



Health Quality Subcommittee

**Wednesday, February 15, 2017
9:00 AM – 11:00 AM
Mashburn Hall (306 HOB)**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Health Quality Subcommittee

Start Date and Time: Wednesday, February 15, 2017 09:00 am
End Date and Time: Wednesday, February 15, 2017 11:00 am
Location: Mashburn Hall (306 HOB)
Duration: 2.00 hrs

Consideration of the following bill(s):

HB 101 Certificates of Nonviable Birth by Cortes, B.
HB 103 Public Records/Nonviable Birth Records by Cortes, B.
HB 209 Medical Faculty Certification by Miller, A.

Consideration of the following proposed committee bill(s):

PCB HQS 17-01 -- Health Care Access
PCB HQS 17-02 -- Ratification of Rules of the Board of Medicine

Pursuant to rule 7.11, the deadline for amendments to bills on the agenda by non-appointed members shall be 6:00 p.m., Tuesday, February 14, 2017.

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., Tuesday, February 14, 2017.

NOTICE FINALIZED on 02/08/2017 3:53PM by Iseminger.Bobbye

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 101 Certificates of Nonviable Birth
SPONSOR(S): Cortes and others
TIED BILLS: HB 103 **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Quality Subcommittee		Siples <i>JS</i>	McElroy <i>DM</i>
2) Health Care Appropriations Subcommittee			
3) Health & Human Services Committee			

SUMMARY ANALYSIS

HB 101 creates the "Grieving Families Act" which allows the parents of a pregnancy that results in a fetal demise to request and be issued a "certificate of nonviable birth." The bill defines "nonviable birth" as an unintentional, spontaneous fetal demise occurring before a gestation period of 20 completed weeks.

The bill requires the health care practitioner who attends or diagnoses a nonviable birth or the health care facility at which it occurs to advise the parent:

- That the parent may request the preparation of a certificate of nonviable birth;
- That the parent may obtain a certificate of nonviable birth by contacting the Office of Vital Statistics;
- How the parent may contact the Office of Vital Statistics to request the certificate of nonviable birth; and
- That the certificate of nonviable birth is available as a public record when held by an agency.

The bill directs health care practitioners and health care facilities that attend or diagnose a nonviable birth to register the nonviable birth with the Bureau of Vital Statistics, electronically or on a form prescribed by the Department of Health. The bill prohibits the Bureau of Vital Statistics from including the certificate of nonviable birth in its calculations of live birth statistics.

The bill prohibits the use of a certificate of nonviable birth to establish or maintain a civil cause of action for bodily injury, civil injury, or wrongful death against any person or any entity.

The bill authorizes DOH to charge a fee of not less than \$3 or more than \$5 for processing and filing a new certificate of nonviable birth. The bill may have an estimated negative fiscal impact on DOH during its first year of operation of \$50,000, to establish forms and make any technological changes. The bill has no fiscal impact on local governments.

The bill provides an effective date of July 1, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Vital Statistics in Florida

The Florida Vital Statistics Act directs the Department of Health (DOH), to establish the Bureau of Vital Statistics (Bureau)¹ under the direction of a state registrar for the uniform and efficient registration, compilation, storage, and preservation of all vital records² in this state.³ DOH is also responsible for establishing registration districts throughout the state and appointing a local registrar of vital statistics for each registration district.

Registration of Live Births

Within five days of each live birth in this state, a certificate of live birth must be filed with the local registrar of the district in which the birth occurred.⁴ The state registrar may receive the registration of the birth certificate electronically through facsimile or other electronic transfer.

Registration of Deaths

A certificate for each death or fetal death⁵ that occurs in Florida must be filed within 5 days after such death and prior to the final disposition of the dead body or fetus.⁶ Final disposition means the burial, interment, cremation, removal from the state, or other authorized disposition of a dead body or fetus.⁷ The registration of the death certificate may be submitted via DOH's electronic death registration system to the Bureau on a form prescribed by DOH, or to the local registrar of the district in which the death occurred.

Stillbirth Registration

DOH must issue a certificate of birth resulting in stillbirth⁸ upon the request of any parent listed on a fetal death certificate.⁹ There must be a fetal death certificate on file with bureau.¹⁰ The certificate of birth resulting in stillbirth must be issued within 60 days of the request and a parent may request the certificate of birth resulting in stillbirth regardless of the date the fetal death certificate was issued.¹¹ The certificate of birth resulting in stillbirth may not be used to pursue a civil cause of action against a person or an entity for bodily injury, personal injury, or wrongful death.¹²

A healthcare practitioner or health care facility required to register the fetal death, must advise the parent of the stillborn child that they may request a certificate of birth resulting in stillbirth and how to

¹ Although the statute refers to an Office of Vital Statistics, it has been established as the Bureau of Vital Statistics within DOH.

² A vital record is defined as certificates or reports of birth, death, fetal death, marriage, dissolution of marriage, certain name changes, and data related thereto. Section 382.001(17), F.S.

³ Section 382.003, F.S.

⁴ Section 382.013, F.S.

⁵ Section 382.002(8), F.S., a "fetal death" is a death prior to the complete expulsion or extraction of a product of human conception from its mother if the 20th week of gestation has been reached and the death is indicated by the fact that after such expulsion or

⁶ Section 382.008, F.S.

⁷ Section 382.002(9), F.S.

⁸ Section 382.002(16), F.S., a stillbirth is an unintentional, intrauterine fetal death after a gestational age of not less than 20 completed weeks.

⁹ Section 382.005, F.S.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

receive such certificate.¹³ The parent must also be advised that the certificate of birth resulting in stillbirth is a public record if it is held by an agency.¹⁴

The certificate of birth resulting in stillbirth contains the date of the stillbirth, the county in which the stillbirth occurred, the name of the stillborn child, the state file number of the corresponding certificate of fetal death, and a statement that the certificate is not proof of live birth.

Loss of Pregnancy: Miscarriages

A miscarriage occurs when there is a sudden unexpected loss of a pregnancy before it reaches the 20th week of gestation.¹⁵ It is estimated that anywhere between 10 to 15 percent of known or clinically recognized pregnancies will end in miscarriage.¹⁶ However, the exact number of miscarriages that occur is unknown because many occur before a woman knows she is pregnant. The majority of miscarriages occur in the first trimester (13 weeks) of a pregnancy.¹⁷

Stephanie Saboor Grieving Parents Act

In 2003, the Legislature enacted the “Stephanie Saboor Grieving Parents Act (Act).” The Act requires certain health care practitioners and health care facilities having custody of fetal remains following a spontaneous fetal demise after a gestation of less than 20 completed weeks to notify the mother of her option to arrange for the burial or cremation of the fetal remains.¹⁸ The notification may provide other options including a ceremony, a certificate, or common burial of fetal remains. The mother may also choose to allow the health care practitioner or health care facility to follow the procedures provided by general law for the handling of fetal demise.¹⁹

Effect of Proposed Changes

HB 101 creates the “Grieving Families Act” which allows the parents of a pregnancy that results in a fetal demise to request and be issued a “certificate of nonviable birth.” The bill defines “nonviable birth” as an unintentional, spontaneous fetal demise occurring before a gestation period of 20 completed weeks.

The bill directs allopathic physicians, osteopathic physicians, nurses, and certified midwives who attend or diagnose a nonviable birth, as well as hospitals and birthing centers at which a nonviable birth occurs, to advise the parent:

- That the parent may request the preparation of a certificate of nonviable birth;
- That the parent may obtain a certificate of nonviable birth by contacting the Office of Vital Statistics;
- How the parent may contact the Office of Vital Statistics to request the certificate of nonviable birth; and
- That the certificate of nonviable birth is available as a public record when held by an agency.²⁰

¹³ *Id.*

¹⁴ *Id.*

¹⁵ National Institutes of Health, Eunice Kennedy Shriver National Institute of Child Health and Human Development, *Pregnancy Loss: Condition Information, What is pregnancy loss/miscarriage?*, available at <https://www.nichd.nih.gov/health/topics/pregnancyloss/conditioninfo/Pages/default.aspx> (last visited February 9, 2017). The loss of a pregnancy after the 20th week of gestation is called a stillbirth.

¹⁶ U.S. Dep’t of Health and Human Services, Office of Women’s Health, *Pregnancy: Pregnancy Loss*, (last rev. Sept. 27, 2010), available at <https://www.womenshealth.gov/pregnancy/you-are-pregnant/pregnancy-loss.html> (last visited February 9, 2017).

¹⁷ American Pregnancy Association, *Miscarriage*, (updated August 2016), available at <http://americanpregnancy.org/pregnancy-complications/miscarriage/> (last visited February 9, 2017).

¹⁸ Chapter 2003-52, Laws of Fla., codified at s. 383.33625, F.S. The health care practitioners required to advise the mother of her options for the fetal remains include physicians, nurses, or midwives that have custody of the fetal remains.

¹⁹ Fetal remains of a nonviable birth of less than 20 weeks gestation would be considered “biomedical waste,” which is governed by s. 381.0098, F.S.

²⁰ Pursuant to s. 119.011(2), F.S., an “agency” means any state, county, district, authority, or municipal officer, department division, board, bureau, commission, or other separate unit of government created or established by law including the Commission on Ethics,

The bill also requires those health care practitioners and health care facilities to also file a registration of nonviable birth with the State Registrar or a local registrar within 5 days of the occurrence of the nonviable birth. The registration may be filed in the state's electronic death registration system or on a file prescribed by DOH.

The bill authorizes the State Registrar to receive certificates of nonviable birth, in the same manner as it receives the certificates of death and certificates of fetal death.

To order a certificate of nonviable birth, a parent's request must be on a form prescribed by DOH, which must include the date of the nonviable birth and the county in which the nonviable birth occurred. DOH must issue the certificate of nonviable birth within 60 days of the receipt of the request from a parent listed on the registration. A parent may request a certificate of nonviable birth regardless of the date on which the nonviable birth occurred. The Office of Vital Statistics must inform any parent who requests a certificate of nonviable birth that a copy of the document is available as a public record.

The bill requires DOH to promulgate a rule for the form, content, and process for the certificate of nonviable birth. The certificate of nonviable birth must contain the date of the nonviable birth, the county in which the nonviable birth occurred, and the name of the fetus provided on the registration of nonviable birth submitted by the attending healthcare practitioner or the healthcare facility at which the nonviable birth occurred. If the fetus does not have a name, the Office of Vital Statistics is directed to indicate "baby boy" or "baby girl" and the last name of the parents on the certificate of nonviable birth. If the sex of the fetus is not known, the Office of Vital Statistics is directed to indicate the name "baby" and the last the name of the parents on the certificate of nonviable birth. The certificate must state, "This certificate is not proof of a live birth," on its front.

The Office of Vital Statistics may not use a certificate of nonviable birth in the calculation of live birth statistics. The bill provides that the certificate of nonviable birth and the statutory definition of nonviable birth may not be used to establish, bring, or support a civil cause of action seeking damages against any person or entity for bodily injury, personal injury, or wrongful death for a nonviable birth.

The bill authorizes DOH to collect fees of at least \$3 but no more than \$5 for the processing and filing of the certificate of nonviable birth.

The bill provides an effective date of July 1, 2017.

B. SECTION DIRECTORY:

Section 1: Provides a bill title.

Section 2: Amends s. 382.002, F.S., relating to definitions.

Section 3: Amends s. 382.008, F.S., relating to death, fetal death, and nonviable birth registration.

Section 4: Amends s. 382.0085, F.S., relating to stillbirth registration.

Section 5: Creates s. 382.0086, F.S., relating to certificate of nonviable birth.

Section 6: Amends s. 382.0255, F.S., relating to fees.

Section 7: Provides an effective date of July 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill authorizes DOH to collect a fee of at least \$3 but no more than \$5 for the certificate of nonviable birth.

2. Expenditures:

DOH indicates that it will incur costs to modify the electronic system used for the registration and certification of vital statistics, the development of forms, and database changes. The cost for modification to the system is estimated to be \$50,000.²¹

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

For a person experiencing a nonviable birth, a fee of at least \$3 and not more than \$5, must be paid for the certificate of nonviable birth.

Healthcare providers and healthcare facilities who are required to registered nonviable births may incur costs related to additional administrative burdens.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes DOH to adopt rules regarding the form, content, and process for the certificate of nonviable birth.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

²¹ Department of Health, *House Bill 101 Agency Legislative Bill Analysis*, (January 9, 2017),)on file with the Health Quality Subcommittee.

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A bill to be entitled
 An act relating to certificates of nonviable birth;
 creating the "Grieving Families Act"; amending s.
 382.002, F.S.; providing a definition; amending
 382.008, F.S.; authorizing the State Registrar of the
 Office of Vital Statistics of the Department of Health
 to electronically receive a certificate of nonviable
 birth; requiring certain health care practitioners and
 health care facilities to electronically file a
 registration of nonviable birth within a specified
 timeframe; amending s. 382.0085, F.S.; conforming a
 cross-reference; creating s. 382.0086, F.S.; requiring
 the Department of Health to issue a certificate of
 nonviable birth within a specified timeframe upon the
 request of a parent; requiring the person registering
 the nonviable birth to advise the parent that a
 certificate of nonviable birth is available and that
 the certificate of nonviable birth is a public record;
 requiring the request for a certificate of nonviable
 birth to be on a form prescribed by the department and
 to include certain information; providing requirements
 for the certificate of nonviable birth; authorizing a
 parent to request a certificate of nonviable birth
 regardless of the date on which the nonviable birth
 occurred; designating the refusal to issue a

26 certificate of nonviable birth to certain persons as
 27 final agency action that is not subject to
 28 administrative review; prohibiting the use of
 29 certificates of nonviable birth to calculate live
 30 birth statistics; prohibiting specified provisions
 31 from being used in certain civil actions; authorizing
 32 the department to adopt rules; amending s. 382.0255,
 33 F.S.; authorizing the department to collect fees for
 34 processing and filing a new certificate of nonviable
 35 birth; providing an effective date.

36
 37 Be It Enacted by the Legislature of the State of Florida:

38
 39 Section 1. This act may be cited as the "Grieving Families
 40 Act."

41 Section 2. Subsections (14) through (18) of section
 42 382.002, Florida Statutes, are renumbered as subsections (15)
 43 through (19), respectively, and a new subsection (14) is added
 44 to that section to read:

45 382.002 Definitions.—As used in this chapter, the term:
 46 (14) "Nonviable birth" means an unintentional, spontaneous
 47 fetal demise occurring before a gestation period of 20 completed
 48 weeks.

49 Section 3. Paragraph (b) of subsection (2) of section
 50 382.008, Florida Statutes, is amended, and subsection (7) is

51 added to that section, to read:

52 382.008 Death, ~~and fetal death,~~ and nonviable birth
 53 registration.—

54 (2)

55 (b) The State Registrar may receive electronically a
 56 certificate of death, ~~or fetal death,~~ or nonviable birth which
 57 is required to be filed with the registrar under this chapter
 58 through facsimile or other electronic transfer for the purpose
 59 of filing the certificate. The receipt of a certificate of
 60 death, ~~or fetal death,~~ or nonviable birth by electronic transfer
 61 constitutes delivery to the State Registrar as required by law.

62 (7) A health care practitioner licensed pursuant to
 63 chapter 458, chapter 459, chapter 464, or chapter 467 who
 64 attends or diagnoses a nonviable birth, or a health care
 65 facility licensed pursuant to chapter 383 or chapter 395 at
 66 which a nonviable birth occurs, shall electronically file a
 67 registration of nonviable birth on the department electronic
 68 death registration system or on a form prescribed by the
 69 department with the department or local registrar of the
 70 district in which the nonviable birth occurred within 5 days
 71 after such nonviable birth, and shall be registered with the
 72 department if it has been completed and filed in accordance with
 73 this chapter or adopted rules.

74 Section 4. Subsection (9) of section 382.0085, Florida
 75 Statutes, is amended to read:

76 382.0085 Stillbirth registration.—

77 (9) This section or s. 382.002(17) ~~382.002(16)~~ may not be
 78 used to establish, bring, or support a civil cause of action
 79 seeking damages against any person or entity for bodily injury,
 80 personal injury, or wrongful death for a stillbirth.

81 Section 5. Section 382.0086, Florida Statutes, is created
 82 to read:

83 382.0086 Certificate of nonviable birth.—

84 (1) For any nonviable birth in this state, the department
 85 shall issue a certificate of nonviable birth within 60 days upon
 86 the request of a parent named on the registration of nonviable
 87 birth.

88 (2) The person who is required to register a nonviable
 89 birth under this chapter shall advise a parent of a nonviable
 90 birth:

91 (a) That the parent may request the preparation of a
 92 certificate of nonviable birth.

93 (b) That the parent may obtain a certificate of nonviable
 94 birth by contacting the Office of Vital Statistics.

95 (c) How the parent may contact the Office of Vital
 96 Statistics to request a certificate of nonviable birth.

97 (d) That a copy of the original certificate of nonviable
 98 birth is available as a public record when held by an agency as
 99 defined in s. 119.011(2).

100 (3) The request for a certificate of nonviable birth must

101 be on a form prescribed by the department by rule and include
 102 the date of the nonviable birth and the county in which the
 103 nonviable birth occurred.

104 (4) The certificate of nonviable birth must contain:
 105 (a) The date of the nonviable birth.
 106 (b) The county in which the nonviable birth occurred.
 107 (c) The name of the fetus, as provided on the registration
 108 of nonviable birth pursuant to s. 382.008. If a name does not
 109 appear on the original or amended registration of nonviable
 110 birth and the requesting parent does not wish to provide a name,
 111 the Office of Vital Statistics shall fill in the certificate of
 112 nonviable birth with the name "baby boy" or "baby girl" and the
 113 last name of the parents as provided in s. 382.013(3). If the
 114 sex of the child is unknown, the Office of Vital Statistics
 115 shall fill in the certificate of nonviable birth with the name
 116 "baby" and the last name of the parents as provided in s.
 117 382.013(3).

118 (d) The following statement which must appear on the front
 119 of the certificate: "This certificate is not proof of a live
 120 birth."

121 (5) A certificate of nonviable birth shall be a public
 122 record when held by an agency as defined in s. 119.011(2). The
 123 Office of Vital Statistics must inform any parent who requests a
 124 certificate of nonviable birth that a copy of the original
 125 certificate of nonviable birth is available as a public record.

