MonitorDocs/Reports/pdf/0844rpt.pdf>.

⁴⁶ Office of Program Policy Analysis & Government Accountability, Florida Legislature, *Florida's Early Steps Program* (November 3, 2015)(on file with Health Quality Subcommittee staff).

⁴⁷ Id.

⁴⁸ Id.

support programs for families, resources for health care providers, and other important information on developmental disabilities as directed in s. 383.141, F.S.⁴⁹

The Information Clearinghouse on Developmental Disabilities Advisory Council, which consists of nine members who are health care providers or caregivers and who perform health care services for persons who have developmental disabilities, advises DOH on the resources to be included in the Bright Expectations website.⁵⁰

Effect of Proposed Changes

HB 943 repeals the state's early intervention program statutes to create new standards, eligibility criteria, and responsibilities under the program.

The bill renames the Florida Infants and Toddlers Early Intervention Program the Early Steps Program. The bill makes DOH the lead agency in the administration of the Early Steps Program.

The bill amends s. 391.302, F.S., to add definitions for "developmental delay" to mean a condition, identified and measured through appropriate instruments and procedures, which may delay physical, cognitive, communication, social/emotional, or adaptive development, and "developmental disability" to mean a condition, identified and measured through appropriate instruments and procedures, which may impair physical, cognitive, communication, social/emotional, or adaptive development. The bill also adds definitions for "habilitative services and devices", and "local program office."

Clearinghouse

The bill amends s. 383.141, F.S., to provide additional direction to DOH in administering its information clearinghouse. The bill requires the clearinghouse to provide comprehensive information to educate parents and providers of early intervention services. DOH is directed to refer to children with developmental disabilities or delays as children with "unique abilities" whenever possible in the clearinghouse. DOH is to provide education and training to parents and providers through the clearinghouse. The clearinghouse is to promote public awareness of intervention services available to parents of children with developmental disabilities or delays.

Legislative Intent and Program Goals

The bill amends s. 391.301, F.S., to update the legislative intent of the Early Steps Program and to establish goals for the program. The program must:

- Provide services to enhance the development of infants and toddlers;
- Increase the awareness among parents and health care providers of the importance of the first three years of life for the development of the brain;
- Maintain the importance of the family in early intervention services;
- Provide comprehensive and coordinated services;
- Ensure timely evaluation of infants and toddlers and provide individual planning for intervention services;
- Improve the capacity of health care providers to serve children with unique needs; and
- Ensure program and financial accountability.

⁴⁹ Florida Department of Health, *About Bright Expectations*, available at: <http://www.floridahealth.gov/programs-and-services/people-with-disabilities/bright-expectations/about.html> (last accessed 1/17/2016).

⁵⁰ The Information Clearinghouse on Developmental Disabilities Advisory Council is established in s. 383.141, F.S.

DOH Program Responsibilities

The bill increases DOH's responsibilities in administering the Early Steps Program. The bill requires DOH to:

- Develop a statewide plan for the program;
- Ensure that screening is continued at hospitals providing Level II and Level III neonatal intensive care;
- Establish standards and qualifications for service providers used by the program;
- Develop uniform procedures to determine eligibility for the program;
- Provide a statewide format for IFSPs;
- Promote interagency cooperation with the Medicaid program and the Department of Education;
- Provide guidance to LES offices for coordinating Early Steps Program benefits with other programs such as Medicaid and private insurance;
- Provide an appeals procedure for parents whose infant or toddler is determined not to be eligible for Early Steps Program services;
- Competitively procure LES to administer the Early Steps Program;
- Establish performance measures and standards to evaluate LES offices;
- Provide technical assistance to LES offices; and
- Report to the Governor and legislature on the performance of the Early Steps Program on December 1st of each year.

Eligibility

The bill establishes eligibility for the Early Steps Program. The eligibility criteria is based on federal law and funds appropriated by the General Appropriations Act. All infant and toddlers are eligible for evaluation for developmental disabilities. Infants and toddlers with a developmental disability based on a specific condition or based on an informed clinical opinion are eligible. In addition, infants and toddlers with a specific score on a standardized evaluation instrument are eligible for services under the Early Steps Program.

Local Early Steps Program Offices Responsibilities

The bill expands the responsibilities of LES offices. These offices must:

- Evaluate a child within 45 days after referral;
- Notify parents if the child is eligible for services, and provide an appeal process to those parents whose child is found ineligible;
- Make interagency agreements with local school districts and local Medicaid managed care organizations;
- Provide services directly or procure early intervention services;
- Provide services in the child's natural environment to the extent possible;
- Develop an IFSP for each child served in the program;
- Assess the progress of the child in meeting the goals of the IFSPs;
- Provide service coordination to ensure that assistance for families is properly managed whether the program provides the services directly or through referral to other service providers;
- Make agreements with local Medicaid managed care organizations;
- Make agreements with local private insurers;
- Provide data required by DOH to assess the performance of the program; and
- Improve a child's transition to the local school district where the child may need special education or related services.

Florida Interagency Coordinating Council for Infants and Toddlers

The bill also designates the Florida Interagency Coordinating Council for Infants and Toddlers as the state interagency coordination council required under Part C of the IDEA. This council currently exists and its role is to advise and assist Florida's Early Steps Program in the performance of its responsibilities by:

- Identifying sources of fiscal and other support for early intervention service programs under Part C of the IDEA;
- Assigning financial responsibility to the appropriate agency;
- Promoting methods for intra-agency and interagency collaboration regarding child find, monitoring, financial responsibility, provision of services, and transition;
- Preparing applications under Part C of IDEA, including amendments;
- Transitioning children from the Early Steps Program to the state education agency; and
- Annually reporting on the status of early intervention services for infants and toddlers with disabilities and their families.⁵¹

The bill provides an effective date of July 1, 2016.

B. SECTION DIRECTORY:

- Section 1:** Amends s. 383.141, F.S., relating to prenatally diagnosed conditions; definitions; information clearinghouse; advisory council.
- Section 2:** Amends s. 391.025, F.S., relating to applicability and scope of Children's Medical Services.
- Section 3:** Amends s. 391.026, F.S., relating to powers and duties of the department.
- Section 4:** Amends s. 391.301, F.S., relating to establishment and goals of the Early Steps Program.
- Section 5:** Amends s. 391.302, F.S., relating to definitions.
- Section 6:** Amends s. 391.308, F.S., relating to the Early Steps Program.
- Section 7:** Amends s. 413.092, F.S., relating to the Blind Babies Program.
- Section 8:** Amends s. 1003.575, F.S., relating to assistive technology devices; findings; and interagency agreements.
- Section 9:** Repeals s. 391.303, F.S., relating to program requirements.
- Section 10:** Repeals s. 391.304, F.S., relating to program coordination.
- Section 11:** Repeals s. 391.305, F.S., relating to program standards.
- Section 12:** Repeals s. 391.306, F.S., relating to program funding and contracts.
- Section 13:** Repeals s. 391.307, F.S., relating to program review.
- Section 14:** Provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

DOH states they cannot absorb the workload required for the bill's reporting requirements from existing resources. Furthermore, DOH estimates a \$100,000 recurring impact (website design, phone, and staff + benefits) to meet the requirements of the bill pertaining to its clearinghouse

⁵¹ Florida's Interagency Coordinating Council for Infants & Toddlers, *Home*, available at: <http://www.floridaicc.com/index.html> (last accessed on 1/17/16).

database and website. Due to the ch. 120, F.S., appeal process, DOH also anticipates the need for an attorney at \$60,000 (+ fringe benefits), recurring.⁵²

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

There may be a potential impact on local school districts to comply with new transitional requirements.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Additional guidance provided for the administration of the Early Steps Program may result in additional opportunities for private providers of early childhood interventions.

D. FISCAL COMMENTS:

Many of the provisions of the bill are already required under federal law. Eligibility for the program is dependent on the funding appropriated in the General Appropriations Act. If funds are appropriated, DOH estimates approximately 1,000 additional Early Steps Program children at an approximate recurring cost of \$1,317,000.⁵³

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This 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.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

⁵² Florida Department of Health, 2016 Agency Legislative Bill Analysis: HB 943, Dec. 16, 2015, (on file with Health Quality Subcommittee staff).

⁵³ Id.

HB 943

2016

1 A bill to be entitled
2 An act relating to prenatal services and early
3 childhood development; amending s. 383.141, F.S.;
4 revising the requirements for the Department of Health
5 to maintain a clearinghouse of information for parents
6 and health care providers and to increase public
7 awareness on developmental evaluation and early
8 intervention programs; requiring the clearinghouse to
9 use a specified term; revising the information to be
10 included in the clearinghouse; amending s. 391.025,
11 F.S.; renaming the "Infants and Toddlers Early
12 Intervention Program" as the "Early Steps Program";
13 revising the components of the Children's Medical
14 Services program; amending s. 391.026, F.S.; requiring
15 the department to serve as the lead agency in
16 administering the Early Steps Program; amending s.
17 391.301, F.S.; establishing the Early Steps Program
18 within the department; deleting provisions relating to
19 legislative findings; authorizing the program to
20 include certain screening and referral services for
21 specified purposes; providing requirements and
22 responsibilities for the program; amending s. 391.302,
23 F.S.; defining terms; revising the definitions of
24 certain terms; amending s. 391.308, F.S.; renaming the
25 "Infants and Toddlers Early Intervention Program" as
26 the "Early Steps Program"; requiring, rather than

27 | authorizing, the department to implement and
28 | administer the program; requiring the department to
29 | ensure that the program follows specified performance
30 | standards; providing requirements of the program to
31 | meet such performance standards; revising the duties
32 | of the department; requiring the department to apply
33 | specified eligibility criteria for the program;
34 | providing duties for local program offices; requiring
35 | the development of an individualized family support
36 | plan for each child served in the program; requiring
37 | referral for services by a local program office under
38 | certain circumstances; requiring the local program
39 | office to negotiate and maintain agreements with
40 | specified providers and managed care entities;
41 | requiring the local program office to coordinate with
42 | managed care plans; requiring the department to submit
43 | an annual report, subject to certain requirements, to
44 | the Governor, the Legislature, and the Florida
45 | Interagency Coordinating Council for Infants and
46 | Toddlers by a specified date; designating the Florida
47 | Interagency Coordinating Council for Infants and
48 | Toddlers as the state interagency coordinating council
49 | required by federal rule subject to certain
50 | requirements; providing requirements for the local
51 | program office and local school district to prepare
52 | certain children for the transition to school under

53 certain circumstances; amending ss. 413.092 and
 54 1003.575, F.S.; conforming provisions to changes made
 55 by the act; repealing ss. 391.303, 391.304, 391.305,
 56 391.306, and 391.307, F.S., relating to requirements
 57 for the Children's Medical Services program, program
 58 coordination, program standards, program funding and
 59 contracts, and program review, respectively; providing
 60 an effective date.

61

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

63

64 Section 1. Subsections (2) and (3) of section 383.141,
 65 Florida Statutes, are amended, and subsection (4) is added to
 66 that section, to read:

67 383.141 Prenatally diagnosed conditions; patient to be
 68 provided information; definitions; information clearinghouse;
 69 advisory council.—

70 (2) When a developmental disability is diagnosed based on
 71 the results of a prenatal test, the health care provider who
 72 ordered the prenatal test, or his or her designee, shall provide
 73 the patient with current information about the nature of the
 74 developmental disability, the accuracy of the prenatal test, and
 75 resources for obtaining relevant support services, including
 76 hotlines, resource centers, and information clearinghouses
 77 related to Down syndrome or other prenatally diagnosed
 78 developmental disabilities; support programs for parents and

79 families; and developmental evaluation and intervention services
 80 under this part ~~s. 391.303~~.

81 (3) The Department of Health shall develop and implement a
 82 comprehensive information clearinghouse to educate health care
 83 providers, inform parents, and increase public awareness
 84 regarding brain development, developmental disabilities and
 85 delays, and all services, resources, and interventions available
 86 to mitigate the effects of impaired development among children.
 87 The clearinghouse must use the term "unique abilities" as much
 88 as possible when identifying infants or children with
 89 developmental disabilities and delays. The clearinghouse must
 90 provide:

91 (a) Health information on conditions that may lead to
 92 impaired development of physical, learning, language, or
 93 behavioral skills.

94 (b) Education and information to support parents whose
 95 unborn children have been prenatally diagnosed with
 96 developmental disabilities or whose children have diagnosed or
 97 suspected developmental delays.

98 (c) Education and training for health care providers to
 99 recognize and respond appropriately to developmental
 100 disabilities, delays, and conditions related to disabilities or
 101 delays. Specific information approved by the advisory council
 102 shall be made available to health care providers for use in
 103 counseling parents whose unborn children have been prenatally
 104 diagnosed with developmental disabilities or whose children have

105 diagnosed or suspected developmental delays.

106 (d) Promotion of public awareness of availability of
 107 supportive services, such as resource centers, educational
 108 programs, other support programs for parents and families, and
 109 developmental evaluation and intervention services.

110 (e) Hotlines specific to Down syndrome and other
 111 prenatally diagnosed developmental disabilities. The hotlines
 112 and the department's clearinghouse must provide information to
 113 parents and families or other caregivers regarding the Early
 114 Steps Program under s. 391.301, the Florida Diagnostic Learning
 115 and Resource System, the Early Learning program, Healthy Start,
 116 Help Me Grow, and any other intervention programs. Information
 117 offered must include directions on how to obtain early
 118 intervention, rehabilitative, and habilitative services and
 119 devices ~~establish on its Internet website a clearinghouse of~~
 120 ~~information related to developmental disabilities concerning~~
 121 ~~providers of supportive services, information hotlines specific~~
 122 ~~to Down syndrome and other prenatally diagnosed developmental~~
 123 ~~disabilities, resource centers, educational programs, other~~
 124 ~~support programs for parents and families, and developmental~~
 125 ~~evaluation and intervention services under s. 391.303. Such~~
 126 ~~information shall be made available to health care providers for~~
 127 ~~use in counseling pregnant women whose unborn children have been~~
 128 ~~prenatally diagnosed with developmental disabilities.~~

129 (4) (a) There is established an advisory council within the
 130 Department of Health which consists of health care providers and

131 caregivers who perform health care services for persons who have
 132 developmental disabilities, including Down syndrome and autism.
 133 This group shall consist of nine members as follows:

- 134 1. Three members appointed by the Governor;
- 135 2. Three members appointed by the President of the Senate;
- 136 and
- 137 3. Three members appointed by the Speaker of the House of
 138 Representatives.

139 (b) The advisory council shall provide technical
 140 assistance to the Department of Health in the establishment of
 141 the information clearinghouse and give the department the
 142 benefit of the council members' knowledge and experience
 143 relating to the needs of patients and families of patients with
 144 developmental disabilities and available support services.

145 (c) Members of the council shall elect a chairperson and a
 146 vice chairperson. The elected chairperson and vice chairperson
 147 shall serve in these roles until their terms of appointment on
 148 the council expire.

149 (d) The advisory council shall meet quarterly to review
 150 this clearinghouse of information, and may meet more often at
 151 the call of the chairperson or as determined by a majority of
 152 members.

153 (e) The council members shall be appointed to 4-year
 154 terms, except that, to provide for staggered terms, one initial
 155 appointee each from the Governor, the President of the Senate,
 156 and the Speaker of the House of Representatives shall be

157 appointed to a 2-year term, one appointee each from these
 158 officials shall be appointed to a 3-year term, and the remaining
 159 initial appointees shall be appointed to 4-year terms. All
 160 subsequent appointments shall be for 4-year terms. A vacancy
 161 shall be filled for the remainder of the unexpired term in the
 162 same manner as the original appointment.

163 (f) Members of the council shall serve without
 164 compensation. Meetings of the council may be held in person,
 165 without reimbursement for travel expenses, or by teleconference
 166 or other electronic means.

167 (g) The Department of Health shall provide administrative
 168 support for the advisory council.

169 Section 2. Paragraph (c) of subsection (1) of section
 170 391.025, Florida Statutes, is amended to read:

171 391.025 Applicability and scope.—

172 (1) The Children's Medical Services program consists of
 173 the following components:

174 (c) The developmental evaluation and intervention program,
 175 including the Early Steps ~~Florida Infants and Toddlers Early~~
 176 ~~Intervention~~ Program.

177 Section 3. Subsection (19) is added to section 391.026,
 178 Florida Statutes, to read:

179 391.026 Powers and duties of the department.—The
 180 department shall have the following powers, duties, and
 181 responsibilities:

182 (19) To serve as the lead agency in administering the

183 Early Steps Program pursuant to part C of the federal
 184 Individuals with Disabilities Education Act and part III of this
 185 chapter.

186 Section 4. Section 391.301, Florida Statutes, is amended
 187 to read:

188 391.301 Early Steps Program; establishment and goals
 189 ~~Developmental evaluation and intervention programs; legislative~~
 190 ~~findings and intent.-~~

191 (1) The Early Steps Program is established within the
 192 department to serve infants and toddlers who are at risk of
 193 developmental disabilities and infants and toddlers with
 194 developmental delays by providing developmental evaluation and
 195 early intervention and by providing families with training and
 196 support services in a variety of home and community settings ~~The~~
 197 ~~Legislature finds that the high-risk and disabled newborn~~
 198 ~~infants in this state need in-hospital and outpatient~~
 199 ~~developmental evaluation and intervention and that their~~
 200 ~~families need training and support services. The Legislature~~
 201 ~~further finds that there is an identifiable and increasing~~
 202 ~~number of infants who need developmental evaluation and~~
 203 ~~intervention and family support due to the fact that increased~~
 204 ~~numbers of low-birthweight and sick full-term newborn infants~~
 205 ~~are now surviving because of the advances in neonatal intensive~~
 206 ~~care medicine; increased numbers of medically involved infants~~
 207 ~~are remaining inappropriately in hospitals because their parents~~
 208 ~~lack the confidence or skills to care for these infants without~~

209 ~~support; and increased numbers of infants are at risk due to~~
 210 ~~parent risk factors, such as substance abuse, teenage pregnancy,~~
 211 ~~and other high-risk conditions.~~

212 (2) The program may include screening and referral ~~It is~~
 213 ~~the intent of the Legislature to establish developmental~~
 214 ~~evaluation and intervention services at all hospitals providing~~
 215 ~~Level II or Level III neonatal intensive care services, in order~~
 216 ~~to promptly identify newborns with disabilities or with~~
 217 ~~conditions associated with risks of developmental delays so that~~
 218 ~~families with high-risk or disabled infants may gain as early as~~
 219 ~~possible the services and skills they need to support their~~
 220 ~~infants' development~~ infants.

221 (3) The program must ~~It is the intent of the Legislature~~
 222 ~~that a methodology be developed to integrate information and~~
 223 ~~coordinate services on infants with potentially disabling~~
 224 ~~conditions with other early intervention programs, including,~~
 225 ~~but not limited to, Part C of Pub. L. No. 105-17 and the Healthy~~
 226 ~~Start program, the newborn screening program, and the Blind~~
 227 ~~Babies Program.~~

228 (4) The program must:

229 (a) Provide services to enhance the development of infants
 230 and toddlers with disabilities and delays.

231 (b) Expand the recognition by health care providers,
 232 families, and the public of the significant brain development
 233 that occurs during a child's first 3 years of life.

234 (c) Maintain the importance of the family in all areas of

235 the child's development and support the family's participation
 236 in early intervention services and decisions affecting the
 237 child.

238 (d) Operate a comprehensive, coordinated interagency
 239 system of early intervention services and supports in accordance
 240 with part C of the federal Individuals with Disabilities
 241 Education Act.

242 (e) Ensure timely evaluation, individual planning, and
 243 early intervention services necessary to meet the unique needs
 244 of eligible infants and toddlers.

245 (f) Build the service capacity and enhance the
 246 competencies of health care providers serving infants and
 247 toddlers with unique needs and abilities.

248 (g) Ensure programmatic and fiscal accountability through
 249 establishment of a high-capacity data system, active monitoring
 250 of performance indicators, and ongoing quality improvement.