126 (6) A parent may request that the Office of Vital
 127 Statistics issue a certificate of nonviable birth regardless of
 128 the date on which the nonviable birth occurred.

129 (7) It is final agency action, not subject to review under
 130 chapter 120, for the Office of Vital Statistics to refuse to
 131 issue a certificate of nonviable birth to a person who is not a
 132 parent named on the nonviable birth registration.

133 (8) The Office of Vital Statistics may not use a
 134 certificate of nonviable birth to calculate live birth
 135 statistics.

136 (9) This section or s. 382.002(14) may not be used to
 137 establish, bring, or support a civil cause of action seeking
 138 damages against any person or entity for bodily injury, personal
 139 injury, or wrongful death for a nonviable birth.

140 (10) The department shall prescribe by rules adopted
 141 pursuant to ss. 120.536(1) and 120.54 the form, content, and
 142 process for the certificate of nonviable birth.

143 Section 6. Paragraph (k) is added to subsection (1) of
 144 section 382.0255, Florida Statutes, to read:

145 382.0255 Fees.—

146 (1) The department is entitled to fees, as follows:

147 (k) Not less than \$3 or more than \$5 for processing and
 148 filing a new certificate of nonviable birth pursuant to s.
 149 382.0086.

150 Section 7. This act shall take effect July 1, 2017.



Amendment No. 1

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 Cortes, B. offered the following:

Amendment (with title amendment)

Remove lines 45-88 and insert:

382.002 Definitions.--As used in this chapter, the term:

(14) "Nonviable birth" means an unintentional, spontaneous fetal demise occurring after the completion of the 9th week of gestation but prior to the 20th week of gestation of a pregnancy that has been verified by a health care practitioner.

Section 3. Paragraph (b) of subsection (2) of section 382.008, Florida Statutes, is amended, and subsection (7) is added to that section, to read:

382.008 Death, and fetal death, and nonviable birth registration.--

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Amendment No. 1

17 (2)

18 (b) The State Registrar may receive electronically a
19 certificate of death, ~~or fetal death,~~ or nonviable birth which
20 is required to be filed with the registrar under this chapter
21 through facsimile or other electronic transfer for the purpose
22 of filing the certificate. The receipt of a certificate of
23 death, ~~or fetal death,~~ or nonviable birth by electronic transfer
24 constitutes delivery to the State Registrar as required by law.

25 (7) Upon the request of a parent of a nonviable birth, a
26 health care practitioner licensed pursuant to chapter 464 or
27 chapter 467 who attends or diagnoses a nonviable birth, or a
28 health care facility licensed pursuant to chapter 383 or chapter
29 395 at which a nonviable birth occurs, shall electronically file
30 a registration of nonviable birth on the department's electronic
31 death registration system or on a form prescribed by the
32 department with the department or local registrar of the
33 district in which the nonviable birth occurred within 30 days of
34 receipt of such request, and shall be registered with the
35 department if it has been completed and filed in accordance with
36 this chapter or adopted rules.

37 Section 4. Subsection (9) of section 382.0085, Florida
38 Statutes, is amended to read:

39 382.0085 Stillbirth registration.-

40 (9) This section or s. 382.002(17) ~~382.002(16)~~ may not be
41 used to establish, bring, or support a civil cause of action

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Amendment No. 1

42 seeking damages against any person or entity for bodily injury,
43 personal injury, or wrongful death for a stillbirth.

44 Section 5. Section 382.0086, Florida Statutes, is created
45 to read:

46 382.0086 Certificate of nonviable birth.-

47 (1) For any nonviable birth in this state, the department
48 shall issue a certificate of nonviable birth within 60 days upon
49 the request of a parent named on the registration of nonviable
50 birth.

51 (2) The person or entity authorized to register a
52 nonviable birth under this chapter shall advise a parent of a
53 nonviable birth:

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

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

57 Remove line 8 and insert:

58 birth; authorizing certain health care practitioners and

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 103 Public Records/Nonviable Birth Records
SPONSOR(S): Cortes
TIED BILLS: HB 101 **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Quality Subcommittee		Siples 	McElroy 
2) Oversight, Transparency & Administration Subcommittee			
3) Health & Human Services Committee			

SUMMARY ANALYSIS

HB 101 authorizes the Department to issue a certificate of nonviable birth, upon the request of an authorized parent. A nonviable birth is a pregnancy that unintentionally and spontaneously results in a fetal demise before a gestation period of 20 completed weeks, more commonly known as a miscarriage.

The bill, which is linked with HB 101, creates a public record exemption for certain information that may be collected when issuing a certificate of nonviable birth. Specifically, the bill provides that the cause of death, parentage, marital status, and medical information included in nonviable birth records are confidential and exempt from public disclosure.

The bill provides that the exemption will stand repealed on October 2, 2022, unless saved from repeal by reenactment by the Legislature. It also provides a public necessity statement as required by the State Constitution.

The bill will have an indeterminate, negative fiscal impact on the Department of Health.

The bill will be effective on the same date that HB 101 or similar legislation takes effect.

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created public record or public meeting exemption. The bill creates public record and public meeting exemptions; thus, it appears to require a two-thirds vote for final passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Public Records and Open Meetings Requirements

The Florida Constitution provides that the public has the right to access government records and meetings. The public may inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or of persons acting on their behalf.¹ The public also has a right to notice and access to meetings of any collegial public body of the executive branch of state government or of any local government.² The Legislature's meetings must also be open and noticed to the public, unless there is an exception provided for by the Constitution.³

In addition to the Florida Constitution, the Florida Statutes specify conditions under which public access must be provided to government records and meetings. The Public Records Act⁴ guarantees every person's right to inspect and copy any state or local government public record.⁵ The Sunshine Law⁶ requires all meetings of any board or commission of any state or local agency or authority at which official acts are to be taken be noticed and open to the public.⁷

The Legislature may create an exemption to public records or open meetings requirements.⁸ An exemption must specifically state the public necessity justifying the exemption⁹ and must be tailored to accomplish the stated purpose of the law.¹⁰ There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act and also confidential.

Exempt Records

If a record is exempt, the specified record or meeting, or portion thereof, is not subject to the access requirements of s. 119.07(1), F.S., s. 286.011, F.S., or article I, section 24 of the Florida Constitution. If records are only exempt from the Public Records Act and not confidential, the exemption does not

¹ FLA. CONST., art. I, s. 24(a).

² FLA. CONST., art. I, s. 24(b).

³ FLA. CONST., art. I, s. 24(b).

⁴ Chapter 119, F.S.

⁵ Section 119.011(12), F.S., defines "public record" as all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency. Section 119.011(2), F.S. defines "agency" as any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency. The Public Records Act does not apply to legislative or judicial records, *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992), however, the Legislature's records are public pursuant to section 11.0431, F.S.

⁶ Section 286.011, F.S.

⁷ Section 286.011(1)-(2), F.S. The Sunshine Law does not apply to the Legislature; rather, open meetings requirements for the Legislature are set out in the Florida Constitution. Article III, section 4(e) of the Florida Constitution provide that legislative committee meetings must be open and noticed to the public. In addition, prearranged gatherings, between more than two members of the Legislature, or between the Governor, the President of the Senate, or the Speaker of the House of Representatives, the purpose of which is to agree upon or to take formal legislative action, must be reasonably open to the public.

⁸ FLA. CONST., art. I, s. 24(c).

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ FLA. CONST., art. I, s. 24(c).

prohibit the showing of such information, but simply exempts them from the mandatory disclosure requirements in s. 119.07(1)(a), F.S.¹¹

Confidential Records

The term "confidential" is not defined in the Public Records Act; however, it is used in Article I, S. 24 of the Florida Constitution, which provides that every person has the right to inspect or copy any public record, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. If information is made confidential in the statutes, the information is not subject to inspection by the public and may be released only to those persons and entities designated in the statute.¹²

Open Government Sunset Review Act

The Open Government Sunset Review Act (OGSR) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions.¹³ The OGSR provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption.¹⁴

The OGSR provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.¹⁵ An exemption serves an identifiable purpose if it meets one of the following criteria:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption; or
- Releasing sensitive personal information would be defamatory or would jeopardize an individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt; or
- It protects trade or business secrets.¹⁶

In addition, the Legislature must find that the identifiable public purpose is compelling enough to override Florida's open government public policy and that the purpose of the exemption cannot be accomplished without the exemption.¹⁷

The OGSR also requires specific questions to be considered during the review process.¹⁸ In examining an exemption, the OGSR asks the Legislature to question the purpose and necessity of reenacting the exemption. If, in reenacting an exemption, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.¹⁹ If the exemption is reenacted without

¹¹ See, *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991), rev. denied, 589 So. 2d 289 (Fla. 1991), in which the court observed that pursuant to s. 119.07(3)(d), F.S., [now s. 119.071(2)(c), F.S.] "active criminal investigative information" was exempt from the requirement that public records be made available for public inspection. However, as stated by the court, "the exemption does not prohibit the showing of such information." *Id.* at 686.

¹² *WFTV, Inc. v. School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004), rev. denied, 892 So. 2d 1015 (Fla. 2004). See also, 04-09 Fla Op. Att'y Gen. (2004) and 86-97 Fla Op. Att'y Gen. (1986).

¹³ Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it expanded to include more information or to include meetings. The OGSR does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to s. 119.15(2), F.S.

¹⁴ Section 119.15(3), F.S.

¹⁵ Section 119.15(6)(b), F.S.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Section 119.15(6)(a), F.S. The questions are: What specific records or meetings are affected by the exemption? Whom does the exemption uniquely affect, as opposed to the public? What is the identifiable public purpose or goal of the exemption? Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how? Is the record or meeting protected by another exemption? Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

¹⁹ FLA. CONST., art. I, s. 24(c).

substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will retain their exempt status unless provided for by law.²⁰

Vital Records

The Bureau of Vital Records (bureau), which is housed within the Department of Health (DOH), is statutorily required to develop and maintain a uniform and efficient system of registering, compiling, storing, and preserving all vital records²¹ in this state.²² Under current law, the following records compiled by the bureau are confidential and exempt from public inspection:

- All birth records, except for those over 100 years old and are not sealed pursuant to a court order;²³
- Information relating to cause of death in all death and fetal death records;²⁴ and
- The parentage, marital status, and medical information of fetal death records.²⁵

Although these records are exempt from public inspection, the records may be made available for health research purposes, as approved by DOH.

Certificates of Nonviable Birth

HB 101 authorizes the bureau to issue a certificate of nonviable birth upon the request of a parent who experiences an unintentional, spontaneous fetal demise before a gestation period of 20 completed weeks, more commonly known as a miscarriage.

Effect of Proposed Changes

The bill creates a public record exemption for certain information that may be collected to issue a certificate of nonviable birth. Specifically, the bill adds nonviable births to the existing exemption for death and fetal death records. Therefore, information collected regarding the cause of death, parentage, marital status, and medical information related to a nonviable birth will be confidential and exempt from public records requirements.

The bill provides that the public record exemption is subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2022, unless saved from repeal by reenactment by the Legislature.

The bill provides a public necessity statement as required by the State Constitution, which states that the exemption is necessary to protect the privacy rights of an individual undergoing a nonviable birth and such exemptions currently exists for death and fetal death records.

The bill takes effect on the same date that HB 101 or similar legislation takes effect, if such legislation is adopted in the same legislative session.

B. SECTION DIRECTORY:

Section 1: Amends s. 382.008, relating to death and fetal death registration.

²⁰ S. 119.15(7), F.S.

²¹ A vital record is defined as certificates or reports of birth, death, fetal death, marriage, dissolution of marriage, certain name changes, and data related thereto. Section 382.001(17), F.S.

²² Section 382.003, F.S.

²³ Section 382.025, F.S. See also, ss 382.013 and 382.017, F.S., which involve specific situations in which a new birth certificate may be issued and the original birth certificate remains confidential and exempt from public inspection.

²⁴ Section 382.008(6), F.S. However, pursuant to s. 382.025(2)(b), F.S., all portions of a death certificate cease to be exempt from the provisions of s.119.07(1), F.S., 50 years after the date of death.

²⁵ *Id.*

Section 2: Provides a public necessity statement.

Section 3: Provides a contingent effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill may create an insignificant, negative impact on DOH for costs associated with training staff on a new public records exemption.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

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. This bill does not appear to affect county or municipal governments.

2. Other:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created public record or public meeting exemption. The bill creates new exemptions; thus, it requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill creates new exemptions; thus, it includes a public necessity statement.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rule-making or rule-making authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 382.008, F.S.; providing that certain information
 4 included in nonviable birth records is confidential
 5 and exempt from public records requirements; providing
 6 for future legislative review and repeal of the
 7 exemption; providing a statement of public necessity;
 8 providing a contingent effective date.

9
 10 Be It Enacted by the Legislature of the State of Florida:

11
 12 Section 1. Subsection (6) of section 382.008, Florida
 13 Statutes, is amended to read:

14 382.008 Death, ~~and~~ fetal death, and nonviable birth
 15 registration.-

16 (6) (a) The original certificate of death, ~~or~~ fetal death,
 17 or nonviable birth shall contain all the information required by
 18 the department for legal, social, and health research purposes.
 19 All information relating to cause of death in all death, ~~and~~
 20 fetal death, and nonviable birth records and the parentage,
 21 marital status, and medical information included in all fetal
 22 death and nonviable birth records of this state are confidential
 23 and exempt from the provisions of s. 119.07(1), except for
 24 health research purposes as approved by the department; nor may
 25 copies of the same be issued except as provided in s. 382.025.



26 (b) This subsection is subject to the Open Government
 27 Review Act in accordance with s. 119.15, and shall stand
 28 repealed on October 2, 2022, unless reviewed and saved from
 29 repeal through reenactment by the Legislature.

30 Section 2. The Legislature finds that it is a public
 31 necessity that information relating to the cause of death,
 32 parentage, marital status, and medical information included in
 33 nonviable birth records be held confidential and exempt from s.
 34 119.07(1), Florida Statutes, and s. 24(a), Art. I of the State
 35 Constitution to protect the privacy rights of an individual
 36 undergoing a nonviable birth. Currently, death and fetal death
 37 records containing such information are confidential and exempt
 38 from s. 119.07(1), Florida Statutes, and s. 24(a), Art. I of the
 39 State Constitution. The Legislature further finds that the
 40 public disclosure of such information may discourage such an
 41 individual from seeking medical care from a licensed health care
 42 practitioner or health care facility.

43 Section 3. This act shall take effect on the same date
 44 that HB 101 or similar legislation takes effect, if such
 45 legislation is adopted in the same legislative session or an
 46 extension thereof and becomes a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 209 Medical Faculty Certification
SPONSOR(S): Miller
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Quality Subcommittee		Siples 	McElroy 
2) Health & Human Services Committee			

SUMMARY ANALYSIS

A medical faculty certificate allows medical school faculty physicians to practice medicine in Florida without sitting for and successfully passing a licensure examination. A physician who receives a medical faculty certificate has all rights and responsibilities as other licensed physicians, except the certificateholder may only practice in conjunction with a full-time faculty position at an accredited medical school and its affiliated clinical facilities or teaching hospitals. Currently, medical faculty certificates are authorized for physicians teaching in one of eight Florida medical schools.

The bill expands the current medical faculty certificate eligibility criteria by allowing a medical faculty certificate to be issued to an individual who has been offered and has accepted a full-time faculty appointment to teach in a program of medicine at the Johns Hopkins All Children's Hospital in St. Petersburg, Florida. The bill also limits the number of extended medical faculty certificateholders allowed at the John Hopkins All Children's Hospital in St. Petersburg, Florida, to 30 persons, which is consistent with limitations for all but one of the other institutions eligible for such certificates.

There is an insignificant, negative fiscal impact on the Department of Health and no fiscal impact on local governments.

The bill provides an effective date of July 1, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Medical Faculty Certificates

The Board of Medicine within the Department of Health's Division of Medical Quality Assurance may issue medical faculty certificates to physicians allowing them to practice medicine in Florida without sitting for and successfully passing a national examination.¹ These physicians have the same rights and responsibilities as other licensed physicians, except they may only practice in conjunction with a full-time faculty position at an accredited medical school and its affiliated clinical facilities or teaching hospitals.

To be eligible to receive a medical faculty certificate a physician must:²

- Be a graduate of an accredited medical school or its equivalent, or a graduate of a foreign medical school listed with the World Health Organization;
- Hold a valid, current license to practice medicine in another jurisdiction;
- Complete the application form and remit a nonrefundable application fee not to exceed \$500;
- Complete an approved residency or fellowship of at least one year or equivalent training;
- Be at least 21 years of age;
- Be of good moral character;
- Not have committed any act in Florida or any other jurisdiction which would constitute the basis for disciplining a physician;
- Have completed, before medical school, the equivalent of 2 academic years of preprofessional, postsecondary education, as determined by the Board of Medicine;³ and
- Have accepted a full-time faculty appointment to teach in a program of medicine at:
 - The University of Florida;
 - The University of Miami;
 - The University of South Florida;
 - The Florida State University;
 - The Florida International University;
 - The University of Central Florida;
 - The Mayo Clinic College of Medicine in Jacksonville, Florida; or
 - The Florida Atlantic University.

Currently, a medical faculty certificate holder is required to pay an application fee of \$500, and \$424 for the issuance of the initial certificate.⁴ The initial certificate is valid for 2 years, or until the applicant terminates their relationship with the medical school or teaching institution, whichever occurs sooner. To renew (or extend) a certificate, an applicant must submit an approved form, remit a renewal fee of \$360,⁵ and submit a letter from the dean of the medical school stating that the applicant is a distinguished medical scholar and an outstanding practicing physician.⁶

¹ There are several different types of national examinations for medical doctors: a State Board Examination, National Board of Medical Examiners, United States Medical Licensing Examination, Federation Licensing Examination (FLEX), and Special Purpose Examination (SPEX).

² Section 458.3145(1), F.S.

³ This education requirement is only applicable to applicants who have graduated from medical school after October 1, 1992. Section 458.3145(1)(h), F.S.

⁴ Rule 64B8-3.002, F.A.C.

⁵ However, for a medical faculty certificate renewed during calendar years 2015 and 2016, the renewal fee was \$250. Rule 64B8-3.003, F.A.C.

⁶ Section 458.3145(2), F.S.

There is no limit on the number of initial certificates a medical school or teaching institution may receive. However, the number of medical faculty certificates that may be renewed by each medical school or teaching institution is statutorily limited.⁷ All medical schools, except the Mayo Clinic College of Medicine in Jacksonville, Florida, are limited to 30 renewed medical faculty certificates. The Mayo Clinic College of Medicine is limited to 10 renewed medical faculty certificates. The H. Lee Moffitt Cancer Center and Research Institute is also permitted to have up to 30 renewed faculty certificates.⁸

An annual review of each medical faculty certificate recipient is made by the dean of the certificate recipient's accredited 4-year medical school and reported to the Board of Medicine within the Department of Health on an annual basis.⁹ According to the Department of Health, as of February 8, 2017, the Board of Medicine oversees 51 active medical faculty certificates.¹⁰

The Board of Medicine may authorize any physician to provide medical care or treatment in connection with the education of students, residents, or faculty, upon the request of a Florida medical school dean or the medical director of a teaching hospital.¹¹ The physician must register with the Board of Medicine and demonstrate financial responsibility. The physician may only perform such medical care or treatment for a single period of time, which may not exceed 180 consecutive days. No more than three physicians per year, per institution may be registered to provide such services.

Johns Hopkins All Children's Pediatric Residency Program

The All Children's Hospital was founded in 1926 to care for children with polio and other crippling diseases, without regard for a patient's race, creed, or ability to pay.¹² After the development of the polio vaccine, the hospital changed its focus and dedicated itself to meeting a wide range of medical needs of infants, children, and teens. In April 2011, the hospital became fully integrated into the Johns Hopkins Health System.

Johns Hopkins Medicine is located in Baltimore, Maryland, and consists of Johns Hopkins Health System and Johns Hopkins University School of Medicine. The Johns Hopkins University School of Medicine has approximately 1,200 medical and doctoral students, 2,800 full-time faculty, and 1,200 part-time faculty.¹³

In July 2014, the Johns Hopkins All Children's Pediatric Residency Program had its first class of residents.¹⁴ The focus of the residency program is to train pediatricians that will be prepared for the changing world of healthcare, and the program will offer residents early and frequent opportunities to participate in clinical research under the mentorship of the Johns Hopkins All Children's Hospital and the faculty of the Johns Hopkins University School of Medicine.¹⁵ Among the specialties services offered are a heart institute, a cancer & blood disorder institute, an institute for brain protection sciences, a maternal, fetal, and neonatal institute, pediatric surgery, and other specialty services.¹⁶

Currently, physicians teaching at the hospital may not obtain a medical faculty certificate because the Johns Hopkins All Children's Hospital in St. Petersburg, Florida, is not included in the list of institutions whose full-time employees are eligible to apply under s. 458.3145, F.S.

⁷ Section 458.3145(4), F.S.

⁸ *Id.*

⁹ Section 458.3145(5), F.S.

¹⁰ E-mail correspondence with Department of Health staff dated February 8, 2017, on file with the Health Quality Subcommittee.

¹¹ Section 458.3145(6), F.S.

¹² Johns Hopkins Medicine, "A Bright Future for Johns Hopkins All Children's Hospital," *available at* <https://www.hopkinsallchildrens.org/about-us/johns-hopkins-medicine> (last visited February 9, 2017).

¹³ Johns Hopkins Medicine,

¹⁴ Johns Hopkins Medicine, Office of Medical Education, "About Johns Hopkins All Children's Pediatric Residency Program," *available at* <http://ome.allkids.org/residency> (last visited February 9, 2017).

¹⁵ Johns Hopkins Medicine, Office of Medical Education, "Johns Hopkins All Children's Hospital Pediatric Residency Frequently Asked Questions," *available at* <http://ome.allkids.org/fag> (last visited February 9, 2017).

¹⁶ Johns Hopkins Medicine, *Specialty Services Facts: Johns Hopkins All Children's Hospital*, October 2016, *available at* http://www.hopkinsmedicine.org/about/downloads/all_childrens_hospital.pdf (last visited February 9, 2017).

Effect of Proposed Changes

The bill expands the current medical faculty certificate eligibility by allowing a medical faculty certificate to be issued without examination to an individual who has been offered and has accepted a full-time faculty appointment to teach in a program of medicine at the Johns Hopkins All Children's Hospital in St. Petersburg, Florida.¹⁷ The bill also limits the number of medical faculty certificates the Board of Medicine may issue to eligible faculty at the Johns Hopkins All Children's Hospital in St. Petersburg, Florida, to 30 persons, which is consistent with limitations for all but one of the other institutions eligible for such certificates.

The bill also authorizes a dean of a medical school, regardless of whether the medical school is located in Florida, or the medical director of a specialty-licensed children's hospital licensed under chapter 395, to request a physician provide medical or treatment, in connection with the education of students, residents, or faculty. The physician registers with Board of Medicine and demonstrates financial responsibility and may not provide such services for more than 180 executive days. Current law limits this provision to deans of medical schools located in Florida and the medical directors of statutory teaching hospitals.

The bill provides an effective date of July 1, 2017.

B. SECTION DIRECTORY:

Section 1: Amends s. 458.3145, F.S., relating to medical faculty certificate.

Section 2: Provides an effective date of July 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The Division of Medical Quality Assurance within the Department of Health may see an increase in workload from processing additional medical faculty certificates and certificate renewals. However, the application fee of \$500, the initial license fee of \$424, and the renewal license fee of \$360 should support the workload increase.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

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 affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

An inconsistency currently exists between lines 61-63 and 101-102. The phrase "that is affiliated with an accredited medical school and its affiliated clinics," should be added to line 102 to resolve the inconsistency.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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A bill to be entitled
 An act relating to medical faculty certification;
 amending s. 458.3145, F.S.; revising the list of
 schools at which certain faculty members are eligible
 to receive a medical faculty certificate; authorizing
 a certificateholder to practice at certain specialty-
 licensed children's hospitals; revising provisions to
 allow the dean of a medical school outside the state
 to make an annual review or request the provision of
 medical care or treatment in connection with
 education; providing an effective date.

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

Section 1. Section 458.3145, Florida Statutes, is amended
 to read:

458.3145 Medical faculty certificate.-

(1) A medical faculty certificate may be issued without
 examination to an individual who:

(a) Is a graduate of an accredited medical school or its
 equivalent, or is a graduate of a foreign medical school listed
 with the World Health Organization;

(b) Holds a valid, current license to practice medicine in
 another jurisdiction;

(c) Has completed the application form and remitted a

26 nonrefundable application fee not to exceed \$500;

27 (d) Has completed an approved residency or fellowship of
 28 at least 1 year or has received training which has been
 29 determined by the board to be equivalent to the 1-year residency
 30 requirement;

31 (e) Is at least 21 years of age;

32 (f) Is of good moral character;

33 (g) Has not committed any act in this or any other
 34 jurisdiction which would constitute the basis for disciplining a
 35 physician under s. 458.331;

36 (h) For any applicant who has graduated from medical
 37 school after October 1, 1992, has completed, before entering
 38 medical school, the equivalent of 2 academic years of
 39 preprofessional, postsecondary education, as determined by rule
 40 of the board, which must include, at a minimum, courses in such
 41 fields as anatomy, biology, and chemistry; and

42 (i) Has been offered and has accepted a full-time faculty
 43 appointment to teach in a program of medicine at:

- 44 1. The University of Florida;
- 45 2. The University of Miami;
- 46 3. The University of South Florida;
- 47 4. The Florida State University;
- 48 5. The Florida International University;
- 49 6. The University of Central Florida;
- 50 7. The Mayo Clinic College of Medicine in Jacksonville,

51 Florida; ~~or~~

52 8. The Florida Atlantic University; or

53 9. The Johns Hopkins All Children's Hospital in St.
 54 Petersburg, Florida.

55 (2) The certificate authorizes the holder to practice only
 56 in conjunction with his or her faculty position at an accredited
 57 medical school and its affiliated clinical facilities or
 58 teaching hospitals that are registered with the Board of
 59 Medicine as sites at which holders of medical faculty
 60 certificates will be practicing, or a specialty-licensed
 61 children's hospital licensed under chapter 395 that is
 62 affiliated with an accredited medical school and its affiliated
 63 clinics. Such certificate automatically expires when the
 64 holder's relationship with the medical school is terminated or
 65 after a period of 24 months, whichever occurs sooner, and is
 66 renewable every 2 years by a holder who applies to the board on
 67 a form prescribed by the board and provides certification by the
 68 dean of the medical school that the holder is a distinguished
 69 medical scholar and an outstanding practicing physician.

70 (3) The holder of a medical faculty certificate issued
 71 under this section has all rights and responsibilities
 72 prescribed by law for the holder of a license issued under s.
 73 458.311, except as specifically provided otherwise by law. Such
 74 responsibilities include compliance with continuing medical
 75 education requirements as set forth by rule of the board. A

76 hospital or ambulatory surgical center licensed under chapter
 77 395, health maintenance organization certified under chapter
 78 641, insurer as defined in s. 624.03, multiple-employer welfare
 79 arrangement as defined in s. 624.437, or any other entity in
 80 this state, in considering and acting upon an application for
 81 staff membership, clinical privileges, or other credentials as a
 82 health care provider, may not deny the application of an
 83 otherwise qualified physician for such staff membership,
 84 clinical privileges, or other credentials solely because the
 85 applicant is a holder of a medical faculty certificate under
 86 this section.

87 (4) In any year, the maximum number of extended medical
 88 faculty certificateholders as provided in subsection (2) may not
 89 exceed 30 persons at each institution named in subparagraphs
 90 (1)(i)1.-6., 8., and 9. ~~and 8.~~ and at the facility named in s.
 91 1004.43 and may not exceed 10 persons at the institution named
 92 in subparagraph (1)(i)7.

93 (5) Annual review of all such certificate recipients will
 94 be made by the deans of the accredited 4-year medical schools
 95 ~~within this state~~ and reported to the Board of Medicine.

96 (6) Notwithstanding subsection (1), any physician, when
 97 providing medical care or treatment in connection with the
 98 education of students, residents, or faculty at the request of
 99 the dean of an accredited medical school ~~within this state~~ or at
 100 the request of the medical director of a statutory teaching

101 hospital as defined in s. 408.07 or a specialty-licensed
102 children's hospital licensed under chapter 395, may do so upon
103 registration with the board and demonstration of financial
104 responsibility pursuant to s. 458.320(1) or (2) unless such
105 physician is exempt under s. 458.320(5)(a). The performance of
106 such medical care or treatment must be limited to a single
107 period of time, which may not exceed 180 consecutive days, and
108 must be rendered within a facility registered under subsection
109 (2) or within a statutory teaching hospital as defined in s.
110 408.07. A registration fee not to exceed \$300, as set by the
111 board, is required of each physician registered under this
112 subsection. However, no more than three physicians per year per
113 institution may be registered under this subsection, and an
114 exemption under this subsection may not be granted to a
115 physician more than once in any given 5-year period.

116 Section 2. This act shall take effect July 1, 2017.



Amendment No. 1

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 Miller, A. offered the following:

Amendment (with title amendment)

6 Remove lines 95-102 and insert:
 7 provided in paragraph (1)(i) of this section ~~within this state~~
 8 and reported to the Board of Medicine.

9 (6) Notwithstanding subsection (1), any physician, when
 10 providing medical care or treatment in connection with the
 11 education of students, residents, or faculty at the request of
 12 the dean of an accredited medical school within this state or at
 13 the request of the medical director of a statutory teaching
 14 hospital as defined in s. 408.07 or a specialty-licensed
 15 children's hospital licensed under chapter 395 that is



Amendment No. 1

16 affiliated with an accredited medical school and its affiliated
17 clinics, may do so upon

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

21

Remove lines 7-11 and insert:

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licensed children's hospitals; revising provisions to allow the

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medical director of certain specialty-licensed children's

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hospitals to request the provision of medical care and treatment

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in connection with education; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB HQS 17-01 Health Care Access
SPONSOR(S): Health Quality Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Health Quality Subcommittee		Siples	McElroy

SUMMARY ANALYSIS

Florida, as well as the nation, is facing a shortage of health care practitioners. In order to broaden access to health care services, the bill seeks to eliminate unnecessary regulation and authorize and incentivize efficient methods of providing care.

The bill allows APRNs who meet certain criteria to practice advanced or specialized nursing without physician supervision or a protocol by registering with the Board of Nursing. In addition, the bill authorizes these "independent advanced practice registered nurses" to:

- Act as a patient's primary care provider;
- Provide a signature, certification, stamp, verification, affidavit, or other endorsement currently required by law to be provided by a physician;
- Certify a cause of death and sign, correct, and file death certificates;
- Perform certain physical examinations currently reserved to physicians by Florida law, such as examinations of pilots, law enforcement officers, and suspected child abuse victims; and
- Be reimbursed under personal injury protection insurance for initial and follow-up medical services, consistent with current law applicable to physicians.

IAPRNs may be administratively disciplined if they commit specified prohibited acts related to unethical and substandard business practices. The bill also imposes additional requirements on IAPRNs for controlled substance prescribing. IAPRNs must complete 10 hours of continuing education related to pharmacology prior to biennial registration renewal and report controlled substance-related adverse incidents to the Board.

The bill changes the term "advanced registered nurse practitioner" to "advanced practice registered nurse" (APRN) throughout Florida Statutes. The bill authorizes an APRN or a physician assistant (PA) to certify a person for involuntary examination under the Baker Act.

The bill authorizes PAs to perform certain examinations that APRNs are authorized to perform under current law, such as those to detect child abuse and for the purpose of pilot certification. The bill authorizes PAs to file death registrations and certify a cause of death. The bill also authorizes PAs to participate in the Public School Volunteer Health Care Practitioner Program.

The bill creates s. 456.47, F.S., relating to the use of telehealth to provide health care services. Specifically, the bill:

- Authorizes Florida-licensed health care professionals to use telehealth and articulates a standard of care.
- Authorizes out-of-state health care professionals to use telehealth for Florida patients if they register with the Department of Health (DOH) or the applicable board, meet certain requirements, and pay a fee.
- Authorizes health care professionals who prescribe controlled substances to use telehealth to do so, with certain limited circumstances.
- Requires registered telehealth pharmacists to use only Florida-registered for Florida patients.
- Provides standards for record-keeping for those patients who are rendered health care services using telehealth.

For tax years beginning on or after January 1, 2018, the bill creates a tax credit for health insurers and health maintenance organizations (HMOs) that cover services provided by telehealth. A tax credit, in the amount of one tenth of one percent of total insurance premiums received on certain accident or health insurance policies issued or delivered in Florida in the previous calendar year, may be applied against the incurred corporate income tax or insurance premium tax. Any unused tax credit may be carried forward for up to 5 years. The bill authorizes the Department of Revenue to recoup any tax credit amounts for which it finds the health insurer or HMO was ineligible to receive.

The bill provides an appropriation of \$261,389 recurring and \$15,528 nonrecurring from the Medical Quality Assurance Trust Fund and four full time equivalent positions and \$145,870 in salary rate to utilize the funds generated from the registration fee to offset the workload increase anticipated from additional licenses. The Revenue Estimating Conference has not yet determined the fiscal impact of the bill; however, the telehealth tax credit may have a negative, recurring impact on state revenues of up to \$24.7 million. The bill does not appear to have a fiscal impact on local government.

The bill provides an effective date of July 1, 2017, except as otherwise expressly provided in the bill.

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

STORAGE NAME: pcb01.HQS.DOCX

DATE: 2/13/2017

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Health Care Professional Shortage

There is currently a health care provider shortage in the U.S.¹ For example, as of January 1, 2017, the U.S. Department of Health and Human Services has designated 6,626 Primary Care Health Professional Shortage Area (HPSA) (requiring 9,376 additional primary care physicians to eliminate the shortage), 5,493 Dental HPSAs (requiring 8,118 additional dentists to eliminate the shortage), and 4,627 Mental Health HPSAs (requiring 3,397 additional psychiatrists to eliminate the shortage). Similarly, according to a 2010 report prepared by the Florida Center for Nursing, Florida is projected to experience a shortage of more than 62,800 nurses by 2025.²

This shortage is predicted to continue into the foreseeable future and will likely worsen with the aging and growth of the U.S. population³ and the passage of the Patient Protection and Affordable Care Act.⁴ Aging populations create a disproportionately higher health care demand.⁵ Additionally, as more individuals qualify for health care benefits, there will necessarily be a greater demand for more health care professionals to provide these services. There are several other factors which will likely increase the demand for a larger health care workforce. These include:⁶

- Shortage of health care professionals being educated, trained and licensed;
- Lack of specialists and health facilities in rural areas;
- Adverse events, injuries and illness at hospitals and physician's offices; and
- Need to improve community and population health.

Florida is not immune to the national problem and is experiencing a health care provider shortage itself. This is evidenced by the fact that for just primary care, dental care and mental health there are 655 federally designated Health Professional Shortage Areas (HPSA) within the state.⁷ It would take 1,010 primary care, 1,203 dental care, and 254 mental health practitioners to eliminate these shortage areas.⁸

¹ U.S. Department of Health and Human Services, Health Resources and Services Administration, *Shortage Areas*, available at <http://www.hrsa.gov/shortage/> (last visited January 6, 2017).

² Florida Center for Nursing, *RN and LPN Supply and Demand Forecasts, 2010-2025: Florida's Projected Nursing Shortage in View of the Recession and Healthcare Reform* (Oct. 2010), available at <https://www.flcenterfornursing.org/ForecastsStrategies/FCNForecasts.aspx> (last visited January 6, 2017).

³ There will be an increase in the U.S. population, estimated to grow from just under 319 million in 2014 to approximately 359.4 million in 2030, eventually reaching 417 million in 2060. See U.S. Census Bureau, *Projections of the Size and Composition of the U.S. Population: 2014 to 2060* (March 2015), available at <https://www.census.gov/content/dam/Census/library/publications/2015/demo/p25-1143.pdf> (last visited January 6, 2017).

⁴ U.S. Department of Health and Human Services, Health Resources and Services Administration, *Projecting the Supply and Demand for Primary Care Practitioners Through 2020* (November 2013), available at <https://bhw.hrsa.gov/sites/default/files/bhw/nchwa/projectingprimarycare.pdf> (last visited on January 6, 2017). Changes to or repeal of the Affordable Care Act is likely.