251 Section 5. Section 391.302, Florida Statutes, is amended
 252 to read:

253 391.302 Definitions.—As used in ss. 391.301-391.308 ~~ss.~~
 254 ~~391.301-391.307~~, the term:

255 (1) "Developmental delay" means a condition, identified
 256 and measured through appropriate instruments and procedures,
 257 which may delay physical, cognitive, communication,
 258 social/emotional, or adaptive development.

259 (2) "Developmental disability" means a condition,
 260 identified and measured through appropriate instruments and

261 procedures, which may impair physical, cognitive, communication,
 262 social/emotional, or adaptive development.

263 (3) "Developmental intervention" or "early intervention"
 264 means individual and group ~~individualized~~ therapies and services
 265 needed to enhance both the infant's or toddler's growth and
 266 development and family functioning. The term includes
 267 habilitative services and assistive technology devices,
 268 rehabilitative services and assistive technology devices, and
 269 parent support and training.

270 (4) "Habilitative services and devices" means health care
 271 services and devices that help a child maintain, learn, or
 272 improve skills and functioning for daily living.

273 (5)+(2) "Infant or toddler" or "child" means a child from
 274 birth until the child's third birthday.

275 (6)+(3) "In-hospital intervention services" means the
 276 provision of assessments; the provision of individual
 277 individualized services; monitoring and modifying the delivery
 278 of medical interventions; and enhancing the environment for the
 279 high-risk, developmentally disabled, or medically involved
 280 infant or toddler in order to achieve optimum growth and
 281 development.

282 (7) "Local program office" means an office that
 283 administers the Early Steps Program within a municipality,
 284 county, or region.

285 (8)+(4) "Parent support and training" means a range of
 286 services to families of high-risk, developmentally disabled, or

287 medically involved infants or toddlers, including family
 288 counseling; ~~financial planning;~~ agency referral; development of
 289 parent-to-parent support groups; education concerning growth,
 290 development, and developmental intervention and objective
 291 measurable skills, including abuse avoidance skills; and
 292 training of parents to advocate for their child; ~~and bereavement~~
 293 ~~counseling.~~

294 (9) "Rehabilitative services and devices" means
 295 restorative and remedial services that maintain or enhance the
 296 current level of functioning of a child if there is a
 297 possibility of improvement or reversal of impairment.

298 Section 6. Section 391.308, Florida Statutes, is amended
 299 to read:

300 391.308 Early Steps ~~Infants and Toddlers Early~~
 301 ~~Intervention~~ Program.—The department shall ~~Department of Health~~
 302 ~~may~~ implement and administer part C of the federal Individuals
 303 with Disabilities Education Act (IDEA), which shall be known as
 304 the "Early Steps "~~Florida Infants and Toddlers Early~~
 305 ~~Intervention~~ Program."

306 (1) PERFORMANCE STANDARDS.—The department shall ensure
 307 that the Early Steps Program complies with the following
 308 performance standards:

309 (a) The program must provide services from referral
 310 through transition in a family-centered manner that recognizes
 311 and responds to unique circumstances and needs of infants and
 312 toddlers and their families as measured by a variety of

313 qualitative data, including satisfaction surveys, interviews,
 314 focus groups, and input from stakeholders.

315 (b) The program must provide individualized family support
 316 plans that are understandable and usable by families, health
 317 care providers, and payors and that identify the current level
 318 of functioning of the infant or toddler, family supports and
 319 resources, expected outcomes, and specific early intervention
 320 services needed to achieve the expected outcomes, as measured by
 321 periodic system independent evaluation.

322 (c) The program must help each family to use available
 323 resources in a way that maximizes the child's access to services
 324 necessary to achieve the outcomes of the individualized family
 325 support plan, as measured by family feedback and by independent
 326 assessments of services used by each child.

327 (d) The program must offer families access to quality
 328 services that effectively enable infants and toddlers with
 329 developmental disabilities and developmental delays to achieve
 330 optimal functional levels as measured by an independent
 331 evaluation of outcome indicators in social/emotional skills,
 332 communication, and adaptive behaviors.

333 (2) DUTIES OF THE DEPARTMENT.—The department shall:7

334 (a) Jointly with the Department of Education, shall
 335 Annually prepare a grant application to the United States
 336 Department of Education for funding early intervention services
 337 for infants and toddlers with disabilities, from birth through
 338 36 months of age, and their families pursuant to part C of the

339 federal Individuals with Disabilities Education Act.

340 (b)(2) ~~The department,~~ Jointly with the Department of
 341 Education, provide ~~shall include~~ a reading initiative as an
 342 early intervention service for infants and toddlers.

343 (c) Annually develop a state plan for the Early Steps
 344 Program.

345 1. The plan must assess the need for early intervention
 346 services, evaluate the extent of the statewide need that is met
 347 by the program, identify barriers to fully meeting the need, and
 348 recommend specific action steps to improve program performance.

349 2. The plan must be developed through an inclusive process
 350 that involves families, local program offices, health care
 351 providers, and other stakeholders.

352 (d) Ensure the provision of developmental evaluation and
 353 intervention services in each hospital that provides Level II
 354 and Level III neonatal intensive care services to an infant or a
 355 toddler identified as being at risk for developmental
 356 disabilities who along with his or her family, would benefit
 357 from early intervention services.

358 (e) Establish standards and qualifications for
 359 developmental evaluation and early intervention service
 360 providers, including standards for determining the adequacy of
 361 provider networks in each local program office service area.

362 (f) Establish statewide uniform protocols and procedures
 363 to determine eligibility for developmental evaluation and early
 364 intervention services.

365 (g) Establish a consistent, statewide format and procedure
 366 for preparing and completing an individualized family support
 367 plan.

368 (h) Promote interagency cooperation and coordination, with
 369 the Medicaid program, the Department of Education program
 370 pursuant to part B of the federal Individuals with Disabilities
 371 Education Act, and programs providing child screening such as
 372 the Florida Diagnostic Learning and Resource System, the Early
 373 Learning program, Healthy Start, and Help Me Grow program.

374 1. Coordination with the Medicaid program shall be
 375 developed and maintained through written agreements with the
 376 Agency for Health Care Administration and Medicaid managed care
 377 entities as well as through active and ongoing communication
 378 with these entities. The department shall assist local program
 379 offices to negotiate agreements with Medicaid managed care
 380 entities in the service areas of the local program offices. Such
 381 agreements may be formal or informal.

382 2. Coordination with education programs pursuant to part B
 383 of the federal Individuals with Disabilities Education Act shall
 384 be developed and maintained through written agreements with the
 385 Department of Education. The department shall assist local
 386 program offices to negotiate agreements with school districts in
 387 the service areas of the local program offices.

388 (i) Develop and disseminate the knowledge and methods
 389 necessary to effectively coordinate benefits among various payor
 390 types.

391 (j) Provide an appeals process under chapter 120 for
 392 applicants found ineligible for developmental evaluation or
 393 early intervention services or denied financial support for such
 394 services.

395 (k) Competitively procure local program offices to provide
 396 services throughout the state in accordance with chapter 287.
 397 The department shall specify the requirements and qualifications
 398 for local program offices in the procurement document.

399 (l) Establish performance standards and other metrics for
 400 evaluation of local program offices, including standards for
 401 measuring timeliness of services, outcomes of early intervention
 402 services, and administrative efficiency. Performance standards
 403 and metrics shall be developed in consultation with local
 404 program offices.

405 (m) Provide technical assistance to the local program
 406 offices.

407 (3) ELIGIBILITY.—The department shall apply the following
 408 eligibility criteria as authorized in the General Appropriations
 409 Act.

410 (a) All infants and toddlers in this state are eligible
 411 for an evaluation to determine the presence of a developmental
 412 disability or conditions that cause or increase the risk of
 413 developmental delays.

414 (b) All infants and toddlers determined to have a
 415 developmental disability based on an established condition or
 416 determined to be at risk of developmental delays based on an

417 informed clinical opinion are eligible for Early Steps Program
 418 services.

419 (c) A child is eligible for Early Steps Program services
 420 if the application of a standardized evaluation instrument
 421 results in a score that is 1.5 standard deviations from the mean
 422 in two or more of the following domains: physical, cognitive,
 423 communication, social or emotional, and adaptive.

424 (d) A child is eligible for Early Steps Program services
 425 if the application of a standardized evaluation instrument
 426 results in a score that is 2.0 standard deviations from the mean
 427 in one of the following domains: physical, cognitive,
 428 communication, social or emotional, and adaptive.

429 (e) A child is eligible for Early Steps Program services
 430 if diagnosed with a physical or mental condition that has a high
 431 probability of resulting in a developmental delay.

432 (4) DUTIES OF THE LOCAL PROGRAM OFFICES.—A local program
 433 office shall:

434 (a) Evaluate a child to determine eligibility within 45
 435 calendar days after the child is referred to the program.

436 (b) Notify the parent or legal guardian of his or her
 437 child's eligibility status initially and at least annually
 438 thereafter. If a child is determined not to be eligible, the
 439 local program office must provide the parent or legal guardian
 440 with written information on the right to an appeal and the
 441 process for making such an appeal.

442 (c) Secure and maintain interagency agreements or

443 contracts with local school districts and the Medicaid managed
 444 care plans in a local service area.

445 (d) Provide services directly or procure services from
 446 health care providers that meet or exceed the minimum
 447 qualifications established for service providers. The local
 448 program office must become a Medicaid provider if it provides
 449 services directly.

450 (e) Provide directly or procure services that are, to the
 451 extent possible, delivered in a child's natural environment,
 452 such as in the child's home or community setting. The inability
 453 to provide services in the natural environment is not a
 454 sufficient reason to deny services.

455 (f) Develop an individualized family support plan for each
 456 child served. The plan must:

457 1. Be completed within 45 calendar days after referral in
 458 the program;

459 2. Be developed in conjunction with the child's parent or
 460 legal guardian who provides written consent for the services
 461 included in the plan;

462 3. Be reviewed at least every 6 months with the parent or
 463 legal guardian and updated if needed; and

464 4. Include steps to transition to school or other future
 465 services by the child's third birthday.