⁵ One analysis measured current primary care utilization (office visits) and projected the impact of population increases, aging, and insured status changes. The study found that the total number of office visits to primary care physicians will increase from 462 million in 2008 to 565 million in 2025, and (because of aging) the average number of visits will increase from 1.60 to 1.66. The study concluded that the U.S. will require 51,880 additional primary care physicians by 2025. See Petterson, Stephen M., et al., "Projecting U.S. Primary Care Physician Workforce Needs: 2010-2025", *Annals of Family Medicine*, vol. 10, No. 6, Nov./Dec. 2012, available at <http://www.annfam.org/content/10/6/503.full.pdf+html> (last visited on January 6, 2017).

⁶ Matthew A. Hein, *Telemedicine: An Important Force in the Transformation of Healthcare*, (June 25, 2009), available at http://trade.gov/td/health/telemedicine_2009.pdf (last visited January 6, 2017).

⁷ *Supra* note 1.

⁸ *Id.*

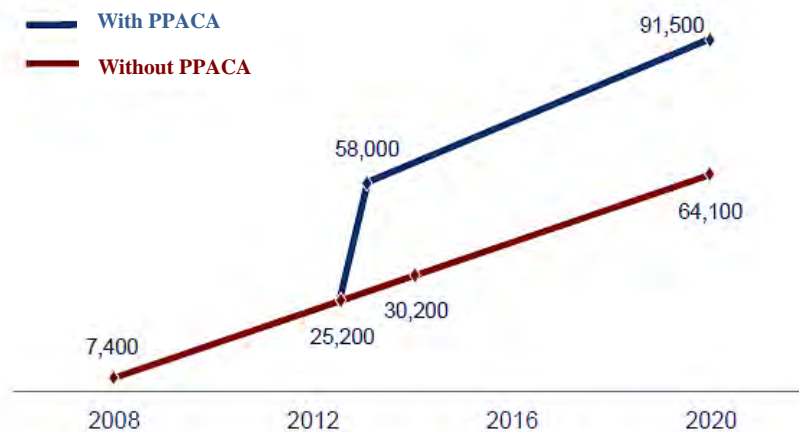
Physician Workforce Data

The Association of American Medical Colleges Center for Workforce Studies estimates that the U.S. will face a physician shortage of between 61,700 and 94,700 across all specialties by 2025.⁹

In 2014, there were 265.5 physicians¹⁰ actively practicing per 100,000 population in the U.S., ranging from a high of 432.4 in Massachusetts to a low of 184.7 in Mississippi. The states with the highest number of physicians per 100,000 population are concentrated in the northeastern states.¹¹ Regarding primary care physicians, there were 91.1 per 100,000 population.¹²

The following chart illustrates the projected physician shortage, nationally, with and without full implementation of the PPACA.

National projected physician shortages



Source: Kirch DG, Henderson MK, Dill MJ (2011). "Physician Workforce Projections in an Era of Health Care Reform." *Annual Review of Medicine*.

Florida had 257.2 actively practicing physicians per 100,000 population in 2014. Although Florida is the third most populous state in the nation,¹³ it ranks as having the 22nd highest physician to population ratio.¹⁴ In 2014, Florida had a ratio of 86.4 primary care physicians per 100,000 population, ranking Florida 30th compared to other states.¹⁵

In its 2016 Physician Workforce Annual Report, the Department of Health (DOH) indicated that 13.7 percent of Florida's physicians reported that they were planning to retire within the next five years,

⁹ The Association of American Medical Colleges (AAMC), "The Complexities of Physician Supply and Demand: Projections Through 2025," available at: <https://members.aamc.org/eweb/upload/The%20Complexities%20of%20Physician%20Supply.pdf> (last visited February 2, 2017).

¹⁰ These totals include allopathic and osteopathic doctors.

¹¹ AAMC, "2015 State Physician Workforce Data Book," November 2015, pg. 4, available at: [http://members.aamc.org/eweb/upload/2015StateDataBook%20\(revised\).pdf](http://members.aamc.org/eweb/upload/2015StateDataBook%20(revised).pdf) (last visited on February 2, 2017).

¹² *Id.* at pg. 5.

¹³ As of July 1, 2015, the U.S. Census Bureau estimated Florida to have 20,271,272 residents, behind California (39,144,818) and Texas (27,469,114). U.S. Census Bureau, "Annual Estimates of the Resident Population: April 1, 2010 to July 1, 2015: 2015 Population Estimates," available at:

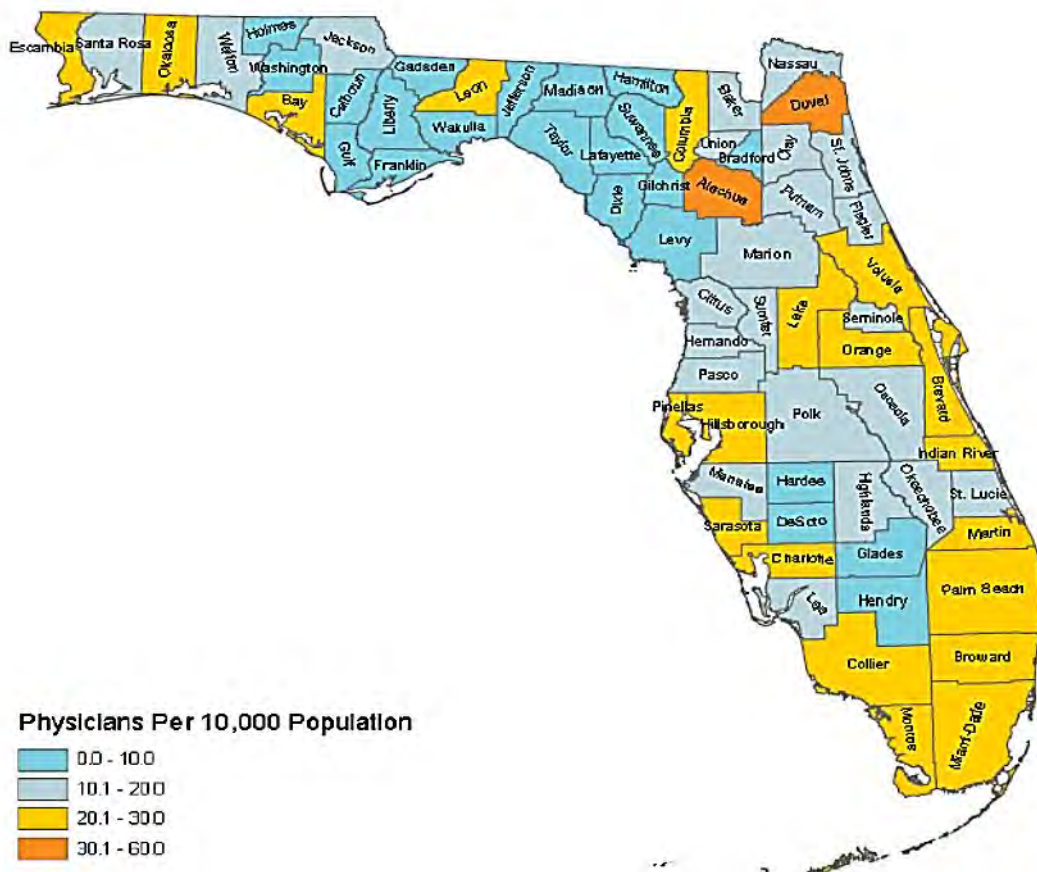
http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=PEP_2014_PEPANNRES&prodType=table (last visited on February 2, 2017).

¹⁴ *Supra* note 11, at pg. 9.

¹⁵ *Supra* note 11, at pg. 13.

which will exacerbate Florida's shortage of physicians.¹⁶ The following map¹⁷ illustrates that not only does Florida have a shortage of physicians, but also there is a maldistribution of physicians and they are generally concentrated in urban areas.

Figure 7: Florida's Physician Workforce by County
2015 - 2016



This map illustrates a per capita distribution of licensed, practicing physicians at the county level. There were 45,746 licensed, practicing physicians who participated in the 2015-2016 survey cycle.

Nurse Workforce Data

In 2014, there were approximately 126,900 certified nurse practitioners (CNPs), 38,200 certified registered nurse anesthetists (CRNAs), 5,300 certified nurse midwives (CNMs), and 2,751,000 registered nurses (RNs) employed in the U.S.¹⁸ There were approximately 40 CNPs, 12 CRNAs, 2 CNMs, and 863 RNs per 100,000 population in 2014.¹⁹

¹⁶ Florida Department of Health, "2016 Physician Workforce Annual Report," available at: <http://www.floridahealth.gov/provider-and-partner-resources/community-health-workers/physician-workforce-development-and-recruitment/2016%20DOH%20Physician%20Workforce%20Report.pdf> (last visited on February 2, 2017).

¹⁷ *Id.* at pg. 11.

¹⁸ U.S. Department of Labor, Bureau of Labor Statistics, "Employment Projections," available at: <http://data.bls.gov/projections/occupationProj> (last visited on February 2, 2017).

¹⁹ These ratios were calculated using the U.S. Census Bureau's total population estimate for 2014, which was 318,857,056, which is available at:

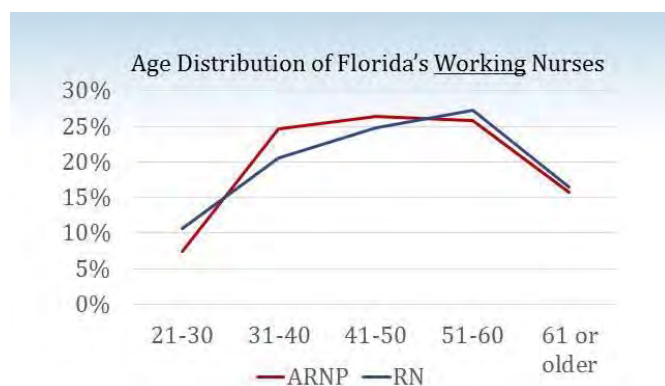
http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=PEP_2014_PEPANNRES&prodType=table (last visited on Nov. 10, 2016) and the U.S. Bureau of Labor Statistics 2012 data on employment projections available at:

<http://data.bls.gov/projections/occupationProj> (last visited on February 2, 2017).

As of February 2017, there were 27,881 advanced registered nurse practitioners (ARNPs) holding a certificate to practice in Florida, including 21,586 CNPs, 5,471 CRNAs, and 824 CNMs.²⁰ There were also 278,284 actively licensed registered nurses. Based on those figures, Florida has approximately the following number of nurses per 100,000 population: 106.7 CNPs, 4.1 CNMs, 27.0 CRNAs, and 1,375.5 RNs.^{21,22}

The Florida Center for Nursing (center) projects that there will be a shortage of approximately 20,600 RNs in 2025, and if PPACA were to be fully implemented Florida would have a shortage of approximately 50,300 RNs.²³

The center has also reported that almost 44 percent of Florida's RNs²⁴ and 41.5 percent of the state's ARNPs²⁵ are 51 years old or older, meaning there will be a large sector of Florida's nursing workforce retiring in the near future.²⁶



Advanced Practice Nurses

²⁰ E-mail correspondence with the Department of Health dated February 2, 2017, on file with the staff of the Health Quality Subcommittee.

²¹ These ratios were calculated using population estimates for FY 2015-2016 provided by the Florida Office of Economic & Demographic Research, which is 20,231,756, and available at:

<http://edr.state.fl.us/Content/conferences/population/ComponentsofChange.pdf> (last visited February 2, 2017).

²² Although it appears from this data that Florida has a higher ratio of nurses than the national ratio, the national data used to calculate the ratios only considers the number of nurses "employed" in the U.S. No similar employment data exists in Florida for 2014 to correlate with the national numbers. The numbers used to calculate Florida's ratios includes all active licensees, whom may not necessarily be employed, as well as out-of-state licensees that may or may not be actively practicing in this state, hence the larger ratios.

²³ The estimates are based on full-time equivalent (FTE) registered nurses. The Florida Center for Nursing, "RN and LPN Supply and Demand Forecasts, 2010-2025: Florida's Projected Nursing Shortage in View of the Recession and Healthcare Reform," pg. 7, October 2010, available at:

http://www.flcenterfornursing.org/DesktopModules/Bring2mind/DMX/Download.aspx?Command=Core_Download&EntryId=17&PortalId=0&TabId=151 (last visited February 2, 2017).

²⁴ Florida Center for Nursing, "Florida's Registered Nurse Supply: 2014-2015 Workforce Characteristics and Trends," pg. 10, May 2016, available at

https://www.flcenterfornursing.org/DesktopModules/Bring2mind/DMX/Download.aspx?Command=Core_Download&EntryId=1194&PortalId=0&TabId=151 (last visited February 2, 2017) Of working RNs in this state, 27.3 percent are 51 to 60 years old and 16.5 percent are 61 or older.

²⁵ Florida Center for Nursing, "Florida's Advanced Registered Nurse Practitioner Supply: 2014-2015 Workforce Characteristics and Trends," pg. 10, May 2016, available at

https://www.flcenterfornursing.org/DesktopModules/Bring2mind/DMX/Download.aspx?Command=Core_Download&EntryId=1196&PortalId=0&TabId=151 (last visited February 2, 2017). Of working ARNPs in this state, 25.8 percent are 51 to 60 years old and 15.7 percent are 61 or older.

²⁶ Florida Center for Nursing, Presentation on Florida's Nurse Workforce, February 8, 2017, available at:

<http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2918&Session=2017&DocumentType=Meeting%20Packets&FileName=hqs%202-8-17.pdf> (last visited February 8, 2017).

The term advanced practice nurse (APN) refers to registered nurses who have completed rigorous training and advanced education, usually resulting in a master's degree or higher. The titles of APNs vary from state to state. The National Council of State Boards of Nursing encourages states to use the term "advanced practice registered nurse" (APRN) to promote uniformity and title recognition across the nation.²⁷

Florida Advanced Practice Nurses

In Florida, an APN is titled as an "advanced registered nurse practitioner" (ARNP)²⁸ and is categorized as a certified nurse practitioner (CNP), certified nurse midwife (CNM), or certified registered nurse anesthetist (CRNA).²⁹ As of February 2017, Florida has 21,586 CNPs, 5,471 CRNAs, and 824 CNMs.³⁰

ARNPs are regulated under part I of ch. 464, F.S., the Nurse Practice Act. The Board of Nursing (Board), established under s. 464.004, F.S., provides by rule the eligibility criteria for applicants to be certified as ARNPs and the applicable regulatory standards for ARNP nursing practices. Additionally, the Board is responsible for administratively disciplining an ARNP who commits an act prohibited under ss. 464.018 or 456.072, F.S.

Section 464.003(2), F.S., defines the term "advanced or specialized nursing practice" to include, in addition to practices of professional nursing that registered nurses are authorized to perform, advanced-level nursing acts approved by the Board as appropriate for ARNPs to perform by virtue of their post-basic specialized education, training, and experience. Advanced or specialized nursing acts may only be performed if authorized under a supervising physician's protocol.³¹

In addition to advanced or specialized nursing practices, ARNPs are authorized to practice certain medical acts, as opposed to nursing acts, as authorized within the framework of an established supervisory physician's protocol.³²

To be eligible to be certified as an ARNP, the applicant must be licensed as a registered nurse, have a master's degree in a nursing clinical specialty area with preparation in specialized practitioner skills, and submit proof that the applicant holds a current national advanced practice certification from a board-approved nursing specialty board.³³ A nursing specialty board must:

- Attest to the competency of nurses in a clinical specialty area;
- Require nurses to take a written examination prior to certification;
- Require nurses to complete a formal program prior to eligibility for examination;
- Maintain program accreditation or review mechanism that adheres to criteria which are substantially equivalent to requirements in Florida; and
- Identify standards or scope of practice statements appropriate for each nursing specialty.³⁴

Pursuant to s. 456.048, F.S., all ARNPs must carry malpractice insurance or demonstrate proof of financial responsibility. Any applicant for certification is required to submit proof of coverage or financial responsibility within sixty days of certification and prior to each biennial certification renewal. The ARNP must have professional liability coverage of at least \$100,000 per claim with a minimum annual aggregate of at least \$300,000 or an unexpired irrevocable letter of credit in the amount of at least

²⁷ National Council of State Boards of Nursing, "Model for Uniform National Advanced Practice Registered Nurse (APRN) Regulation: A Handbook for Legislators," available at https://www.ncsbn.org/2010_APRN_HandbookforLegislators_web.pdf (last visited February 2, 2017).

²⁸ Section 464.003(3), F.S.

²⁹ Section 464.012(4), F.S.

³⁰ Email correspondence from DOH dated February 2, 2017, on file with committee staff.

³¹ *Supra* note 29.

³² *Supra* note 28.

³³ Section 464.012(1), F.S., and Rule 64B9-4.002, F.A.C.

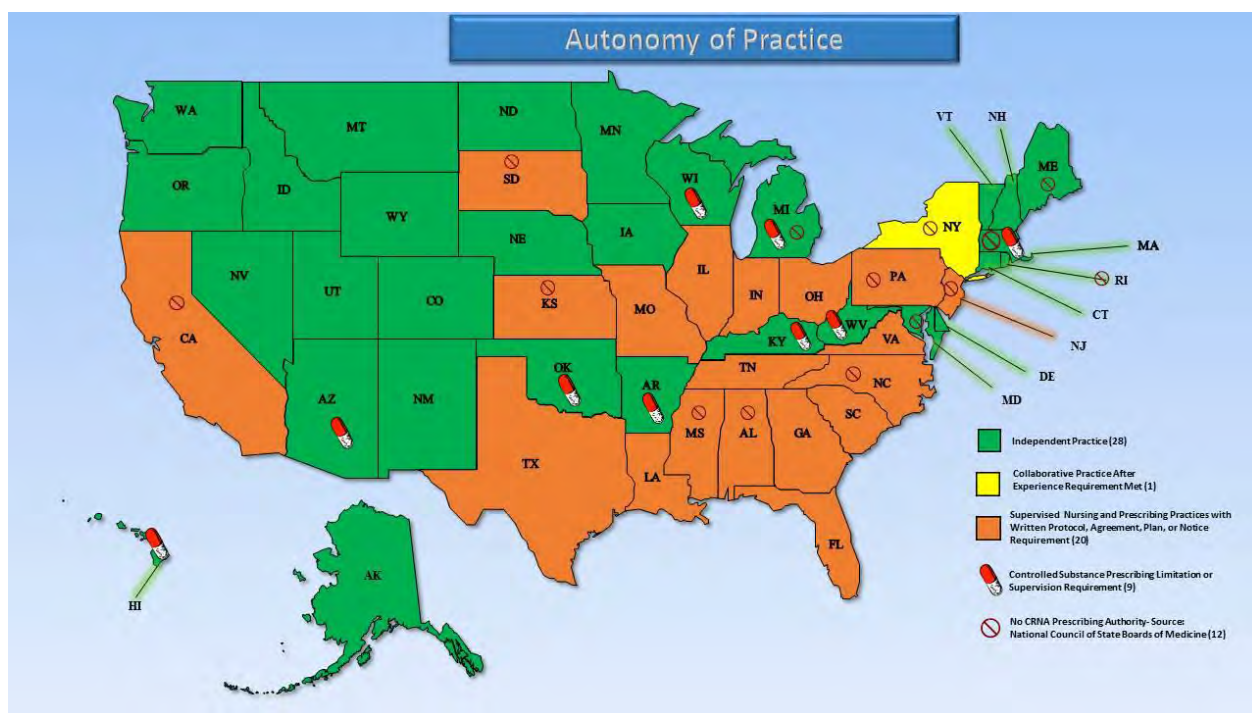
³⁴ Rule 64B9-4.002(3), F.A.C.