466 (g) Assess the progress of the child and his or her family
 467 in meeting the goals of the individualized family support plan.

468 (h) For each service required by the individualized family

469 support plan, refer the child to an appropriate service provider
 470 or work with Medicaid managed care entities or private insurers
 471 to secure the needed services.

472 (i) Provide service coordination services, including
 473 contacting the appropriate service provider to determine whether
 474 the provider can timely deliver the service, providing the
 475 parent or legal guardian with the name and location of the
 476 service and the date of any appointment made on behalf of the
 477 child, and contacting the parent or legal guardian after the
 478 service is provided to ensure that the service is delivered
 479 timely and to determine whether the family requests additional
 480 services.

481 (j) Negotiate and maintain agreements with Medicaid
 482 providers and Medicaid managed care entities in its area.

483 1. With the parent's or legal guardian's permission, the
 484 services in the child's approved individualized family support
 485 plan shall be communicated to the Medicaid managed care entity.
 486 Services that cannot be funded by Medicaid must be specifically
 487 identified and explained to the family.

488 2. The agreement between the local program office and
 489 Medicaid managed care entities must establish methods of
 490 communication and procedures for the timely approval of services
 491 covered by Medicaid.

492 (k) Develop agreements and arrangements with private
 493 insurers in order to coordinate benefits and services for any
 494 mutual enrollee.

495 1. The child's approved individualized family support plan
 496 may be communicated to the child's insurer with the parent's or
 497 legal guardian's permission.

498 2. The local program office and private insurers shall
 499 establish methods of communication and procedures for the timely
 500 approval of services covered by the child's insurer, if
 501 appropriate and approved by the child's parent or legal
 502 guardian.

503 (1) Provide to the department data necessary for an
 504 evaluation of the local program office performance.

505 (5) ACCOUNTABILITY REPORTING.—By December 1 of each year,
 506 the department shall prepare and submit a report that assesses
 507 the performance of the Early Steps Program to the Governor, the
 508 President of the Senate, the Speaker of the House of
 509 Representatives, and the Florida Interagency Coordinating
 510 Council for Infants and Toddlers. The department must address
 511 the performance standards in subsection (1) and report actual
 512 performance compared to the standards for the prior fiscal year.
 513 The data used to compile the report must be submitted by each
 514 local program office in the state. The department shall report
 515 on all of the following measures:

516 (a) Number and percentage of infants and toddlers served
 517 with an individualized family support plan.

518 (b) Number and percentage of infants and toddlers
 519 demonstrating improved social/emotional skills after the
 520 program.

521 (c) Number and percentage of infants and toddlers
 522 demonstrating improved use of knowledge and cognitive skills
 523 after the program.

524 (d) Number and percentage of families reporting positive
 525 outcomes in their infant's and toddler's development as a result
 526 of early intervention services.

527 (e) Progress toward meeting the goals of individualized
 528 family support plans.

529 (f) Any additional measures established by the department.

530 (6) STATE INTERAGENCY COORDINATING COUNCIL.—The Florida
 531 Interagency Coordinating Council for Infants and Toddlers shall
 532 serve as the state interagency coordinating council required by
 533 34 C.F.R. s. 303.600. The council shall be housed for
 534 administrative purposes in the department, and the department
 535 shall provide administrative support to the council.

536 (7) TRANSITION TO EDUCATION.—

537 (a) At least 90 days before a child reaches 3 years of
 538 age, the local program office shall initiate transition planning
 539 to ensure the child's successful transition from the Early Steps
 540 Program to a school district program for children with
 541 disabilities or to another program as part of an individual
 542 family support plan.

543 (b) At least 3 months before a child reaches 3 years of
 544 age, the local program office shall:

545 1. Notify the local school district in which the child
 546 resides and the Department of Education that the child may be

547 eligible for special education or related services as determined
 548 by the local school district pursuant to ss. 1003.21 and
 549 1003.57, unless the child's parent or legal guardian has opted
 550 out of such notification; and

551 2. Upon approval by the child's parent or legal guardian,
 552 convene a transition conference that includes participation of a
 553 local school district representative and the parent or legal
 554 guardian to discuss options for and availability of services.

555 (c) The local school district shall evaluate and determine
 556 a child's eligibility to receive special education or related
 557 services pursuant to part B of the federal Individuals with
 558 Disabilities Education Act and ss. 1003.21 and 1003.57.

559 (d) The local program office, in conjunction with the
 560 local school district, shall modify a child's individual family
 561 support plan or, if applicable, the local school district shall
 562 develop an individual education plan for the child pursuant to
 563 ss. 1003.57, 1003.571, and 1003.5715, which identifies special
 564 education or related services that the child will receive and
 565 the providers or agencies that will provide such services.

566 (e) If a child is determined to be ineligible for school
 567 district program services, the local program office and the
 568 local school district shall provide the child's parent or legal
 569 guardian with written information on other available services or
 570 community resources.

571 (f) The local program office shall negotiate and maintain
 572 an interagency agreement with each local school district in its

573 service area pursuant to the Individuals with Disabilities
 574 Education Act, 20 U.S.C. s. 1435(a)(10)(F). Each interagency
 575 agreement must be reviewed at least annually and updated upon
 576 review, if needed.

577 Section 7. Subsections (1) and (2) of section 413.092,
 578 Florida Statutes, are amended to read:

579 413.092 Blind Babies Program.—

580 (1) The Blind Babies Program is created within the
 581 Division of Blind Services of the Department of Education to
 582 provide community-based early-intervention education to children
 583 from birth through 5 years of age who are blind or visually
 584 impaired, and to their parents, families, and caregivers,
 585 through community-based provider organizations. The division
 586 shall enlist parents, ophthalmologists, pediatricians, schools,
 587 the Early Steps Program Infant and Toddlers Early Intervention
 588 Programs, and therapists to help identify and enroll blind and
 589 visually impaired children, as well as their parents, families,
 590 and caregivers, in these educational programs.

591 (2) The program is not an entitlement but shall promote
 592 early development with a special emphasis on vision skills to
 593 minimize developmental delays. The education shall lay the
 594 groundwork for future learning by helping a child progress
 595 through normal developmental stages. It shall teach children to
 596 discover and make the best use of their skills for future
 597 success in school. It shall seek to ensure that visually
 598 impaired and blind children enter school as ready to learn as

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599 their sighted classmates. The program shall seek to link these
600 children, and their parents, families, and caregivers, to other
601 available services, training, education, and employment programs
602 that could assist these families in the future. This linkage may
603 include referrals to the school districts and the Early Steps
604 ~~Infants and Toddlers Early Intervention~~ Program for assessments
605 to identify any additional services needed which are not
606 provided by the Blind Babies Program. The division shall develop
607 a formula for eligibility based on financial means and may
608 create a means-based matrix to set a copayment fee for families
609 having sufficient financial means.

610 Section 8. Subsection (1) of section 1003.575, Florida
611 Statutes, is amended to read:

612 1003.575 Assistive technology devices; findings;
613 interagency agreements.—Accessibility, utilization, and
614 coordination of appropriate assistive technology devices and
615 services are essential as a young person with disabilities moves
616 from early intervention to preschool, from preschool to school,
617 from one school to another, and from school to employment or
618 independent living. If an individual education plan team makes a
619 recommendation in accordance with State Board of Education rule
620 for a student with a disability, as defined in s. 1003.01(3), to
621 receive an assistive technology assessment, that assessment must
622 be completed within 60 school days after the team's
623 recommendation. To ensure that an assistive technology device
624 issued to a young person as part of his or her individualized

625 family support plan, individual support plan, or an individual
 626 education plan remains with the individual through such
 627 transitions, the following agencies shall enter into interagency
 628 agreements, as appropriate, to ensure the transaction of
 629 assistive technology devices:

630 (1) The Early Steps ~~Florida Infants and Toddlers Early~~
 631 ~~Intervention~~ Program in the Division of Children's Medical
 632 Services of the Department of Health.

633
 634 Interagency agreements entered into pursuant to this section
 635 shall provide a framework for ensuring that young persons with
 636 disabilities and their families, educators, and employers are
 637 informed about the utilization and coordination of assistive
 638 technology devices and services that may assist in meeting
 639 transition needs, and shall establish a mechanism by which a
 640 young person or his or her parent may request that an assistive
 641 technology device remain with the young person as he or she
 642 moves through the continuum from home to school to postschool.

643 Section 9. Section 391.303, Florida Statutes, is repealed.

644 Section 10. Section 391.304, Florida Statutes, is
 645 repealed.

646 Section 11. Section 391.305, Florida Statutes, is
 647 repealed.

648 Section 12. Section 391.306, Florida Statutes, is
 649 repealed.

650 Section 13. Section 391.307, Florida Statutes, is

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651 | repealed.

652 | Section 14. This act shall take effect July 1, 2016.



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COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Health Quality
 2 Subcommittee
 3 Representative Gonzalez offered the following:

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:
 7 Section 1. Subsections (2) and (3) of section 383.141,
 8 Florida Statutes, are amended, and subsection (4) is added to
 9 that section, to read:

10 383.141 Prenatally diagnosed conditions; patient to be
 11 provided information; definitions; information clearinghouse;
 12 advisory council.—

13 (2) When a developmental disability is diagnosed based on
 14 the results of a prenatal test, the health care provider who
 15 ordered the prenatal test, or his or her designee, shall provide
 16 the patient with current information about the nature of the
 17 developmental disability, the accuracy of the prenatal test, and



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18 resources for obtaining relevant support services, including
19 hotlines, resource centers, and information clearinghouses
20 related to Down syndrome or other prenatally diagnosed
21 developmental disabilities; support programs for parents and
22 families; and developmental evaluation and intervention services
23 under this part s. 391.303.

24 (3) The Department of Health shall develop and implement a
25 comprehensive information clearinghouse to educate health care
26 providers, inform parents, and increase public awareness
27 regarding brain development, developmental disabilities and
28 delays, and all services, resources, and interventions available
29 to mitigate the effects of impaired development among children.
30 The clearinghouse must use the term "unique abilities" as much
31 as possible when identifying infants or children with
32 developmental disabilities and delays. The clearinghouse must
33 provide:

34 (a) Health information on conditions that may lead to
35 impaired development of physical, learning, language, or
36 behavioral skills.