\$100,000 per claim with a minimum aggregate availability of at least \$300,000 and which is payable to the ARNP as beneficiary.³⁵ By comparison, physicians are required by Florida law to establish some method of financial responsibility, and can choose one of three options for doing so: malpractice insurance, an escrow account, or a letter of credit. However, physicians who agree to pay adverse judgments, up to certain statutory limits, are exempt from this requirement, and must notify patients that they have chosen not to carry malpractice insurance.³⁶

Autonomy of Practice

APN autonomy of practice varies widely by state. Generally, states align with three types of autonomy:

1. Independent nursing practice;
2. Collaborative nursing practice that requires physician collaboration without a specific requirement for a written agreement; or
3. Supervised nursing practice that requires physician supervision with a written agreement, protocol, notice, or plan signed by the physician, who has discretion as to what practices are authorized, including controlled substance prescribing.³⁷



APN Autonomy in Veterans Health Administration Facilities

The U.S. Department of Veterans Affairs (VA) adopted a rule in December 2016, which amended its regulations to permit full practice authority of its APNs.³⁸ Under the rule, an APN working within the

³⁵ Rule 64B9-4.002, F.A.C. DOH Form DH-MQA 1186, 01/09, "Financial Responsibility," is incorporated into the rule by reference. Certain licensees, such as those who practice exclusively for federal or state governments, only practice in conjunction with a teaching position, or can demonstrate no malpractice exposure in this state are exempt from the financial responsibility requirements.

³⁶ If allopathic and osteopathic physicians meet certain eligibility criteria and post signage at their medical office disclosing to the public that they do not carry medical malpractice insurance, they are exempt from medical malpractice or proof of financial responsibility requirements provided in ss. 458.320 and 459.0085, F.S., respectively.

³⁷ Findings based on research conducted by professional staff of the Health and Human Services Committee.

³⁸ U.S. Department of Veterans Affairs, Office of Public and Intergovernmental Affairs, "VA Grants Full Practice Authority to Advanced Practice Registered Nurses." December 14, 2016, available at <https://www.va.gov/opa/pressrel/pressrelease.cfm?id=2847> (last visited February 2, 2017). The final rule can be found at <https://www.gpo.gov/fdsys/pkg/FR-2016-12-14/pdf/2016-29950.pdf> (last visited February 2, 2017).

scope of his or her VA employment is authorized to perform specified services within the scope of his or her training, education, and certification without the clinical oversight of a physician, regardless of state law restrictions. However, the rule expressly provides that the full practice of an APN is subject to state law with regard to the prescribing or administration of controlled substances. The provisions of the rule are limited to CNPs, CNMs, and clinical nurse specialists, and do not apply to CRNAs. In Florida, there are 58 VHA medical centers and health care clinics that are affected by this policy change.³⁹

APN Autonomy in Florida

Florida is a supervisory state. Under s. 464.012(3), F.S., APNs may only perform nursing practices delineated in a written physician protocol filed with the Board.⁴⁰

Florida law allows a physician providing primary health care services to supervise APNs in up to four medical offices,⁴¹ in addition to the physician's primary practice location. If the physician provides specialty health care services, then only two medical offices in addition to the physician's primary practice location may be supervised.⁴² Furthermore, a special limitation applies to dermatology services. If the physician offers services primarily related to dermatologic or skin care services (including aesthetic skin care services other than plastic surgery), at a medical office that is not the physician's primary practice location, then the physician may only supervise one medical office.⁴³

Scope of Practice

State laws vary as to the scope within which an APN may practice, which is often determined by whether the APN is a CNP, CNM, or CRNA, and often relates to the authority to prescribe drugs and sign documents.

Twenty of the 29 independent practice states authorize an APN to prescribe controlled substances to a patient without physician supervision. Two of the 29 independent practice states, Kentucky and Michigan, require APNs to enter into a collaboration or delegation agreement with a physician in order to prescribe controlled substances.⁴⁴ In 2016, the legislature passed the "Barbara Lumpkin Prescribing Act" which authorizes APNs in Florida to prescribe controlled substances beginning January 2017. The law maintained the existing supervisory structure and limited the prescribing authority, as well as required continuing education related to controlled substances prescribing.⁴⁵ Ten states specifically prohibit CRNAs from prescribing drugs, and 17 authorize CRNAs to prescribe pursuant to a written protocol with a physician or under the supervision of physician.⁴⁶ The map on p. 18 illustrates the varying controlled substance prescribing requirements throughout the U.S.

³⁹ U.S. Department of Veterans Affairs, Veterans Health Administration, "Locations: Florida," available at: <http://www.va.gov/directory/guide/state.asp?STATE=FL&dnum=1> (last visited February 2, 2017).

⁴⁰ Allopathic and osteopathic physicians are also required to provide notice of the written protocol and the supervisory relationship to the Board of Medicine or Board of Osteopathic Medicine, respectively. Sections 458.348 and 459.025, F.S.

⁴¹ The supervision limitations do not apply in certain facilities such as hospitals, colleges of medicine or nursing, nonprofit family-planning clinics, rural and federally qualified health centers, nursing homes, assisted living facilities, continuing care facilities, retirement communities, clinics providing anesthesia services, rural health clinics, community-based health care settings, student health care centers, school health clinics, or other government facilities. Sections 458.348(4)(e), and 459.025(3)(e), F.S.

⁴² Sections 458.348, and 459.025, F.S.

⁴³ *Id.*

⁴⁴ *Supra* note 37. The remaining states have some type of restriction or limitation on prescribing controlled substances regardless of supervision.

⁴⁵ Chapter 2016-224, L.O.F.

⁴⁶ National Council of State Boards of Nursing, *CRNA Independent Prescribing Map*, (August 2016), available at <https://www.ncsbn.org/5408.htm> (last visited February 2, 2017).

At least 12 states grant APNs have broad-based signature authority laws.⁴⁷ This authority is often referred to as “global signature authority.” Many states specify in law the types of things an APN may sign, such as death certificates, handicapped license designations, and advanced directives.⁴⁸

Nineteen states statutorily recognize APNs as “primary care providers.”⁴⁹ Recognizing APNs as primary care providers assists them with being able to directly bill public or private payers for services provided, order certain tests, and establish independent primary care practices.⁵⁰ Insurers may be unwilling to contract directly with a provider who is supervised by another provider.⁵¹

APN Scope of Practice in Florida

Within the framework of the written protocol, an APN may:

- Prescribe, dispense, administer, or order any drug;⁵²
- Initiate appropriate therapies for certain conditions;
- Perform additional functions as may be determined by Board rule;
- Order diagnostic tests and physical and occupational therapy;
- Perform certain acts within his or her specialty; and
- Perform medical acts authorized by a joint committee.⁵³

APNs in Florida are not authorized to sign certain documents; rather, Florida law requires them to be signed by a physician. For example, APNs are not authorized to sign a certificate to initiate the involuntary examination of a person under the Baker Act, to sign for the release of persons in receiving facilities under the Baker Act, or to sign death certificates.⁵⁴

Reports and Studies Related to Advanced Practice Nurses

Patient Health Care Outcomes

Despite concerns that APNs provide a different quality of care than physicians,⁵⁵ a multitude of reports and studies suggest treatment by an APN is just as safe, if not safer, than treatment by a physician. In 2009, the Cochrane Collaboration published a review of the findings of 25 articles comparing physician and APN patient outcomes. The review found that, in general, there are no appreciable differences

⁴⁷ American Association of Nurse Practitioners, *Issue-At-A-Glance: Signature Authority*, (April 2016), available at <https://www.aanp.org/images/documents/policy-toolbox/signatureauthorityissue.pdf> (last visited February 2, 2017). Those states include Colorado, Georgia, Hawaii, Maine, Massachusetts, New Mexico, North Carolina, Rhode Island, Vermont, Virginia, Washington, and West Virginia.

⁴⁸ *Id.*

⁴⁹ Office of Program Policy Analysis & Government Accountability, “States Vary in Their Treatment of Advanced Registered Nurse Practitioners as Primary Care Providers,” October 2013, on file with committee staff.

⁵⁰ National Nursing Centers Consortium, “Insurers’ contracting policies on nurse practitioners as primary care providers: the current landscape and what needs to change,” *Policy, Politics & Nursing Practice*, 7(3), 216-226, August 2006, available at: <http://journals.sagepub.com/doi/pdf/10.1177/1527154406294339> (last visited on February 2, 2017).

⁵¹ ARNP services are required minimum services in the Managed Medical Assistance program. Sections 409.905 and 409.973, F.S. Florida law does not require Medicaid managed care plans to contract directly with ARNPs.

⁵² Controlled substances may only be prescribed or dispensed if the ARNP has graduated from a program leading to a master’s or doctoral degree in a clinical specialty area with training in specialized practitioner skills.

⁵³ Sections 464.012(3),(4), and 464.003, F.S.

⁵⁴ Sections 394.463(2) and 382.008, F.S.

⁵⁵ When 972 clinicians, including 467 nurse practitioners and 505 physicians, were surveyed in a study as to whether physicians provide a higher quality of examination and consultation, the respondents were diametrically opposed. Approximately 66.1% of physicians agreed with the statement and 75.3% of nurse practitioners disagreed with the statement. Donelan, K., Sc.D., DesRoches, C., Dr. P.H., Dittus, R., M.D., M.P.H., and Buerhaus, P., R.N., Ph.D., “Perspectives of Physicians and Nurse Practitioners on Primary Care Practice,” *N. Engl. J. Med.* 2013, 368:1898-1906, available at <http://www.nejm.org/doi/full/10.1056/NEJMsa1212938> (last visited February 2, 2017).

between physicians and APNs in health outcomes for patients, process of care, resource utilization, or cost.⁵⁶

Similar to the Cochrane review, the National Governors Association performed a review of various studies to determine whether there were differences in the quality of care provided by CNPs compared to physicians. The studies measured quality of care components such as patient satisfaction, time spent with patients, and prescribing accuracy. The review of those studies found that CNPs provided at least equal quality of care to patients as compared to physicians and, in fact, CNPs were found to have equal or higher patient satisfaction rates and tended to spend more time with patients during clinical visits.⁵⁷

A 2013 study, found that allowing CNPs to practice and prescribe drugs without physician oversight leads to increased primary health care utilization and improvements in health outcomes.⁵⁸

Cost Savings

The rising cost of health care is a concern for individuals, families, businesses, government entities, and society as a whole. These rising costs will only be intensified by the increasing number of persons with health care coverage and the shortage of health care workers.⁵⁹

In 2012, the Perryman Group conducted a study to determine whether Texas could achieve any cost-savings by increasing the utilization of APNs. A report of the study's findings concluded that greater utilization of APNs would improve patient outcomes, reduce overall health care costs, and increase access to health care. The estimated savings were \$16.1 billion in total expenditures and \$8 billion in output (gross product) each year. Additionally, it was estimated that 97,205 permanent jobs would be added to Texas' workforce. Finally, the report estimated that Texas would receive additional tax receipts of up to \$483.9 million to the state and \$233.2 million to local government entities each year.⁶⁰

Another study found that states that allow APNs to practice and prescribe without physician supervision experience 16-35% increases in health care utilization, increases in care quality, and reductions in inappropriate emergency room use. The researchers concluded these advances were primarily due to elimination of supervision time (10%) and lower indirect costs (such as better appointment availability and lower patient travel costs).⁶¹

The U.S. Federal Trade Commission (FTC) has authored several letters to states regarding the negative effects of restrictive scope of practice laws for APNs. The main concern of the FTC is that scope of practice restrictions are anti-competitive and that they, in effect, reduce competitive market pressures, increase out-of-pocket prices, allow for more limited service hours, and reduce the distribution of services. The FTC poses that if such constraints were eliminated, not only would access to services be increased, but also there would be benefits to price competition that would help contain health care costs.⁶²

⁵⁶ Laurant, M., et al., The Cochrane Collaboration, "Substitution of doctors by nurses in primary care," October 18, 2004, *abstract available at* <http://www.ncbi.nlm.nih.gov/pubmed/15846614> (last visited February 2, 2017); the full report is on file with committee staff.

⁵⁷ National Governors Association, "The Role of Nurse Practitioners in Meeting Increasing Demand for Primary Care," December 2012, *available at* <http://www.nga.org/files/live/sites/NGA/files/pdf/1212NursePractitionersPaper.pdf> (last visited February 2, 2017).

⁵⁸ Udalova, V., Traczynski, J., "Nurse Practitioner Independence, Health Care Utilization, and Health Outcomes," May 4, 2014, *available at* http://www2.hawaii.edu/~jtraczyn/paperdraft_050414_ASHE.pdf (last visited February 2, 2017).

⁵⁹ The Perryman Group, "The Economic Benefits of More Fully Utilizing Advanced Practice Registered Nurses in the Provision of Health Care in Texas," May 2012, *available at*

<http://c.ymcdn.com/sites/www.texasnp.org/resource/resmgr/Advocacy/Perryman%20APRN%20Utilization%20Economic%20Impact%20Report%20May%202012.pdf> (last visited February 2, 2017).

⁶⁰ *Id.*

⁶¹ *Supra* note 58.

⁶² U.S. Federal Trade Commission, Office of Policy Planning, Bureau of Competition and Bureau of Economics, letters to the Illinois State Senate, Connecticut House of Representatives, and Texas State Senate, on file with committee staff.

Physician Assistants

Florida Licensure

Under Florida law, PAs are governed under the physician practice acts for medical doctors (MDs) and doctors of osteopathic medicine (DOs). PAs are regulated by the Florida Council on Physician Assistants (Council) in conjunction with either the Board of Medicine for PAs licensed under ch. 458, F.S., or the Board of Osteopathic Medicine for PAs licensed under ch. 459, F.S. As of February 2017, there are 7,527 active licensed PAs.⁶³

An applicant for a PA license must apply to the Department of Health (Department). The Department must issue a license to a person certified by the Council as having met all of the following requirements:

- At least 18 years of age;
- Satisfactorily passes the National Commission on Certification of Physician Assistants exam;
- Completes an application form and remit the registration fee;
- Completes an approved PA training program
- Provides an acknowledgement of any prior felony convictions;
- Provides an acknowledgement of any revocation or denial of licensure or certification in any state; and
- If the applicant wishes to apply for prescribing authority, submits of a copy of course transcripts and a copy of the course description from a PA training program describing the course content in pharmacotherapy.⁶⁴

Licenses are renewed biennially.⁶⁵ A PA must complete 100 hours of continuing medical education (CME) during the two years prior to application for renewal or hold a current certificate issued by the National Commission on Certification of Physician Assistants.⁶⁶

PA Autonomy in Florida

In Florida, a PA practices under the delegated authority of a supervising physician. A physician supervising a PA must be qualified in the medical area in which the PA is practicing and is responsible and liable for the performance, acts, and omissions of the PA.⁶⁷

The Boards have established by rule that “responsible supervision” of a PA means the ability of the supervising physician to exercise control and provide direction over the services or tasks performed by the PA. Whether the supervision of a PA is adequate, is dependent upon the:

- Complexity of the task;
- Risk to the patient;
- Background, training and skill of the PA;
- Adequacy of the direction in terms of its form;
- Setting in which the tasks are performed;
- Availability of the supervising physician;
- Necessity for immediate attention; and
- Number of other persons that the supervising physician must supervise.⁶⁸

⁶³ E-mail correspondence with the Department of Health, dated February 2, 2017, on file with the staff of the Health Quality Subcommittee.

⁶⁴ See s. 458.347 and s. 459.022, F.S.

⁶⁵ For timely renewed licenses, the renewal fee is \$275 and the prescribing registration is \$150. Additionally, at the time of renewal, the PA must pay an unlicensed activity fee of \$5. See Rules 64B8-30.019 and 64B15-6.013, F.A.C.

⁶⁶ Sections 458.347(7)(b)-(c) and 459.022(7)(b)-(c), F.S.

⁶⁷ Sections 458.347(3), F.S., and 459.022(3), F.S.; and Rules 64B8-30.012, F.A.C., and 64B15-6.010, F.A.C.

The supervising physician is required to periodically review the PA's performance.

A supervising physician may only delegate tasks and procedures to the PA which are within the supervising physician's scope of practice.⁶⁹ The decision to permit the PA to perform a task or procedure under direct or indirect supervision is made by the supervising physician based on reasonable medical judgment regarding the probability of morbidity and mortality to the patient.⁷⁰

A supervising physician may delegate the authority for a PA to:

- Prescribe or dispense any medicinal drug used in the supervising physician's practice unless such medication is listed in the formulary established by the Council;⁷¹
- Order any medication for administration for administration to the supervising physician's patient in a facility licensed under chapter 395, F.S., or part II of chapter 400, F.S.;⁷² and
- Any other services that are not expressly prohibited in ch. 458, ch. 459, or the rules adopted thereunder.⁷³

Telehealth

There is no universally accepted definition of telehealth. In broad terms, telehealth is:

The delivery of health care services, where distance is a critical factor, by all health care professionals using information and communication technologies for the exchange of valid information for diagnosis, treatment⁷⁴ and prevention of disease and injuries⁷⁵, research and evaluation, and for the continuing education of health care providers, all in the interests of advancing the health of individuals and their communities.⁷⁶

More specific definitions vary by state and occasionally by profession.⁷⁷ There are, however, common elements among the varied definitions of telehealth.