37 (b) Education and information to support parents whose
38 unborn children have been prenatally diagnosed with
39 developmental disabilities or whose children have diagnosed or
40 suspected developmental delays.

41 (c) Education and training for health care providers to
42 recognize and respond appropriately to developmental
43 disabilities, delays, and conditions related to disabilities or



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44 delays. Specific information approved by the advisory council
45 shall be made available to health care providers for use in
46 counseling parents whose unborn children have been prenatally
47 diagnosed with developmental disabilities or whose children have
48 diagnosed or suspected developmental delays.

49 (d) Promotion of public awareness of availability of
50 supportive services, such as resource centers, educational
51 programs, other support programs for parents and families, and
52 developmental evaluation and intervention services.

53 (e) Hotlines specific to Down syndrome and other
54 prenatally diagnosed developmental disabilities. The hotlines
55 and the department's clearinghouse must provide information to
56 parents and families or other caregivers regarding the Early
57 Steps Program under s. 391.301, the Florida Diagnostic Learning
58 and Resource System, the Early Learning program, Healthy Start,
59 Help Me Grow, and any other intervention programs. Information
60 offered must include directions on how to obtain early
61 intervention, rehabilitative, and habilitative services and
62 devices establish on its Internet website a clearinghouse of
63 information related to developmental disabilities concerning
64 providers of supportive services, information hotlines specific
65 to Down syndrome and other prenatally diagnosed developmental
66 disabilities, resource centers, educational programs, other
67 support programs for parents and families, and developmental
68 evaluation and intervention services under s. 391.303. Such
69 information shall be made available to health care providers for

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70 ~~use in counseling pregnant women whose unborn children have been~~
71 ~~prenatally diagnosed with developmental disabilities.~~

72 (4) (a) There is established an advisory council within the
73 Department of Health which consists of health care providers and
74 caregivers who perform health care services for persons who have
75 developmental disabilities, including Down syndrome and autism.
76 This group shall consist of nine members as follows:

- 77 1. Three members appointed by the Governor;
- 78 2. Three members appointed by the President of the Senate;
- 79 and
- 80 3. Three members appointed by the Speaker of the House of
81 Representatives.

82 (b) The advisory council shall provide technical
83 assistance to the Department of Health in the establishment of
84 the information clearinghouse and give the department the
85 benefit of the council members' knowledge and experience
86 relating to the needs of patients and families of patients with
87 developmental disabilities and available support services.

88 (c) Members of the council shall elect a chairperson and a
89 vice chairperson. The elected chairperson and vice chairperson
90 shall serve in these roles until their terms of appointment on
91 the council expire.

92 (d) The advisory council shall meet quarterly to review
93 this clearinghouse of information, and may meet more often at
94 the call of the chairperson or as determined by a majority of
95 members.



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96 (e) The council members shall be appointed to 4-year
97 terms, except that, to provide for staggered terms, one initial
98 appointee each from the Governor, the President of the Senate,
99 and the Speaker of the House of Representatives shall be
100 appointed to a 2-year term, one appointee each from these
101 officials shall be appointed to a 3-year term, and the remaining
102 initial appointees shall be appointed to 4-year terms. All
103 subsequent appointments shall be for 4-year terms. A vacancy
104 shall be filled for the remainder of the unexpired term in the
105 same manner as the original appointment.

106 (f) Members of the council shall serve without
107 compensation. Meetings of the council may be held in person,
108 without reimbursement for travel expenses, or by teleconference
109 or other electronic means.

110 (g) The Department of Health shall provide administrative
111 support for the advisory council.

112 Section 2. Paragraph (c) of subsection (1) of section
113 391.025, Florida Statutes, is amended to read:

114 391.025 Applicability and scope.—

115 (1) The Children's Medical Services program consists of
116 the following components:

117 (c) The developmental evaluation and intervention program,
118 including the Early Steps ~~Florida Infants and Toddlers Early~~
119 ~~Intervention~~ Program.

120 Section 3. Subsection (19) is added to section 391.026,
121 Florida Statutes, to read:



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122 391.026 Powers and duties of the department.—The
123 department shall have the following powers, duties, and
124 responsibilities:

125 (19) To serve as the lead agency in administering the
126 Early Steps Program pursuant to part C of the federal
127 Individuals with Disabilities Education Act and part III of this
128 chapter.

129 Section 4. Section 391.301, Florida Statutes, is amended
130 to read:

131 391.301 Early Steps Program; establishment and goals
132 ~~Developmental evaluation and intervention programs; legislative~~
133 ~~findings and intent.—~~

134 (1) The Early Steps Program is established within the
135 department to serve infants and toddlers who are at risk of a
136 developmental disability based on a physical or mental
137 condition, or who have a developmental delay, by providing such
138 infants and toddlers with developmental evaluation and early
139 intervention services. In addition, the program is established
140 to provide families of such infants and toddlers with training
141 and support services in a variety of home and community settings
142 in order to enhance family and caregiver competence, confidence,
143 and capacity to meet their child's developmental needs and
144 desired outcomes. ~~The Legislature finds that the high risk and~~
145 ~~disabled newborn infants in this state need in hospital and~~
146 ~~outpatient developmental evaluation and intervention and that~~
147 ~~their families need training and support services. The~~

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148 ~~Legislature further finds that there is an identifiable and~~
149 ~~increasing number of infants who need developmental evaluation~~
150 ~~and intervention and family support due to the fact that~~
151 ~~increased numbers of low birthweight and sick full-term newborn~~
152 ~~infants are now surviving because of the advances in neonatal~~
153 ~~intensive care medicine; increased numbers of medically involved~~
154 ~~infants are remaining inappropriately in hospitals because their~~
155 ~~parents lack the confidence or skills to care for these infants~~
156 ~~without support; and increased numbers of infants are at risk~~
157 ~~due to parent risk factors, such as substance abuse, teenage~~
158 ~~pregnancy, and other high risk conditions.~~

159 (2) The program may include screening and referral ~~It is~~
160 ~~the intent of the Legislature to establish developmental~~
161 ~~evaluation and intervention services at all hospitals providing~~
162 ~~Level II or Level III neonatal intensive care services, in order~~
163 ~~to promptly identify newborns with disabilities or with~~
164 ~~conditions associated with risks of developmental delays so that~~
165 ~~families with high risk or disabled infants may gain as early as~~
166 ~~possible the services and skills they need to support their~~
167 ~~infants' development~~ infants.

168 (3) The program must ~~It is the intent of the Legislature~~
169 ~~that a methodology be developed to integrate information and~~
170 ~~coordinate services on infants with potentially disabling~~
171 ~~conditions with other programs serving infants and toddlers~~
172 ~~early intervention programs, including, but not limited to, Part~~
173 ~~C of Pub. L. No. 105-17 and the Healthy Start program, the~~



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174 newborn screening program, and the Blind Babies Program.

175 (4) The program must:

176 (a) Provide services to enhance the development of infants
177 and toddlers with disabilities and delays.

178 (b) Educate and provide information to care providers,
179 families, and the public of the significant brain development
180 that occurs during a child's first 3 years of life.

181 (c) Maintain the importance of the family in all areas of
182 the child's development and support the family's participation
183 in early intervention services and decisions affecting the
184 child.

185 (d) Operate a comprehensive, coordinated interagency
186 system of early intervention services and supports in accordance
187 with part C of the federal Individuals with Disabilities
188 Education Act.

189 (e) Ensure timely evaluation, individual planning, and
190 early intervention services necessary to meet the unique needs
191 of eligible infants and toddlers.

192 (f) Build the service capacity and enhance the
193 competencies of health care providers serving infants and
194 toddlers with unique needs and abilities.

195 (g) Ensure programmatic and fiscal accountability through
196 establishment of a high-capacity data system, active monitoring
197 of performance indicators, and ongoing quality improvement.

198 Section 5. Section 391.302, Florida Statutes, is amended
199 to read:

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200 391.302 Definitions.—As used in ss. 391.301-391.308 ~~ss.~~
201 ~~391.301-391.307~~, the term:

202 (1) "Developmental delay" means a condition, identified
203 and measured through appropriate instruments and procedures,
204 which may delay physical, cognitive, communication, social or
205 emotional, or adaptive development.

206 (2) "Developmental disability" means a condition,
207 identified and measured through appropriate instruments and
208 procedures, which may impair physical, cognitive, communication,
209 social or emotional, or adaptive development.

210 (3) "Developmental intervention" or "early intervention"
211 means individual and group individualized therapies and services
212 needed to enhance both the infant's or toddler's growth and
213 development and family functioning. The term includes
214 habilitative services and assistive technology devices,
215 rehabilitative services and assistive technology devices, and
216 parent support and training.

217 (4) "Habilitative services and devices" means health care
218 services and assistive technology devices that help a child
219 maintain, learn, or improve skills and functioning for daily
220 living.

221 (5)-(2) "Infant or toddler" or "child" means a child from
222 birth until the child's third birthday.

223 ~~(3) "In hospital intervention services" means the~~
224 ~~provision of assessments; the provision of individualized~~
225 ~~services; monitoring and modifying the delivery of medical~~

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226 ~~interventions; and enhancing the environment for the high risk,~~
227 ~~developmentally disabled, or medically involved infant or~~
228 ~~toddler in order to achieve optimum growth and development.~~

229 (7) "Local program office" means an office that
230 administers the Early Steps Program within a municipality,
231 county, or region.

232 ~~(4) "Parent support and training" means a range of~~
233 ~~services to families of high risk, developmentally disabled, or~~
234 ~~medically involved infants or toddlers, including family~~
235 ~~counseling; financial planning; agency referral; development of~~
236 ~~parent to parent support groups; education concerning growth,~~
237 ~~development, and developmental intervention and objective~~
238 ~~measurable skills, including abuse avoidance skills; training of~~
239 ~~parents to advocate for their child; and bereavement counseling.~~

240 (9) "Rehabilitative services and devices" means
241 restorative and remedial services that maintain or enhance the
242 current level of functioning of a child if there is a
243 possibility of improvement or reversal of impairment.

244 Section 6. Section 391.308, Florida Statutes, is amended
245 to read:

246 391.308 Early Steps Infants and Toddlers Early
247 Intervention Program.—The department shall ~~Department of Health~~
248 may implement and administer part C of the federal Individuals
249 with Disabilities Education Act (IDEA), which shall be known as
250 the "Early Steps "~~Florida Infants and Toddlers Early~~
251 ~~Intervention Program.~~



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252 (1) PERFORMANCE STANDARDS.—The department shall ensure
253 that the Early Steps Program complies with the following
254 performance standards:

255 (a) The program must provide services from referral
256 through transition in a family-centered manner that recognizes
257 and responds to unique circumstances and needs of infants and
258 toddlers and their families as measured by a variety of
259 qualitative data, including satisfaction surveys, interviews,
260 focus groups, and input from stakeholders.

261 (b) The program must provide individualized family support
262 plans that are understandable and usable by families, health
263 care providers, and payers and that identify the current level
264 of functioning of the infant or toddler, family supports and
265 resources, expected outcomes, and specific early intervention
266 services needed to achieve the expected outcomes, as measured by
267 periodic system independent evaluation.

268 (c) The program must help each family to use available
269 resources in a way that maximizes the child's access to services
270 necessary to achieve the outcomes of the individualized family
271 support plan, as measured by family feedback and by independent
272 assessments of services used by each child.

273 (d) The program must offer families access to quality
274 services that effectively enable infants and toddlers with
275 developmental disabilities and developmental delays to achieve
276 optimal functional levels as measured by an independent
277 evaluation of outcome indicators in social or emotional skills,



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278 communication, and adaptive behaviors.

279 (2) DUTIES OF THE DEPARTMENT.—The department, shall:

280 (a) Jointly with the Department of Education, shall
281 Annually prepare a grant application to the United States
282 Department of Education for funding early intervention services
283 for infants and toddlers with disabilities, from birth through
284 36 months of age, and their families pursuant to part C of the
285 federal Individuals with Disabilities Education Act.

286 (b)(2) The department, Jointly with the Department of
287 Education, provide shall include a reading initiative as an
288 early intervention service for infants and toddlers.

289 (c) Annually develop a state plan for the Early Steps
290 Program.

291 1. The plan must assess the need for early intervention
292 services, evaluate the extent of the statewide need that is met
293 by the program, identify barriers to fully meeting the need, and
294 recommend specific action steps to improve program performance.

295 2. The plan must be developed through an inclusive process
296 that involves families, local program offices, health care
297 providers, and other stakeholders.

298 (d) Ensure local program offices educate hospitals that
299 provide Level II and Level III neonatal intensive care services
300 about the Early Steps Program and the referral process for the
301 provision of developmental evaluation and intervention services.

302 (e) Establish standards and qualifications for
303 developmental evaluation and early intervention service



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304 providers, including standards for determining the adequacy of
305 provider networks in each local program office service area.

306 (f) Establish statewide uniform protocols and procedures
307 to determine eligibility for developmental evaluation and early
308 intervention services.

309 (g) Establish a consistent, statewide format and procedure
310 for preparing and completing an individualized family support
311 plan.

312 (h) Promote interagency cooperation and coordination, with
313 the Medicaid program, the Department of Education program
314 pursuant to part B of the federal Individuals with Disabilities
315 Education Act, and programs providing child screening such as
316 the Florida Diagnostic Learning and Resource System, the Office
317 of Early Learning, Healthy Start, and Help Me Grow program.

318 1. Coordination with the Medicaid program shall be
319 developed and maintained through written agreements with the
320 Agency for Health Care Administration and Medicaid managed care
321 organizations as well as through active and ongoing
322 communication with these organizations. The department shall
323 assist local program offices to negotiate agreements with
324 Medicaid managed care organizations in the service areas of the
325 local program offices. Such agreements may be formal or
326 informal.

327 2. Coordination with education programs pursuant to part B
328 of the federal Individuals with Disabilities Education Act shall
329 be developed and maintained through written agreements with the



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330 Department of Education. The department shall assist local
331 program offices to negotiate agreements with school districts in
332 the service areas of the local program offices.

333 (i) Develop and disseminate the knowledge and methods
334 necessary to effectively coordinate benefits among various payer
335 types.

336 (j) Provide a mediation process and if necessary, an
337 appeals process under chapter 120 for applicants found
338 ineligible for developmental evaluation or early intervention
339 services or denied financial support for such services.

340 (k) Competitively procure local program offices to provide
341 services throughout the state in accordance with chapter 287.
342 The department shall specify the requirements and qualifications
343 for local program offices in the procurement document.

344 (l) Establish performance standards and other metrics for
345 evaluation of local program offices, including standards for
346 measuring timeliness of services, outcomes of early intervention
347 services, and administrative efficiency. Performance standards
348 and metrics shall be developed in consultation with local
349 program offices.

350 (m) Provide technical assistance to the local program
351 offices.

352 (3) ELIGIBILITY.—The department shall apply the following
353 eligibility criteria if specific funding is provided in the
354 General Appropriations Act.

355 (a) Infants and toddlers are eligible for an evaluation to



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356 determine the presence of a developmental disability or risk of
357 a developmental delay based on a physical or medical condition.

358 (b) Infants and toddlers determined to have a
359 developmental delay based on a standardized evaluation
360 instrument that results in a score that is 1.5 standard
361 deviations from the mean in two or more of the following
362 domains: physical, cognitive, communication, social or
363 emotional, and adaptive.

364 (c) Infants and toddlers determined to have a
365 developmental delay based on a standardized evaluation
366 instrument that results in a score that is 2.0 standard
367 deviations from the mean in one of the following domains:
368 physical, cognitive, communication, social or emotional, and
369 adaptive.

370 (d) Infants and toddlers with a developmental delay based
371 on informed clinical opinion.

372 (e) Infants and toddlers at risk of developmental delay
373 based on an established condition known to result in
374 developmental delay, or a physical or mental condition known to
375 create a risk of developmental delay.

376 (4) DUTIES OF THE LOCAL PROGRAM OFFICES.--A local program
377 office shall:

378 (a) Evaluate a child to determine eligibility within 45
379 calendar days after the child is referred to the program.

380 (b) Notify the parent or legal guardian of his or her
381 child's eligibility status initially and at least annually



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382 thereafter. If a child is determined not to be eligible, the
383 local program office must provide the parent or legal guardian
384 with written information on the right to an appeal and the
385 process for making such an appeal.

386 (c) Secure and maintain interagency agreements or
387 contracts with local school districts in a local service area.

388 (d) Provide services directly or procure services from
389 health care providers that meet or exceed the minimum
390 qualifications established for service providers. The local
391 program office must become a Medicaid provider if it provides
392 services directly.

393 (e) Provide directly or procure services that are, to the
394 extent possible, delivered in a child's natural environment,
395 such as in the child's home or community setting. The inability
396 to provide services in the natural environment is not a
397 sufficient reason to deny services.

398 (f) Develop an individualized family support plan for each
399 child served. The plan must:

400 1. Be completed within 45 calendar days after the child is
401 referred to the program;

402 2. Be developed in conjunction with the child's parent or
403 legal guardian who provides written consent for the services
404 included in the plan;

405 3. Be reviewed at least every six months with the parent
406 or legal guardian and updated if needed; and

407 4. Include steps to transition to school or other future



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408 services by the child's third birthday.

409 (g) Assess the progress of the child and his or her family
410 in meeting the goals of the individualized family support plan.

411 (h) For each service required by the individualized family
412 support plan, refer the child to an appropriate service provider
413 or work with Medicaid managed care organizations or private
414 insurers to secure the needed services.

415 (i) Provide service coordination, including contacting the
416 appropriate service provider to determine whether the provider
417 can timely deliver the service, providing the parent or legal
418 guardian with the name and contact information of the service
419 provider and the date and location of the service of any
420 appointment made on behalf of the child, and contacting the
421 parent or legal guardian after the service is provided to ensure
422 that the service is delivered timely and to determine whether
423 the family requests additional services.

424 (j) Negotiate and maintain agreements with Medicaid
425 providers and Medicaid managed care organizations in its area.

426 1. With the parent's or legal guardian's permission, the
427 services in the child's approved individualized family support
428 plan shall be communicated to the Medicaid managed care
429 organization. Services that cannot be funded by Medicaid must be
430 specifically identified and explained to the parent or legal
431 guardian.

432 2. The agreement between the local program office and
433 Medicaid managed care organizations must establish methods of



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434 communication and procedures for the timely approval of services
435 covered by Medicaid.

436 (k) Develop agreements and arrangements with private
437 insurers in order to coordinate benefits and services for any
438 mutual enrollee.

439 1. The child's approved individualized family support plan
440 may be communicated to the child's insurer with the parent's or
441 legal guardian's permission.

442 2. The local program office and private insurers shall
443 establish methods of communication and procedures for the timely
444 approval of services covered by the child's insurer, if
445 appropriate and approved by the child's parent or legal
446 guardian.

447 (l) Provide to the department data necessary for an
448 evaluation of the local program office performance.

449 (5) ACCOUNTABILITY REPORTING.—By December 1 of each year,
450 the department shall prepare and submit a report that assesses
451 the performance of the Early Steps Program to the Governor, the
452 President of the Senate, the Speaker of the House of
453 Representatives, and the Florida Interagency Coordinating
454 Council for Infants and Toddlers. The department must address
455 the performance standards in subsection (1) and report actual
456 performance compared to the standards for the prior fiscal year.
457 The data used to compile the report must be submitted by each
458 local program office in the state. The department shall report
459 on all of the following measures:



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460 (a) Number and percentage of infants and toddlers served
461 with an individualized family support plan.

462 (b) Number and percentage of infants and toddlers
463 demonstrating improved social or emotional skills after the
464 program.

465 (c) Number and percentage of infants and toddlers
466 demonstrating improved use of knowledge and cognitive skills
467 after the program.