⁶⁸ Rules 64B8-30.001, F.A.C., and 64B15-6.001, F.A.C.

⁶⁹ *Supra* note 64.

⁷⁰ "Direct supervision" refers to the physical presence of the supervising physician so that the physician is immediately available to the PA when needed. "Indirect supervision" refers to the reasonable physical proximity of the supervising physician to the PA or availability by telecommunication. *Supra* fn. 78.

⁷¹ Sections 458.347(4)(f), F.S., and 459.022(e), F.S., directs the Council to establish a formulary listing the medical drugs that a PA may not prescribe. The formulary in Rules 64B8-30.008, F.A.C., and 64B15-6.0038, F.A.C., prohibits PAs from prescribing controlled substances; general, spinal or epidural anesthetics; and radiographic contrast materials. However, the rules authorize physicians to delegate to PAs the authority to order controlled substances in facilities licensed under ch. 395, F.S..

⁷² Chapter 395, F.S., provides for the regulation and the licensure of hospitals and trauma centers, part II of ch. 400, F.S., provides for the regulation and licensure of nursing home facilities.

⁷³ Sections 458.347(4) and 459.022(e), F.S.

⁷⁴ The University of Florida's Diabetes Center of Excellence utilizes telehealth to deliver treatment to children with diabetes and other endocrine problems who live in Volusia County. This allows the children to receive specialized treatment without the necessity of traveling from Volusia County to Gainesville. The Florida Department of Health's Children's Medical Services underwrites the program. See <https://ufhealth.org/diabetes-center-excellence/telemedicine> (last visited on January 6, 2017).

⁷⁵ The University of South Florida has partnered with American Well to provide health care services to the residents of the Villages via telehealth. The goal is to reduce hospital admissions, readmission rates, and pharmacy costs, while maintaining Medicare beneficiaries in their homes rather than long-term care settings. <http://hscweb3.hsc.usf.edu/blog/2012/06/22/usf-health-and-american-well-to-bring-telehealth-to-seniors-living-at-the-villages/> (last visited on January 6, 2017).

⁷⁶ World Health Organization, *Telemedicine: Opportunities and Developments in Member States, Global Observatory for Ehealth Series- Volume 2*, Section 1.2, page 9 (2010), available at http://www.who.int/goe/publications/goe_telemedicine_2010.pdf (last visited on January 6, 2017).

⁷⁷ Center for Connected Health Policy, The National Telehealth Policy Resource Center, *State Telehealth Laws and Medicaid Program Policies*, (August 2016), available at http://www.cchpca.org/sites/default/files/resources/50%20STATE%20COMPLETE%20REPORT%20PASSWORD%20AUG%202016_1.pdf (last visited January 6, 2017).

Telehealth generally consists of synchronous and/or asynchronous transmittal of information.⁷⁸ Synchronous refers to the live⁷⁹ transmission of information between patient and provider during the same time period.⁸⁰ Asynchronous telehealth is the transfer of data over a period of time, and typically in separate time frames.⁸¹ This is commonly referred to as “store and forward.” Definitions of telehealth also commonly contain restrictions related to the location where telehealth may be used. For example, the use of the “hub and spoke” model is a common location restriction. A hub site is the location from which specialty or consultative services originate, i.e., the provider.⁸² A spoke site is a remote site where the patient is presented during the telehealth encounter.⁸³ Under this model, health services may be provided through telehealth only if the patient is located at a designated spoke site and the provider is located at a designated hub site.

Telehealth includes telemedicine and telemonitoring. Telemedicine is focused on the delivery of traditional clinical services, like diagnosis and treatment. Telemonitoring is the process of using audio, video, and other telecommunications and electronic information processing technologies to monitor the health status of a patient from a distance.⁸⁴ Telehealth more broadly includes non-clinical services, such as patient and professional health-related education, public health, and health administration.⁸⁵

Telehealth is not a type of health care service but rather is a mechanism for delivery of health care services. Health care professionals use telehealth as a platform to provide traditional health care services in a non-traditional manner. These services include, among others, preventative medicine and the treatment of chronic conditions.⁸⁶

Telehealth, in its modern form,⁸⁷ started in the 1960s in large part driven by the military and space technology sectors.⁸⁸ Specifically, telehealth was used to remotely monitor physiological measurements of certain military and space program personnel. As this technology became more readily available to the civilian market, telehealth began to be used for linking physicians with patients in remote, rural areas. As advancements were made in telecommunication technology, the use of telehealth became more widespread to include not only rural areas but also urban communities. Due to recent technology advancements and general accessibility, the use of telehealth has spread rapidly and is now becoming integrated into the ongoing operations of hospitals, specialty departments, home health agencies, private physician offices as well as consumer’s homes and workplaces.⁸⁹ In fact, there are currently an estimated 200 telehealth networks, with 3,500 service sites in the U.S.⁹⁰

⁷⁸ The majority of telehealth definitions allow for both synchronous and asynchronous transmittal of information. Some definitions however omit asynchronous from the definition of telehealth.

⁷⁹ This is also referred to as “real time” or “interactive” telehealth.

⁸⁰ American Telemedicine Association, *Telemedicine Glossary*, available at <http://hub.americantelemed.org/resources/telemedicine-glossary> (last visited on January 9, 2017). The use of live video to evaluate and diagnosis a patient would be considered synchronous telehealth.

⁸¹ *Id.* A common example of synchronous telehealth is the transfer of x-rays or MRI images from one health care provider to another health care provider for review in the future.

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ U.S. Department of Health and Human Services, *What is Telehealth?*, available at <http://www.hrsa.gov/healthit/toolbox/RuralHealthIToolbox/Telehealth/whatistelehealth.html> (last visited January 9, 2017).

⁸⁷ Historically, telehealth can be traced back to the mid to late 19th century with one of the first published accounts occurring in the early 20th century when electrocardiograph data were transmitted over telephone wires. See *supra* note 76.

⁸⁸ *Id.*

⁸⁹ American Telemedicine Association, *About Telemedicine*, available at <http://www.americantelemed.org/about/about-telemedicine> (last visited on January 9, 2017).

⁹⁰ American Telemedicine Association, *Telemedicine Frequently Asked Questions*, available at <http://www.americantelemed.org/main/about/telehealth-faqs->, (last visited January 9, 2017).

Telehealth is used to address several problems in the current health care system. Inadequate access to care is one of the primary obstacles to obtaining quality health care.⁹¹ This occurs in both rural areas and urban communities.⁹² Telehealth reduces the impact of this issue by providing a mechanism to deliver quality health care, irrespective of the location of a patient or a health care professional. Cost is another barrier to obtaining quality health care. This includes the cost of travel to and from the health care facility, as well as related loss of wages from work absences. Costs are reduced through telehealth by decreasing the time and distance required to travel to the health care professional. Two more issues addressed through telehealth are the reutilization of health care services and hospital readmission. These often occur due to a lack of proper follow-up care by the patient⁹³ or a chronic condition.⁹⁴ These issues however can potentially be avoided through the use of telehealth and telemonitoring.

Telehealth and Federal Law

Several federal laws and regulations apply to the delivery of health care services through telehealth.

Prescribing Via the Internet

Federal law specifically prohibits prescribing controlled substances via the Internet without an in-person evaluation. The federal regulation under 21 CFR §829 specifically states:

No controlled substance that is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act may be delivered, distributed, or dispensed by means of the Internet without a valid prescription.

A valid prescription is further defined under the same regulation as one issued by a practitioner who has conducted an in-person evaluation. The in-person evaluation requires that the patient be in the physical presence of the provider without regard to the presence or conduct of other professionals.⁹⁵ However, the Ryan Haight Online Pharmacy Consumer Protection Act,⁹⁶ signed into law in October 2008, created an exception for the in-person medical evaluation for telehealth practitioners. The practitioner is still subject to the requirement that all controlled substance prescriptions be issued for a legitimate purpose by a practitioner acting in the usual course of professional practice.

Medicare Coverage

Specific telehealth⁹⁷ services delivered at designated sites are covered under Medicare. The Federal Centers for Medicare and Medicaid Services' regulations require both a distant site and a separate originating site (hub and spoke model) under their definition of telehealth. Asynchronous (store and forward) activities are only reimbursed under Medicare in federal demonstration projects.⁹⁸ To qualify for Medicare reimbursement, the originating site must be:

- Located in a federally defined rural county;

⁹¹ American Telemedicine Association, *Telemedicine Benefits*, available at <http://www.americantelemed.org/main/about/about-telemedicine/telemedicine-benefits>, (last visited January 9, 2017).

⁹² *Id.*

⁹³ Post-surgical examination subsequent to a patient's release from a hospital is a prime example. Specifically, infection can occur without proper follow-up and ultimately leads to a readmission to the hospital.

⁹⁴ For example, diabetes is a chronic condition which can benefit by treatment through telehealth.

⁹⁵ 21 CFR §829(e)(2).

⁹⁶ Ryan Haight Online Pharmacy Consumer Protection Act of 2008, Public Law 110-425 (H.R. 6353).

⁹⁷ Medicare covers a broader set of services using the term telehealth. Medicare defines telehealth as the use of telecommunications and information technology to provide access to health assessment, diagnosis, intervention, consultation, supervision and information across distance.

⁹⁸ Only two states have a federal demonstration project that meets these qualifications, Hawaii and Alaska.

- Located in a health professional shortage area that is outside a Metropolitan Statistical Area (MSA)⁹⁹ or in a rural census tract; or
- Identified as a participant in a federal telemedicine demonstration project as of December 21, 2000.¹⁰⁰

In addition, an originating site must be one of the following location types as further defined in federal law and regulation:

- The office of a physician or practitioner;
- A critical access hospital;
- A rural health clinic;
- A federally qualified health center;
- A hospital;
- A hospital-based or critical access hospital-based renal dialysis center (including satellites);
- A skilled nursing facility; or
- A community mental health center.¹⁰¹

Protection of Personal Health Information

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) protects personal health information. Privacy rules were initially issued in 2000 by the U.S. Department of Health and Human Services and later modified in 2002.¹⁰² These rules address the use and disclosure of an individual's personal health information as well as create standards for information security.

Only certain entities are subject to HIPAA's provisions. These "covered entities" include:¹⁰³

- Health plans;
- Health care providers;
- Health care clearinghouses; and
- Business associates of any of the above.

Covered entities are obligated to meet HIPAA's requirements to ensure privacy and confidentiality personal health information, regardless of the method in which the medical service is delivered.

In 2009, the Health Information Technology for Economic Clinical Health (HITECH) Act was enacted as part of American Recovery and Reinvestment Act (ARRA).¹⁰⁴ The HITECH Act promoted electronic exchange and use of health information by investing \$20 billion in health information technology infrastructure and incentives to encourage doctors and hospitals to use health information technology.¹⁰⁵ HITECH was intended to strengthen existing HIPAA security and privacy rules.¹⁰⁶ It expanded HIPAA to entities not previously covered; specifically, "business associates" now includes

⁹⁹ A metropolitan statistical (MSA) is a core area containing a substantial population nucleus, as well as adjacent communities that have a high degree of economic and social integration with that core. Each MSA has at least one urbanized area with a population of at least 50,000. See U.S. Census Bureau, *About Metropolitan and Micropolitan Statistical Areas*, available at <https://www.census.gov/population/metro/about/> (last visited January 9, 2017).

¹⁰⁰ See 42 U.S.C. sec. 1395(m)(m)(4)(C)(i).

¹⁰¹ See 42 U.S.C. sec. 1395(m)(m)(4)(C)(ii).

¹⁰² U.S. Department of Health and Human Services, *The Privacy Rule*, available at

<http://www.hhs.gov/ocr/privacy/hipaa/administrative/privacyrule/> (last visited January 9, 2017).

¹⁰³ U.S. Department of Health and Human Services, *For Covered Entities and Business Associates*, available at

<http://www.hhs.gov/ocr/privacy/hipaa/understanding/coveredentities/> (last visited January 9, 2017).

¹⁰⁴ U.S. Department of Health & Human Services, *HITECH Act Enforcement Interim Final Rule*, available at

<http://www.hhs.gov/hipaa/for-professionals/special-topics/HITECH-act-enforcement-interim-final-rule/index.html> (last visited January 9, 2017).

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

Regional Health Information Organizations, and Health Information Exchanges.¹⁰⁷ Similarly, it made changes to the privacy rule to better protect personal health information held, transferred, or used by covered entities.¹⁰⁸

Under the provisions of HIPAA and the HITECH Act, a health care provider or other covered entity participating in the electronic exchange of personal health information are subject to HIPAA and HITECH. These federal laws apply to covered entities in Florida, regardless of whether there is an express reference to them in Florida law.

Telehealth Barriers

There are several barriers which impede the use of telehealth. These barriers include:¹⁰⁹

- Lack of a standard definition for telehealth;
- Lack of standard regulations for the practice of telehealth;
- Licensure requirements which prohibit cross-state practice; and
- Restrictions on the location where telehealth services may be provided.

Standardized Definition

Lack of a standard definition¹¹⁰ presents a barrier to the use of telehealth. As previously noted, there is no universally accepted definition. A health care professional is left to speculate as to whether the service he or she is providing constitutes telehealth. This can have far-reaching consequences which range from a denial of reimbursement for the services provided to an inquiry as to whether the services provided equate to the unlicensed practice of medicine. Florida law does not define telehealth.

Standardized Regulations

The absence of a uniform regulatory structure governing the use of telehealth presents another barrier to its use. Currently, seven states¹¹¹ do not have any statutory structure for the delivery of health care services through telehealth.¹¹² This absence places the burden upon individual professionals to determine what is appropriate, and invites health professional licensing boards to fill the regulatory gap. This can lead to inconsistent regulation of telehealth amongst the varying health care professions and impede the use of telehealth.

For example, a common telehealth regulation is the requirement that a health care professional conduct an in-person examination of the patient prior to providing services via telehealth.¹¹³ Many times an exception is expressly contained within the regulation which allows the in-person requirement to be met through telehealth.¹¹⁴ This exception, however, can vary by profession in the absence of a uniform regulation. For example, an audiologist may be authorized to conduct the initial evaluation through telehealth while a physical therapist is required to perform an in-person physical examination prior to providing services through telehealth. There may not be any reasonable justification for this disparate treatment.

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ Center for Connected Health Policy, The National Telehealth Policy Resource Center, *State Telehealth Laws and Medicaid Program Policies: A Comprehensive Scan of the 50 States and District of Columbia*, March 2016), available at <http://www.cchpca.org/sites/default/files/resources/50%20State%20FINAL%20April%202016.pdf> (last visited January 9, 2017).

¹¹⁰ *Id.* No two states define telehealth exactly alike, although some similarities in language exist between certain states.

¹¹¹ Florida currently has no statutory framework for regulating health care services provided via telehealth. However, the Board of Medicine has promulgated rules establishing standards for telemedicine practice (see below).

¹¹² Even amongst states with telehealth statutory regulations, no two states regulate telehealth in exactly the same manner. *Supra* note 109.

¹¹³ *Id.*

¹¹⁴ *Id.*

Licensure

Licensure requirements present one of the greatest barriers to the use of telehealth. Currently, 30 states prohibit a health care professional from using telehealth to provide health care services unless the professional is licensed in the state where the patient is located.¹¹⁵ Most states have exceptions to this requirement, applicable only in certain limited circumstances, which include:¹¹⁶

- Physician-to-physician consultations (not between practitioner and patient);
- Educational purposes;
- Residency training;
- Licensure in a border state;
- U.S. Military;
- Public health services; and
- Medical emergencies (Good Samaritan) or natural disasters.

Nine states require out-of-state licensed health care professionals to acquire a special telehealth license or certificate to provide health care services through telehealth to patients in those states.¹¹⁷ Two of these states (Tennessee and Texas), however, only offer the telehealth license to physicians who are board-eligible or board-certified specialists.

In the absence of an exception or a state regulation authorizing otherwise, it appears that a health care professional must be licensed in the state where the patient is located to provide health care services through telehealth. Requiring health care professionals to obtain multiple state licenses to provide health care services through telehealth may be burdensome and may inhibit the use of telehealth across state borders.

Location Restrictions

Generally, states impose two types of location restrictions. The first is a geographical restriction which limits the use of telehealth to certain designated areas within a state. For example, only individuals in areas designated as a rural area or a medically underserved area may be authorized to receive health care services through telehealth.

The second restriction relates to limitations on the specific location where telehealth services may be provided. The most common example of this type of limitation is the hub and spoke model.¹¹⁸ Under this model, “hub” refers to the location to where the health care professional must be located while “spoke” refers to the location where the patient must be located.

The two types of restrictions are not mutually exclusive and are commonly used in conjunction. This presents a significant obstacle to access to care by placing arbitrary restrictions on the use of telehealth which inhibits the effectiveness, as well as the use of telehealth to deliver health care services.

Telehealth in Florida

¹¹⁵ *Id.* This includes Florida.

¹¹⁶ *Licensure and Scope of Practice FAQs*, Telehealth Resource Centers, <http://www.telehealthresourcecenter.org/toolbox-module/licensure-and-scope-practice> (last visited January 9, 2017).

¹¹⁷ These states are Alabama, Louisiana, Maine, New Mexico, Ohio, Oklahoma, Oregon, Tennessee, and Texas. Additionally, there are 12 states who have adopted the Interstate Medical Licensure Compact which allows for expedited licensure for licensed physicians whose state is a member of the compact. Those states are Alabama, Idaho, Illinois, Iowa, Minnesota, Montana, Nevada, South Dakota, Utah, West Virginia, Wisconsin, and Wyoming. *Supra* note 109.

¹¹⁸ Florida’s Department of Health’s Children’s Medical Services Program (CMS) currently uses the hub and spoke model to provide services via telehealth to children enrolled in the program.