468 (d) Number and percentage of families reporting positive
469 outcomes in their infant's and toddler's development as a result
470 of early intervention services.

471 (e) Progress toward meeting the goals of individualized
472 family support plans.

473 (f) Any additional measures established by the department
474 reasonably believed to provide insight regarding the performance
475 of the Early Steps Program.

476 (6) STATE INTERAGENCY COORDINATING COUNCIL.—The Florida
477 Interagency Coordinating Council for Infants and Toddlers shall
478 serve as the state interagency coordinating council required by
479 34 C.F.R. s. 303.600. The council shall be housed for
480 administrative purposes in the department, and the department
481 shall provide administrative support to the council.

482 (7) TRANSITION TO EDUCATION.—

483 (a) At least 90 days before a child reaches 3 years of
484 age, the local program office shall initiate transition planning
485 to ensure the child's successful transition from the Early Steps



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486 Program to a school district program for children with
487 disabilities or to another program as part of an individual
488 family support plan.

489 (b) At least 90 days before a child reaches 3 years of
490 age, the local program office shall:

491 1. Notify the local school district in which the child
492 resides and the Department of Education that the child may be
493 eligible for special education or related services as determined
494 by the local school district pursuant to ss. 1003.21 and
495 1003.57, unless the child's parent or legal guardian has opted
496 out of such notification; and

497 2. Upon approval by the child's parent or legal guardian,
498 convene a transition conference that includes participation of a
499 local school district representative and the parent or legal
500 guardian to discuss options for and availability of services.

501 (c) The local school district shall evaluate and determine
502 a child's eligibility to receive special education or related
503 services pursuant to part B of the federal Individuals with
504 Disabilities Education Act and ss. 1003.21 and 1003.57.

505 (d) The local program office, in conjunction with the
506 local school district, shall modify a child's individual family
507 support plan or, if applicable, the local school district shall
508 develop an individual education plan for the child pursuant to
509 ss. 1003.57, 1003.571, and 1003.5715, which identifies special
510 education or related services that the child will receive and
511 the providers or agencies that will provide such services.



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512 (e) If a child is determined to be ineligible for school
513 district program services, the local program office and the
514 local school district shall provide the child's parent or legal
515 guardian with written information on other available services or
516 community resources.

517 (f) The local program office shall negotiate and maintain
518 an interagency agreement with each local school district in its
519 service area pursuant to the Individuals with Disabilities
520 Education Act, 20 U.S.C. s. 1435(a)(10)(F). Each interagency
521 agreement must be reviewed at least annually and updated upon
522 review, if needed.

523 Section 7. Subsections (1) and (2) of section 413.092,
524 Florida Statutes, are amended to read:

525 413.092 Blind Babies Program.—

526 (1) The Blind Babies Program is created within the
527 Division of Blind Services of the Department of Education to
528 provide community-based early-intervention education to children
529 from birth through 5 years of age who are blind or visually
530 impaired, and to their parents, families, and caregivers,
531 through community-based provider organizations. The division
532 shall enlist parents, ophthalmologists, pediatricians, schools,
533 the Early Steps Program Infant and Toddlers Early Intervention
534 Programs, and therapists to help identify and enroll blind and
535 visually impaired children, as well as their parents, families,
536 and caregivers, in these educational programs.

537 (2) The program is not an entitlement but shall promote



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538 early development with a special emphasis on vision skills to
539 minimize developmental delays. The education shall lay the
540 groundwork for future learning by helping a child progress
541 through normal developmental stages. It shall teach children to
542 discover and make the best use of their skills for future
543 success in school. It shall seek to ensure that visually
544 impaired and blind children enter school as ready to learn as
545 their sighted classmates. The program shall seek to link these
546 children, and their parents, families, and caregivers, to other
547 available services, training, education, and employment programs
548 that could assist these families in the future. This linkage may
549 include referrals to the school districts and the Early Steps
550 ~~Infants and Toddlers Early Intervention~~ Program for assessments
551 to identify any additional services needed which are not
552 provided by the Blind Babies Program. The division shall develop
553 a formula for eligibility based on financial means and may
554 create a means-based matrix to set a copayment fee for families
555 having sufficient financial means.

556 Section 8. Subsection (1) of section 1003.575, Florida
557 Statutes, is amended to read:

558 1003.575 Assistive technology devices; findings;
559 interagency agreements.—Accessibility, utilization, and
560 coordination of appropriate assistive technology devices and
561 services are essential as a young person with disabilities moves
562 from early intervention to preschool, from preschool to school,
563 from one school to another, and from school to employment or



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564 independent living. If an individual education plan team makes a
565 recommendation in accordance with State Board of Education rule
566 for a student with a disability, as defined in s. 1003.01(3), to
567 receive an assistive technology assessment, that assessment must
568 be completed within 60 school days after the team's
569 recommendation. To ensure that an assistive technology device
570 issued to a young person as part of his or her individualized
571 family support plan, individual support plan, or an individual
572 education plan remains with the individual through such
573 transitions, the following agencies shall enter into interagency
574 agreements, as appropriate, to ensure the transaction of
575 assistive technology devices:

576 (1) The Early Steps Florida Infants and Toddlers Early
577 Intervention Program in the Division of Children's Medical
578 Services of the Department of Health.

579

580 Interagency agreements entered into pursuant to this section
581 shall provide a framework for ensuring that young persons with
582 disabilities and their families, educators, and employers are
583 informed about the utilization and coordination of assistive
584 technology devices and services that may assist in meeting
585 transition needs, and shall establish a mechanism by which a
586 young person or his or her parent may request that an assistive
587 technology device remain with the young person as he or she
588 moves through the continuum from home to school to postschool.

589 Section 9. Section 391.303, Florida Statutes, is repealed.



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590 Section 10. Section 391.304, Florida Statutes, is
591 repealed.

592 Section 11. Section 391.305, Florida Statutes, is
593 repealed.

594 Section 12. Section 391.306, Florida Statutes, is
595 repealed.

596 Section 13. Section 391.307, Florida Statutes, is
597 repealed.

598 Section 14. This act shall take effect July 1, 2016
599

600 -----

601 T I T L E A M E N D M E N T

602 Remove everything before the enacting clause and insert:

603 A bill to be entitled

604 An act relating to prenatal services and early childhood
605 development; amending s. 383.141, F.S.; revising the
606 requirements for the Department of Health to maintain a
607 clearinghouse of information for parents and health care
608 providers and to increase public awareness on developmental
609 evaluation and early intervention programs; requiring the
610 clearinghouse to use a specified term; revising the information
611 to be included in the clearinghouse; amending s. 391.025, F.S.;
612 renaming the "Infants and Toddlers Early Intervention Program"
613 as the "Early Steps Program"; revising the components of the
614 Children's Medical Services program; amending s. 391.026, F.S.;
615 requiring the department to serve as the lead agency in



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616 administering the Early Steps Program; amending s. 391.301,
617 F.S.; establishing the Early Steps Program within the
618 department; deleting provisions relating to legislative
619 findings; authorizing the program to include certain screening
620 and referral services for specified purposes; providing
621 requirements and responsibilities for the program; amending s.
622 391.302, F.S.; defining terms; revising the definitions of
623 certain terms; and deleting outdated terms; amending s. 391.308,
624 F.S.; renaming the "Infants and Toddlers Early Intervention
625 Program" as the "Early Steps Program"; requiring, rather than
626 authorizing, the department to implement and administer the
627 program; requiring the department to ensure that the program
628 follows specified performance standards; providing requirements
629 of the program to meet such performance standards; revising the
630 duties of the department; requiring the department to apply
631 specified eligibility criteria for the program based on an
632 appropriation of funds; providing duties for local program
633 offices; requiring the development of an individualized family
634 support plan for each child served in the program; requiring
635 referral for services by a local program office under certain
636 circumstances; requiring the local program office to negotiate
637 and maintain agreements with specified providers and managed
638 care organizations; requiring the local program office to
639 coordinate with managed care organizations; requiring the
640 department to submit an annual report, subject to certain
641 requirements, to the Governor, the Legislature, and the Florida

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642 Interagency Coordinating Council for Infants and Toddlers by a
643 specified date; designating the Florida Interagency Coordinating
644 Council for Infants and Toddlers as the state interagency
645 coordinating council required by federal rule subject to certain
646 requirements; providing requirements for the local program
647 office and local school district to prepare certain children for
648 the transition to school under certain circumstances; amending
649 ss. 413.092 and 1003.575, F.S.; conforming provisions to changes
650 made by the act; repealing ss. 391.303, 391.304, 391.305,
651 391.306, and 391.307, F.S., relating to requirements for the
652 Children's Medical Services program, program coordination,
653 program standards, program funding and contracts, and program
654 review, respectively; providing an effective date.


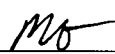
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HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1143 Florida Clean Indoor Air Act

SPONSOR(S): Harrison

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Quality Subcommittee		Guzzo 	O'Callaghan 
2) Business & Professions Subcommittee			
3) Health & Human Services Committee			

SUMMARY ANALYSIS

The Florida Clean Indoor Air Act (Act) was created by the legislature in 1985 to protect the health, comfort, and environment of the public by creating areas in public places and at public meetings that are reasonably free from tobacco smoke. The Act permitted smoking in designated areas of specified indoor public places including workplaces.

In Florida's General Election of 2002, voters approved a Constitutional Amendment to prohibit tobacco smoking in enclosed indoor workplaces. As required by the amendment, the legislature enacted implementing legislation by amending the Act to prohibit smoking in an enclosed indoor workplace. The Act defines "smoking" as inhaling, exhaling, burning, carrying, or possessing any lighted tobacco product, including cigarettes, cigars, pipe tobacco, and any other lighted tobacco product.

The Department of Health (DOH) and the Department of Business and Professional Regulation (DBPR) are responsible for enforcement of the Act. If the proprietor of an enclosed indoor workplace violates the prohibition, DOH or DBPR may assess a civil penalty against the person. Fines of \$250 for a first offense, \$500 for a second offense, and \$1,000 for a third offense may be assessed for specific violations. In addition, any person who violates the smoking prohibition commits a noncriminal violation punishable by a fine of not more than \$100 for the first violation and not more than \$500 for each subsequent violation.

Recently, some states have applied laws similar to Florida's Act to the use of nicotine dispensing devices. A nicotine dispensing device is any product that employs an electronic, chemical, or mechanical means to produce vapor from a nicotine product, including, but not limited to, an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar device or product.

HB 1143 amends the Act to prohibit the use of nicotine dispensing devices in enclosed indoor workplaces. Specifically, the bill amends the definition of "smoking" to include, inhaling, exhaling, carrying, or possessing a nicotine dispensing device.

The bill is expected to have an indeterminate, negative fiscal impact on DOH and DBPR related to enforcement of the prohibition.

The bill provides an effective date of July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Florida Clean Indoor Air Act

The Florida Clean Indoor Air Act¹ (Act) was created by the legislature in 1985² to protect the health, comfort, and environment of the public by creating areas in public places and at public meetings that are reasonably free from tobacco smoke. The Act permitted smoking in designated areas of specified public places, including government buildings, public means of transportation, elevators, health care facilities, educational facilities, public school buses, libraries, courtrooms, jury waiting rooms, museums, theatres, auditoriums, arenas, recreational facilities, restaurants, retail stores, grocery stores, and places of employment.³ The Act required the person in charge of a public place to post signs stating that smoking is permitted in such an area.

In Florida's General Election of 2002, voters approved a Constitutional Amendment to prohibit tobacco smoking in enclosed indoor workplaces.⁴ As required by the amendment, the legislature enacted implementing legislation by amending the Act to prohibit smoking in an enclosed indoor workplace.⁵ The Act defines "smoking" as inhaling, exhaling, burning, carrying, or possessing any lighted tobacco product, including cigarettes, cigars, pipe tobacco, and any other lighted tobacco product.⁶

The Act provides certain exceptions to the smoking prohibition, including:

- Private residences;
- Retail tobacco shops;
- Designated smoking guest rooms in public lodging establishments;
- Stand-alone bars;⁷
- Smoking cessation programs in an enclosed indoor workplace where tobacco smoking is an integral part of a smoking cessation program, or medical or scientific research is conducted therein; and
- Customs smoking rooms in an airport in-transit lounge.⁸

The Act also requires the proprietor or other person in charge of the enclosed indoor workplace to develop and implement a policy regarding the smoking prohibition.⁹ The policy may include procedures to be taken when the proprietor witnesses or is made aware of a violation of the smoking prohibition

¹ Part II, ch. 386, F.S.

² Ch. 1985-257, Laws of Fla.

³ Id.

⁴ Fla. Const., art. X, s. 20.

⁵ S. 386.203(5), F.S., "enclosed indoor workplace" means any place where one or more persons engages in work, and which place is predominantly or totally bounded on all sides and above by physical barriers, regardless of whether such barriers consist of or include, without limitation, uncovered openings; screened or otherwise partially covered openings; or open or closed windows, jalousies, doors, or the like. A place is "predominantly" bounded by physical barriers during any time when both of the following exist: it is more than 50 percent covered from above by a physical barrier that excludes rain; and more than 50 percent of the combined surface area of its sides is covered by closed physical barriers. The term does not include any facility owned or leased by and used exclusively for noncommercial activities performed by the members and guests of a membership association, including social gatherings, meetings, dining, and dances, if no persons are in engaged in work.

⁶ S. 386.203(10), F.S.

⁷ S. 386.203(11), F.S., "stand-alone bar" means any licensed premises devoted during any time of operation predominantly or totally to serving alcoholic beverages for consumption; in which the consumption of food, if any, is merely incidental to the consumption of any such beverage; and the licensed premises is not located within, and does not share any common entryway or common indoor area with, any other enclosed indoor workplace.

⁸ S. 386.2045, F.S.

⁹ S. 386.206(1), F.S.

and must include a policy which prohibits an employee from smoking in the enclosed indoor workplace. In order to increase public awareness, the person in charge of an enclosed indoor workplace may post "no smoking" signs as deemed appropriate.¹⁰

The Department of Health (DOH) and the Division of Alcoholic Beverages and Tobacco or the Division of Hotels and Restaurants of the Department of Business and Professional Regulation (DBPR) are responsible for enforcement of the Act.¹¹ Upon notification of an observed violation of the Act, DOH or the appropriate division of DBPR must issue the proprietor a notice to comply.¹² The proprietor or other person in charge must respond in writing within 30 days of receiving the notice to comply. If the proprietor or other person in charge fails to respond within 30 days or if an additional complaint is received, DOH or the appropriate division of DBPR must forward a copy of the complaint or notification of observed violation to the county health department director in the county where the violation occurred and request an on-site inspection.¹³ If the investigation determines that a proprietor or other person in charge of an enclosed indoor workplace has failed to correct the violations, DOH, or the appropriate division of DBPR, is authorized to assess a civil penalty against the person. Fines of \$250 for a first offense, \$500 for a second offense, and \$1,000 for a third offense may be assessed for specific violations, including:

- Smoking permitted in a prohibited area;
- Failure to develop a no smoking policy;
- Failure to implement a no smoking policy; and
- Failure to post signs in an enclosed indoor workplace where a smoking cessation program, medical research, or scientific research is conducted.¹⁴

In addition, any person who violates the smoking prohibition commits a noncriminal violation punishable by a fine of not more than \$100 for the first violation and not more than \$500 for each subsequent violation.¹⁵

The regulation of smoking is expressly preempted to the state and supersedes any municipal or county ordinance on the subject.¹⁶

Nicotine Dispensing Devices

A nicotine dispensing device is a product that employs an electronic, chemical, or mechanical means to produce vapor from a nicotine product, including, but not limited to, an electronic cigarette (e-cigarette), electronic cigar, electronic cigarillo, electronic pipe, or other similar device or product, any preplacement cartridge for such device, and any other container of nicotine in a solution or other form intended to be used with or within a nicotine product.¹⁷ The common name used for nicotine dispensing devices is e-cigarette.

The percentage of adults nationwide who have used an e-cigarette at least once rose from 3.3% in 2010 to 8.5% in 2013.¹⁸ In Florida, from 2011-2014, the number of middle school students who have tried an e-cigarette at least once increased by 183.3%, with 8.5% of middle school students having

¹⁰ Id.

¹¹ S. 386.207(1), F.S.

¹² S. 386.207(3), F.S., and rule 64I-4.001, F.A.C.

¹³ Id.

¹⁴ Rule 64I-4.004, F.A.C.

¹⁵ S. 386.208, F.S.

¹⁶ S. 386.209, F.S., however, school districts may further restrict smoking by persons on school district property.

¹⁷ S. 877.112(1)(a), F.S.

¹⁸ Centers for Disease Control and Prevention, *Trends in Awareness and Use of Electronic Cigarettes Among U.S. Adults, 2010-2013*, available at http://www.cdc.gov/tobacco/basic_information/e-cigarettes/adult-trends/ (last viewed January 15, 2016).

tried an e-cigarette at least once in 2014.¹⁹ E-cigarette use in Florida high school students increased by 241.7% from 2011-2014, with 20.5% of high school students having tried an e-cigarette at least once.

Currently, municipal and county ordinances are not preempted from the regulation of e-cigarettes. Several counties and cities within Florida have passed local ordinances to restrict the public use of e-cigarettes, including the City of Green Cove Springs, the City of Sebastian, the City of Vero Beach, the City of Stuart, and the Town of Orange Park.

As of September 30, 2015, six states have passed comprehensive smoke-free indoor air laws that include e-cigarettes.²⁰ The six states are Delaware, Hawaii, New Jersey, North Dakota, Oregon, and Utah. These laws prohibit the use of e-cigarettes in indoor areas of private worksites, restaurants, and bars.

Effect of Proposed Changes

The bill amends the Florida Clean Air Act to prohibit the use of nicotine dispensing devices in enclosed indoor workplaces. Specifically, the bill amends the definition of "smoking" to include, inhaling, exhaling, carrying, or possessing a nicotine dispensing device. As a result, an individual who is caught inhaling, exhaling, carrying, or possessing a nicotine dispensing device in an enclosed indoor workplace commits a noncriminal violation punishable by a fine of not more than \$100 for the first violation and not more than \$500 for each subsequent violation.

The bill provides an effective date of July 1, 2016.

B. SECTION DIRECTORY:

Section 1: Amends s. 386.203, F.S., relating to definitions.

Section 2: Provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill is expected to have an indeterminate, negative fiscal impact on DOH and DBPR related to costs associated with enforcement of the prohibition.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Municipalities and counties wishing to restrict the use of e-cigarettes will not have to spend funds to pass local ordinances to do so.

2. Expenditures:

¹⁹ Florida Department of Health, Tobacco Free Florida, *2014 Florida Youth Tobacco Survey*, available at <http://www.floridahealth.gov/statistics-and-data/survey-data/fl-youth-tobacco-survey/documents/2014-state/index.html> (last viewed January 15, 2016).

²⁰ Centers for Disease Control and Prevention, *State System E-Cigarette Fact Sheet*, available at <https://chronicdata.cdc.gov/Legislation/STATE-System-E-Cigarette-Fact-Sheet/qte6-7jwd> (last viewed January 15, 2016).

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

No additional rulemaking is necessary to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

HB 1143

2016

1 A bill to be entitled
 2 An act relating to the Florida Clean Indoor Air Act;
 3 amending s. 386.203, F.S.; revising the definition of
 4 the term "smoking" to include the use of nicotine
 5 dispensing devices; providing an effective date.

6
 7 Be It Enacted by the Legislature of the State of Florida:

8
 9 Section 1. Subsection (10) of section 386.203, Florida
 10 Statutes, is amended to read:

11 386.203 Definitions.—As used in this part:

12 (10) "Smoking" means inhaling, exhaling, burning,
 13 carrying, or possessing any lighted tobacco product, including
 14 cigarettes, cigars, pipe tobacco, and any other lighted tobacco
 15 product, or inhaling, exhaling, carrying, or possessing a
 16 nicotine dispensing device as defined in s. 877.112.

17 Section 2. This act shall take effect July 1, 2016.