Florida does not have a statutory structure for the delivery of health care services through telehealth.¹¹⁹ References to telehealth in the Florida Administrative Code relate to the Board of Medicine,¹²⁰ the Board of Osteopathic Medicine,¹²¹ the Child Protection Team program,¹²² and the Florida Medicaid program.¹²³

Florida Board of Medicine

In 2003, the Florida Board of Medicine (Board) adopted Rule 64B8-9.014, F.A.C., “Standards for Telemedicine Prescribing Practice” (Rule).¹²⁴ The Rule sets forth requirements and restrictions for physicians and physician assistants prescribing medications.¹²⁵ The Rule also states that telemedicine “shall include, but is not limited to, prescribing legend drugs to patients through the following modes of communication: (a) Internet; (b) Telephone; and (c) Facsimile.”¹²⁶ The Rule, however, fails to fully define telemedicine and does not regulate its use in any other way. The Board only regulates allopathic physicians, so this rule does not apply to any other profession.¹²⁷

In 2014, the Board adopted a new rule¹²⁸ setting forth standards for telemedicine.¹²⁹ The new rule defines telemedicine as the practice of medicine by a licensed Florida physician or physician assistant where patient care, treatment, or services are provided through the use of medical information exchanged from one site to another via electronic communications.¹³⁰ The definition could be interpreted to limit the use of telemedicine to physicians and physician assistants; however, the Board does not have the authority to regulate other professions.¹³¹ The new rule provides that:¹³²

- The standard of care is the same as that required for services provided in person;
- A physician-patient relationship may be established through telemedicine;
- A physician or physician assistant is responsible for the quality and safety of the equipment and used to provide services through telemedicine; and
- The same patient confidentiality and record-keeping requirements applicable to in-person services are applicable to services provided through telemedicine.

The new rule prohibits physicians and physician’s assistants from providing treatment recommendations, including issuing a prescription, through telemedicine unless the following has occurred:¹³³

- A documented patient evaluation, including history and physical examination to establish the diagnosis for which any legend drug is prescribed;

¹¹⁹ The only references to telehealth in the Florida Statutes are in ss. 364.0135, 381.885, and 394.453, F.S. Section 364.0135, F.S., relates to broadband internet services and does not define or regulate telehealth in any manner. Section 381.885, F.S., relates to epinephrine auto-injectors and expressly states that consultation for the use of the auto-injector through electronic means does not constitute the practice of telemedicine. Section 394.453, F.S., provides legislative intent for the Florida Mental Health Act, in which the Legislature finds that the use of telemedicine for patient evaluation, case management, and ongoing care will improve management of patient care and reduce costs of transportation.

¹²⁰ Rule 64B8-9.0141, F.A.C.

¹²¹ Rule 64B15-14.0081, F.A.C.

¹²² Rule 64C-8.003, F.A.C.

¹²³ Rule 59G-1.057, F.A.C.

¹²⁴ The current telemedicine rules and regulations for the Board of Medicine and the Board of Osteopathic Medicine are virtually identical. Rules 64B8-9.0141 and 64B15-14.0081, F.A.C.

¹²⁵ Rule 64B8-9.0141, F.A.C.

¹²⁶ *Id.*

¹²⁷ The Board of Osteopathic Medicine rule only applies to osteopathic physicians.

¹²⁸ The Board of Medicine and the Board of Osteopathic Medicine rules for telemedicine are virtually identical.

¹²⁹ Rule 64B8-9.0141, F.A.C.

¹³⁰ *Id.*

¹³¹ The Board of Osteopathic Medicine definition only applies to osteopathic physicians.

¹³² *Supra* note 129.

¹³³ *Id.*

- A discussion between the physician or the physician assistant and the patient regarding treatment options and the risks and benefits of treatment; and
- Contemporaneous medical records are maintained.

The new rule prohibits prescribing controlled substances through telemedicine except for the treatment of psychiatric disorders.¹³⁴ However, the new rule does not preclude physicians from ordering controlled substances through the use of telemedicine for patients hospitalized in a facility licensed pursuant to 395, F.S.¹³⁵

Telehealth Advisory Council

In 2016, the Legislature passed House Bill 7087,¹³⁶ which created a 15-member Telehealth Advisory Council to make recommendations to increase the use and accessibility of services provided via telehealth, as well as any implementation or access barriers, to the Legislature and the Governor. The recommendations are to be based on a report prepared by the Agency for Healthcare Administration (AHCA), along with the Department of Health (DOH), and the Office of Insurance Regulation (OIR) regarding telehealth utilization and coverage. The bill required the agencies to conduct a survey of health care practitioners, health care facilities, and insurers to collect the following information:

- The types of health care services provided via telehealth;
- The extent to which telehealth is used by telehealth is used by health care practitioners and health care facilities nationally and in the state;
- The estimated costs and cost savings to health care entities, health care practitioners, and the state associated with the use of telehealth to provide health care services; and
- Which health care insurers, health maintenance organizations, and managed care organizations cover health care services provide to patients in this state via telehealth, whether the coverage is restricted or limited, ad how such coverage compares to that insurer's coverage for services provided in person.

In December 2016, AHCA issued a report on the results of the surveys conducted that addressed accessibility and usage of telehealth services in this state, as well as research findings.¹³⁷ Of the 11,900 health care facilities surveyed by AHCA, 49 percent responded to the survey; all of the 54 health plans surveyed by OIR responded to the survey; and DOH received 26,579 responses to its survey.

Among health care facilities surveyed by AHCA, approximately 45% of hospitals responding to the survey offer telehealth services through their facilities.¹³⁸ The facilities indicated that the benefits of providing services using telehealth included patient convenience, better care coordination, better patient outcomes, and better access to specialists. Health care facilities use telehealth most often to diagnose and treat patients, provide emergency care, or to provide or obtain a second opinion. The health care facilities also identified the greatest barriers to services using telehealth. The ongoing challenges for offering telehealth include, among other things, lack of health insurance reimbursement for services provided using telehealth, lack of funding for telehealth equipment, and an inability to determine the return on investment.

Although a national survey of health care executives in 2016 reported 63 percent of health care practitioners provide some services via telehealth, the survey conducted by DOH found that only six percent of the responding health care practitioners in Florida use telehealth to provide health care

¹³⁴ *Id.*

¹³⁵ *Id.*

¹³⁶ Chapter 2016-240, Laws of Fla.

¹³⁷ Agency for Health Care Administration, *Florida Report on Telehealth Utilization and Accessibility*, (December 2016), available at http://www.ahca.myflorida.com/SCHS/telehealth/docs/Telehealth_Report_Final.pdf (last visited January 10, 2017).

¹³⁸ *Id.*

services.¹³⁹ The health care practitioners indicated that the major factors in adopting the use of telehealth in their private practice include the lack of insurance reimbursement for services provided using telehealth, lack of funding for telehealth equipment, and inability to determine return on investment.¹⁴⁰

OIR found that 43 percent of Florida health insurers cover some form of telehealth services.¹⁴¹ However, that coverage is usually very limited. Unlike 29 other states, Florida does not have any statutory requirements that coverage and reimbursement for telehealth services be covered the same as face-to-face services. The surveyed health plans indicated that the greatest barriers to covering and reimbursing for services provided using telehealth include government regulation,¹⁴² concerns with liability, costs of the still evolving technology, and a need to significantly change payment and reimbursement guidelines.

The final report of the Telehealth Advisory Council of its recommendations is due to the Governor and Legislature on or before October 31, 2017.

Child Protection Teams

A Child Protection Team (CPT) is a medically directed multi-disciplinary group that works with local sheriffs' offices and the Department of Children and Families to supplement investigative activities in cases of child abuse and neglect.¹⁴³ The CPT program within the Children's Medical Services (CMS) program utilizes a telehealth network to perform child assessments. The use of telemedicine¹⁴⁴ under this program requires the presence of a CMS approved physician or advanced registered nurse practitioner at the hub site and a registered nurse at the remote site to facilitate the evaluation.¹⁴⁵ In 2014, CPT telehealth services were available at nine sites and 667 children were provided medical or other assessments via telehealth technology.¹⁴⁶

Florida Emergency Trauma Telemedicine Network

Various designated trauma centers participate in the Florida Emergency Trauma Telemedicine Network (FETTN). Coordinated by the Department of Health (DOH), the FETTN facilitates the treatment of trauma patients between trauma centers and community or rural hospitals.¹⁴⁷ The FETTN allows for multiple interface options and currently 7 out of 25 trauma centers are part of the network.¹⁴⁸ In 2011-12, the seven Level 1 or Level 2 trauma centers that participated as a hub site, known as the location where the consulting physician is delivering the services, were Holmes Regional Medical Center, Tallahassee Memorial Hospital, Sacred Heart Hospital, University of Miami, Shands-Gainesville, Shands-Jacksonville, and Orlando Health.¹⁴⁹

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² *Id.* This includes issues of interstate practice since each state is responsible for licensing the health care practitioners that provide services in its state.

¹⁴³ Florida Department of Health, *Child Protection Teams*, available at http://www.floridahealth.gov/AlternateSites/CMS-Kids/families/child_protection_safety/child_protection_teams.html (last visited February 2, 2017).

¹⁴⁴ Rule 64C-8.001(5), F.A.C., defines telemedicine as "the use of telecommunication and information technology to provide clinical care to individuals at a distance and to transmit the information needed to provide that care."

¹⁴⁵ Rule 64C-8.003(3), F.A.C.

¹⁴⁶ Florida Department of Health, *Maternal and Child Health Block Grant Narrative for 2014*, available at <http://www.floridahealth.gov/healthy-people-and-families/womens-health/pregnancy/mch-fl-2013-1narrative.pdf>, p.21, (last visited: January 10, 2017).

¹⁴⁷ Florida Department of Health, 2014 Agency Legislative Bill Analysis of HB 167, on file with the Florida House of Representative's Select Committee on Health Care Workforce Innovation (October 21, 2013).

¹⁴⁸ *Id.*

¹⁴⁹ Florida Department of Health, *Long Range Program Plan* (September 28, 2012), on file with the Health and Human Services Committee.

Tuberculosis Physician's Network

The DOH utilizes tele-radiology through the Tuberculosis Physician's Network.¹⁵⁰ The ability to read electronic chest X-Rays remotely can lead to a faster diagnosis, treatment and a reduction in the spread of the disease, according to DOH. This service is not currently reimbursed by Medicaid.

Florida Medicaid Program

Under the Medicaid Medical Assistance (MMA) Program implemented in 2014, the vast majority of Medicaid recipients are covered through managed care. Florida Medicaid, in its fee-for-service delivery system, reimburses for telehealth services using interactive telecommunications equipment that includes, at a minimum audio and video equipment that permits two-way, real time, interactive communication between a patient and a practitioner.¹⁵¹ Not only may MMA plans use telehealth for behavioral health, dental, and physician services as before, but upon approval by AHCA, may also use telehealth to provide other covered services.¹⁵²

Insurance Premium Tax and Credits

Florida's insurance premium tax was established in 1895 as an annual tax of 1% of gross receipts of insurance premiums (except for life insurance) on each insurance company doing business within the state.¹⁵³ Today, the insurance premium tax is set at 1.75% on insurance premiums written in Florida and paid by insurance companies to the Department of Revenue (DOR).¹⁵⁴ It is estimated that DOR will collect \$739.5 million in insurance premium tax in FY 2016-17.¹⁵⁵ This revenue is distributed to general revenue and various trust funds.¹⁵⁶

¹⁵⁰ *Id.*

¹⁵¹ Rule 59G-1.057, F.A.C.

¹⁵² Agency for Health Care Administration, Model Contract, Attachment II, Exhibit II A, Medicaid Managed Medical Assistance Program, (November 2016), available at http://ahca.myflorida.com/Medicaid/statewide_mc/plans.shtml (last viewed February 2, 2017).

¹⁵³ Chapter 4322, Laws of Fla., codified as Title VI, ch. 1, s. 464, F.S.

¹⁵⁴ Section 624.509, F.S.

¹⁵⁵ Florida Revenue Estimating Conference, "2016 Florida Tax Handbook," p. 112, available at <http://edr.state.fl.us/content/revenues/reports/tax-handbook/taxhandbook2016.pdf> (last visited February 2, 2017).

¹⁵⁶ *Id.*

Receipts			Distributions [†]			
Fiscal Year	Collections	Annual Change	General Revenue	Insurance Regulatory Trust Fund	Police & Firefighters Premium Tax Trust Fund	Emergency Management Preparedness & Assistance Trust Fund
2016-17 [*]	\$739,500,000	1.29%	\$495,700,000	\$37,500,000	\$186,400,000	\$13,500,000
2015-16 [*]	\$730,100,000	5.98%	\$495,900,000	\$36,200,000	\$178,700,000	\$14,300,000
2014-15	\$688,898,528	-3.23%	\$466,500,000	\$39,400,000	\$181,100,000	\$14,800,000
2013-14	\$711,866,203	1.43%	\$470,500,000	\$39,700,000	\$173,100,000	\$13,600,000

* Estimate
† Distributions do not equal collections due to beginning and ending cash balances and refunds.

Section 624.5091, F.S., requires out of state insurance to pay retaliatory taxes to the state.¹⁵⁷ These retaliatory taxes are levied in almost every state¹⁵⁸ and help ensure a level playing field by preventing companies from choosing to locate in one state in order to lower their insurance premium taxes.¹⁵⁹ Insurance companies are permitted to receive an employees' salary credit and corporate income tax credit against insurance premium taxes.^{160,161}

Florida Employee Salaries Credit

In 1985, the U.S. Supreme Court ruled in Metropolitan Life Insurance Company v. Ward¹⁶² that a domestic preference provision in Alabama's insurance tax law similar to the preference provision in Florida at the time violated the Equal Protection Clause. Florida and other states looked for ways to provide tax breaks to their domestic insurance companies that would pass constitutional muster, and the Florida Legislature responded by repealing its own domestic preference provision and replacing it with an employees' salary credit equal to 15% of the amount of salaries paid to employees located in Florida.¹⁶³

In FY 2016-17 the employees' salary credit is estimated to reduce insurance premium tax revenue to DOR by \$297.38 million.¹⁶⁴

Corporate Income Tax and Credit

Florida imposes a 5.5% tax on the taxable income of all corporations doing business in the state.¹⁶⁵ The determination of taxable income for Florida tax purposes begins with the taxable income used for federal income tax purposes.¹⁶⁶ This means that a corporation paying taxes in Florida generally receives the same benefits from deductions allowed in determining its federal taxable income. With federal taxable income as a starting point, Florida law then requires a variety of additions and subtractions to reflect Florida-specific policies to determine Florida taxable income. The Florida corporate income tax uses a three-factor apportionment formula consisting of property, payroll, and sales (which is double-weighted) to measure the portion of a multistate corporation's business activities

¹⁵⁷ Section 624.5091, F.S.

¹⁵⁸ *Supra* note 155, at 115.

¹⁵⁹ Office of Program Analysis and Government Accountability, *The Corporate Income Tax Credit Scholarship Program Saves the State Dollars*, Report No. 08-68, December 2008, available at <http://www.opaga.state.fl.us/reports/pdf/0868rpt.pdf> (last visited January 26, 2017).

¹⁶⁰ Section 624.509(4), F.S.

¹⁶¹ Section 624.509(5), F.S.

¹⁶² 470 U.S. 869, 105 S.Ct. 1676.

¹⁶³ *Supra* note 161.

¹⁶⁴ *Supra* note 155, at 115.

¹⁶⁵ Section 220.11, F.S.

¹⁶⁶ Sections 220.12 and 220.13, F.S.

attributable to Florida.¹⁶⁷ Income that is apportioned to Florida using this formula is then subject to the Florida income tax.

Corporate income taxes paid by any insurer are credited against the liability for insurance premium tax for the annual period in which such tax payments are made.¹⁶⁸ The total of the credit granted for corporate income taxes¹⁶⁹ and the Florida employees salary credit may not exceed 65 percent of the insurance premium tax due after deducting taxes paid by the insurer for certain pension funds and assessments.¹⁷⁰

In FY 2016-17, the corporate income tax credit is estimated to reduce insurance premium tax revenue by \$157.6 million.¹⁷¹

Effect of Proposed Changes

Advanced Practice Registered Nurses

The bill changes the term “advanced registered nurse practitioner” to “advanced practice registered nurse” (APRN) throughout Florida Statutes. The bill also authorizes an APRN to certify a person for involuntary examination under the Baker Act.¹⁷²

Independent Advanced Practice Registered Nurses

The bill allows an APRN who meets certain eligibility criteria to register as an “Independent Advanced Practice Registered Nurse.” The bill establishes title protection for this new title.

To register as an Independent Advanced Practice Registered Nurse (IAPRN), the applicant must hold an active and unencumbered APRN certificate under s. 464.012, F.S., pay an application fee set by the Board (not to exceed \$100), and must have:

- Completed, in any U.S. jurisdiction, at least 2,000 clinical practice hours within a three-year period immediately prior to applying for registration;
- Not been subject to any disciplinary action during the five years immediately preceding the application; and
- Completed a graduate level course in pharmacology.

To maintain their registration, IAPRNs must complete at least 10 hours of continuing education approved by the Board in pharmacology prior to biennial renewal, unless an exception applies for the first biennial renewal. APRNs registered as IAPRNs must also ensure that their practitioner profiles created by the Department of Health reflect their registration as an IAPRN.

IAPRNs are authorized to perform any act currently authorized for APRNs, but may perform such acts without the supervision of a physician or a written protocol. In addition to those acts, an IAPRN may independently and without supervision or a written protocol perform the following acts:

- Admit, discharge, or manage the care of a patient requiring the services of a health care facility.
- Provide a signature, certification, stamp, verification, affidavit, or other endorsement that is otherwise required by law to be provided by a physician.

¹⁶⁷ s. 220.15, F.S.

¹⁶⁸ Florida Senate Committee on Finance and Tax, *An Overview of Florida's Insurance Premium Tax*, October 2006, available at http://archive.flsenate.gov/data/Publications/2007/Senate/reports/interim_reports/pdf/2007-122ftlong.pdf (last accessed January 26, 2017).

¹⁶⁹ Section 624.509(4), F.S.

¹⁷⁰ *Id.*

¹⁷¹ *Supra* note 155, at 115.

¹⁷² The Baker Act is also titled the “Florida Mental Health Act” under s. 394.451, F.S.

- Certify causes of death and sign, correct, and file death certificates.
- Act as a patient's primary care provider.
- Execute a certificate to subject a person to involuntary examination under the Baker Act.
- Examine, and approve the release of, a person admitted into a receiving facility under the Baker Act, if the IAPRN holds a national certification as a psychiatric-mental health advanced practice nurse.
- Perform certain physical examinations currently reserved to physicians and physician assistants by Florida law, such as examinations of pilots, law enforcement officers, and suspected child abuse victims.

The bill imposes safeguards to ensure IAPRNs safely prescribe controlled substances and are held accountable if they do otherwise. Specifically, IAPRNs:

- Must report adverse incidents attributable to the prescription of a controlled substance. Adverse incidents are only those events that require the transfer of a patient to a hospital or cause permanent physical injury or death.
- May be administratively disciplined for several delineated prohibited acts related to inappropriate prescribing practices.
- Are required to register as prescribers of controlled substances for chronic nonmalignant pain, if they prescribe such substances, and must meet statutory requirements related to treatment plans, recordkeeping, patient examinations, written agreements, and referrals.
- Must comply with the prescribing and dispensing requirements and limitations under the Florida Comprehensive Drug Abuse Prevention and Control Act.¹⁷³

In addition, the bill provides for several other accountability measures for IAPRNs by:

- Requiring IAPRNs to maintain malpractice insurance or prove financial responsibility as provided by Board rule to ensure claims due to malpractice are covered;
- Authorizing the Board to administratively discipline IAPRNs for several delineated prohibited acts related to relationships with patients, business practices, and nursing practices; and
- Subjecting IAPRNs to accountability provisions included in the Florida Patient's Bill of Rights and Responsibilities.¹⁷⁴

Physician Assistants

The bill expands the scope of practice for PAs to authorize them to:

- Perform physical examinations to detect child abuse or neglect and for purposes of pilot certification;
- Certify a person for involuntary examination under the Baker Act; and
- File death certificates and certify a cause of death.

The bill also requires PAs to comply the Florida Patient's Bill of Rights and Responsibilities Act.

The bill also authorizes PAs to participate in the Public School Volunteer Health Care Practitioner Program. This program allows any participating health care practitioner who agrees to provide his or her services, without compensation, in a public school for at least 80 hours a year for each school year during the biennial licensure period to be eligible for waiver of the biennial license renewal fee for an active license and fulfillment of a maximum of 25 percent of the continuing education hours required for license renewal under s. 456.013(9), F.S.

¹⁷³ Chapter 893, F.S.

¹⁷⁴ Section 381.026, F.S., requires health care providers to provide patients with certain information related to qualifications, diagnosis, treatment, grievance procedures, and service charges. Also, health care providers are prohibited from discriminating against a patient for specified reasons and must respect a patient's privacy under this law.

Telehealth

The bill creates s. 456.47, F.S., relating to the use of telehealth to provide health care services.

“Telehealth” is defined in the bill to mean the use of synchronous or asynchronous telecommunications technology by a telehealth provider to provide health care services including, but not limited to, patient assessment, diagnosis, consultation, and treatment, monitoring transfer of medical data, patient and professional health-related education, public health services, and health administration. The definition of telehealth does not include audio-only telephone calls, e-mail messages, or facsimile transmissions. Thus, health care professionals can use telehealth to provide services to patients through both “live” and “store and forward” methods. It also authorizes the use of telemonitoring. The definition does not place any additional limitations on the type of technology that can be used in telehealth. However, both HIPAA and HITECH continue to apply to covered entities.

Telehealth Providers

The bill defines “telehealth provider” as any person who provides health care related services using telehealth and who is licensed in Florida or is an out-of-state health care registered and is in compliance with the requirements of this bill. Florida licensed telehealth providers must be one of the following professionals:¹⁷⁵

- Behavior analyst;
- Acupuncturist;
- Allopathic physician;
- Osteopathic physician;
- Chiropractor;
- Podiatrist;
- Optometrist;
- Nurse;
- Pharmacist;
- Dentist;
- Dental Hygienist;
- Midwife;
- Speech therapist;
- Occupational therapist;
- Radiology technician;
- Electrologist;
- Orthotist;
- Pedorthist;
- Prosthetist;
- Medical physicist;
- Emergency Medical Technician;
- Paramedic;
- Massage therapist;
- Optician;
- Hearing aid specialist;
- Clinical laboratory personnel;
- Respiratory therapist;
- Physical therapist;

¹⁷⁵ These are professionals licensed under s. 393.17; part III, ch. 401; ch. 457; ch. 458; ch. 459; ch. 460; ch. 461; ch. 463; ch. 464; ch. 465; ch. 466; ch. 467; part I, part III, part IV, part V, part X, part XIII, and part XIV, ch. 468; ch. 478; ch. 480; part III, part IV, ch. 483; ch. 484; ch. 486; ch. 490; or ch. 491.

- Psychologist;
- Psychotherapist;
- Dietician/Nutritionist;
- Athletic trainer;
- Clinical social worker;
- Marriage and family therapist; or
- Mental health counselor.

Out-of-state telehealth providers must register biennially with DOH or the applicable board to provide telehealth services, within the relevant scope of practice established by Florida law and rule, to patients in this state. To register or renew registration as an out-of-state telehealth provider, the health care professional must:

- Submit an application to DOH;
- Pay a \$150 registration fee;
- Hold an active unencumbered license, consistent with the definition of “telehealth provider” listed above, in a U.S. state or jurisdiction and against whom no disciplinary action has been taken during the five years before submission of the application; and
- Never have had a license revoked in any U.S. state or jurisdiction.

The bill prohibits an out-of-state telehealth provider from opening an office in Florida and from providing in-person health care services to patients located in Florida.

The bill requires out-of-state telehealth providers to notify the applicable board or DOH of restrictions placed on the health care professional’s license to practice or disciplinary actions taken against the health care practitioner within 5 days after such occurrence.

The bill authorizes a board, or DOH if there is no board, to revoke an out-of-state telehealth provider’s registration if the registrant:

- Fails to notify DOH of any adverse actions taken against his or her license within 5 days after such adverse action;
- Has restrictions placed on or disciplinary action taken against his or her license in any state or jurisdiction; or
- Violates any of the requirements for the registration of out-of-state telehealth providers.

The bill requires DOH to publish on its website the name of each registered out-of-state telehealth provider. It must also include the following background information, to the extent applicable, for each registrant:

- Health care occupation;
- Completed health care training and education, including completion dates and any certificates or degrees obtained;
- Out-of-state health care license with license number;
- Florida telehealth provider registration number;
- Specialty;
- Board certification;
- 5 year disciplinary history, including sanctions and board actions; and
- Medical malpractice insurance provider and policy limits, including whether the policy covers claims which arise in this state.

Telehealth Provider Standards

The bill establishes that the standard of care for telehealth providers is the same as the standard of care for health care practitioners or health care providers providing in-person health care services to patients in this state. This ensures that a patient receives the same standard of care irrespective of the modality used by the health care professional to deliver the services.

Under the bill a telehealth provider is not required to research a patient's medical history or conduct a physical examination of the patient before providing telehealth services to the patient if the telehealth provider is capable of conducting a patient evaluation in a manner consistent with the applicable standard of care sufficient to diagnose and treat the patient when using telehealth. The bill also allows the evaluation to be performed using telehealth.

The bill provides that a patient receiving telehealth services may be in any location at the time that the telehealth services are rendered and that a telehealth provider may be in any location when providing telehealth services to a patient.

The bill allows health care providers who are authorized to prescribe a controlled substance to use telehealth to prescribe controlled substances. Telehealth may not be used to prescribe a controlled substance to treat chronic nonmalignant pain, unless ordered by a physician for an inpatient admitted to a facility licensed under ch. 395, F.S., prescribed for a patient receiving hospice services as defined under s. 400.601, F.S., or prescribed for a resident of a nursing home facility as defined under s. 400.021(12), F.S.

The bill requires that a telehealth provider document the telehealth services rendered in the patient's medical records according to the same standard as that required for in-person services. The bill requires that such medical records be kept confidential consistent with ss. 395.3025(4) and 456.057, F.S. Section 456.057, F.S., relates to all licensed health care professionals while s. 395.3025(4), F.S., relates to all health care facilities licensed under ch. 395 (hospitals, ambulatory surgical centers, and mobile surgical centers). Thus, the same confidentiality requirements placed upon health care facilities and health care practitioners for medical records generated as part of in-person treatment apply to any medical records generated as part of treatment rendered through telehealth.

The bill provides that a non-physician telehealth provider using telehealth and acting within the applicable scope of practice, as established under Florida law, may not be interpreted as practicing medicine without a license.

The bill establishes, for jurisdictional purposes, that any act that constitutes the delivery of health care services shall be deemed to occur at the place where the patient is located at the time the act is performed. This will assist a patient in establishing jurisdiction and venue in Florida in the event he or she pursues a legal action against the telehealth provider.

The bill provides exceptions to the registration requirement for emergencies or for consultations between health care practitioners.

The bill requires a registered telehealth provider, who is a pharmacist, to use a pharmacy holding a Florida permit, a nonresident pharmacy registered in Florida, or a nonresident pharmacy or outsourcing facility holding a nonresident sterile compounding permit to dispense medicinal drugs to Florida patients.

The bill authorizes DOH or an applicable board to adopt rules to administer the requirements related to telehealth set forth in the bill.

Telehealth Tax Credit

For tax years beginning on or after January 1, 2018, the bill creates a telehealth tax credit for any health insurer or health maintenance organization (HMO) that cover services provided by telehealth.

The tax credit maybe taken against any corporate income tax or insurance premium tax liability incurred by a health insurer or HMO. The tax credit is one tenth of one percent of the total insurance premiums received on accident or health insurance policy or plans issued in Florida that provide medical, major medical, or similar comprehensive coverage. The Office of Insurance Regulation (OIR) must confirm the coverage to the Department of Revenue (DOR). The bill authorizes unused tax credit or portion thereof to be carried forward for a period not to exceed five years.

The bill authorizes DOR, in addition to its existing audit and investigation authority, additional authority to perform financial and technical audits and investigations to verify eligibility for the telehealth tax credit. Such audits and investigations may include examining the accounts, books, and records of the health insurer or HMO. The bill also directs OIR to provide technical assistance upon request by DOR on any audits or investigations it performs. If DOR discover that a health insurer or health maintenance organization received a telehealth tax credit for which it was not entitle, DOR is authorized to pursue recovery of the funds in accordance to the law.

The bill authorizes a health insurer or HMO to transfer a telehealth tax credit in whole or in part to another insurer by written agreement. To perfect the transfer, the transferor must provide a written statement to DOR that states:

- The transferor's intent to transfer the tax credit to the transferee;
- The date the transfer is effective;
- The transferee's name, address, and federal taxpayer identification number;
- The tax period; and
- The amount the tax credit to be transferred.

Upon receipt of the transfer statement, DOR will issue a certificate reflecting the transferred credit amount, a copy of which must be attached to each tax return for which the transferee seeks to apply the credit.

An insurer that claims the telehealth tax credit is not required to pay any additional retaliatory tax, as a result of claiming such a credit.

DOR is authorized to adopt rules to administer the telehealth tax credit, including rules regarding implementation and administration of the tax credit and forms needed to claim the telehealth tax credit.

The bill provides an effective date of July 1, 2017, except as otherwise expressly provided in the bill.

B. SECTION DIRECTORY:

Section 1: Creates s. 456.47, F.S., relating to the use of telehealth to provide services.

Section 2: Provides an appropriation.

Section 3: Creates s. 220.197, F.S., relating to the telehealth tax credit.

Section 4: Amends s. 624.509, F.S., relating to the premium tax; rate and computation.

Section 5: Amends s. 464.003, F.S., relating to definitions.

Section 6: Amends s. 464.012, F.S., relating to certification of advanced registered nurse practitioners; fees; and controlled substance prescribing.

Section 7: Creates s. 464.0125, F.S., relating to registration of independent advanced practice registered nurses and fees.

Section 8: Amends s. 464.015, F.S., relating to titles and abbreviations; restrictions; and penalty.

Section 9: Creates s. 464.0155, F.S., relating to reports of adverse incidents by independent advanced practice registered nurses.

Section 10: Amends s. 464.016, F.S., relating to violations and penalties.

Section 11: Amends s. 464.018, F.S., relating to disciplinary actions.

Section 12: Amends s. 39.303, F.S., relating to child protection teams; services; and eligible cases.

- Section 13:** Amends s. 39.304, F.S., relating to photographs, medical examinations, X rays, and medical treatment of abused, abandoned, or neglected child.
- Section 14:** Amends s. 90.503, F.S., relating to psychotherapist-patient privilege.
- Section 15:** Amends s. 110.12315, F.S., relating to the prescription drug program.
- Section 16:** Amends s. 112.0455, F.S., relating to the Drug-Free Workplace Act.
- Section 17:** Amends s. 121.0515, F.S., relating to Special Risk Class.
- Section 18:** Amends s. 252.515, F.S., relating to the Postdisaster Relief Assistance Act; immunity from civil liability.
- Section 19:** Amends s. 310.071, F.S., relating to deputy pilot certification.
- Section 20:** Amends s. 310.073, F.S., relating to state pilot licensing.
- Section 21:** Amends s. 310.081, F.S., relating to department to examine and license state pilots and certificate deputy pilots; vacancies.
- Section 22:** Amends s. 320.0848, F.S., relating to persons who have disabilities, issuance of disabled parking permits, temporary permits, and permits for certain providers of transportation services to persons who have disabilities.
- Section 23:** Amends s. 381.00315, F.S., relating to public health advisories, public health emergencies; isolation and quarantines.
- Section 24:** Amends s. 381.00593, F.S., relating to public school volunteer health care practitioner program.
- Section 25:** Amends s. 381.026, F.S., relating to Florida Patient's Bill of Rights and Responsibilities.
- Section 26:** Amends s. 382.008, F.S., relating to death and fetal death registration.
- Section 27:** Amends s. 383.14, F.S., relating to screening for metabolic disorders, other hereditary and congenital disorders, and environmental risk factors.
- Section 28:** Amends s. 383.141, F.S., relating to prenatally diagnosed conditions; patient to be provided information; definitions; information clearinghouse; and advisory council.
- Section 29:** Amends s. 384.27, F.S., relating to physical examination and treatment.
- Section 30:** Amends s. 390.0111, F.S., relating to termination of pregnancies.
- Section 31:** Amends s. 390.012, F.S., relating to powers of agency; rules; and disposal of fetal remains.
- Section 32:** Amends s. 394.455, F.S., relating to definitions.
- Section 33:** Amends s. 394.463, F.S., relating to involuntary examination.
- Section 34:** Amends s. 395.0191, F.S., relating to staff membership and clinical privileges.
- Section 35:** Amends s. 395.602, F.S., relating to rural hospitals.
- Section 36:** Amends s. 395.605, F.S., relating to emergency care hospitals.
- Section 37:** Amends s. 397.311, F.S., relating to definitions.
- Section 38:** Amends s. 397.405, F.S., relating to exemptions from licensure.
- Section 39:** Amends s. 397.427, F.S., relating to medication-assisted treatment service providers; rehabilitation program; needs assessment and provision of services; persons authorized to issue takeout medication; unlawful operation; and penalty.
- Section 40:** Amends s. 397.501, F.S., relating to rights of individuals.
- Section 41:** Amends s. 397.679, F.S., relating to emergency admission; circumstances justifying.
- Section 42:** Amends s. 397.6793, F.S., relating to professional's certificate for emergency admission.
- Section 43:** Amends s. 400.021, F.S., relating to definitions.
- Section 44:** Amends s. 400.0255, F.S., relating to resident transfer or discharge; requirements and procedures; and hearings.
- Section 45:** Amends s. 400.172, F.S., relating to respite care provided in nursing home facilities.
- Section 46:** Amends s. 400.462, F.S., relating to definitions.
- Section 47:** Amends s. 400.487, F.S., relating to home health service agreements; physician's, physician assistant's, and advanced registered nurse practitioner's treatment orders; patient assessment; establishment and review of plan of care; provision of services, and orders not to resuscitate.
- Section 48:** Amends s. 400.506, F.S., relating to licensure of nurse registries; requirements; and penalties.
- Section 49:** Amends s. 400.9905, F.S., relating to definitions.
- Section 50:** Amends s. 400.9973, F.S., relating to client admission, transfer, and discharge.

- Section 51:** Amends s. 400.9974, F.S., relating to client comprehensive treatment plans; client services.
- Section 52:** Amends s. 400.9976, F.S., relating to administration of medication.
- Section 53:** Amends s. 400.9979, F.S., relating to restraint and seclusion; client safety.
- Section 54:** Amends s. 401.445, F.S., relating to emergency examination and treatment of incapacitated persons.
- Section 55:** Amends s. 409.905, F.S., relating to mandatory Medicaid services.
- Section 56:** Amends s. 409.908, F.S., relating to reimbursement of Medicaid providers.
- Section 57:** Amends s. 409.9081, F.S., relating to copayments.
- Section 58:** Amends s. 409.973, F.S., relating to benefits.
- Section 59:** Amends s. 429.26, F.S., relating to appropriateness of placements and examinations of residents.
- Section 60:** Amends s. 429.918, F.S., relating to licensure designation as a specialized Alzheimer's services adult day care center.
- Section 61:** Amends s. 440.102, F.S., relating to drug-free workplace program requirements.
- Section 62:** Amends s. 456.0391, F.S., relating to advanced registered nurse practitioners; information required for certification.
- Section 63:** Amends s. 456.0392, F.S., relating to prescription labeling.
- Section 64:** Amends s. 456.041, F.S., relating to practitioner profile and creation.
- Section 65:** Amends s. 456.048, F.S., relating to financial responsibility requirements for certain health care practitioners.
- Section 66:** Amends s. 456.053, F.S., relating to financial arrangements between referring health care providers and providers of health care services.
- Section 67:** Amends s. 456.072, F.S., relating to grounds for discipline; penalties; and enforcement.
- Section 68:** Amends s. 456.44, F.S., relating to controlled substance prescribing.
- Section 69:** Amends s. 458.3265, F.S., relating to pain-management clinics.
- Section 70:** Amends s. 458.331, F.S., relating to grounds for disciplinary action; action by the board and department.
- Section 71:** Amends s. 458.348, F.S., relating to formal supervisory relationships, standing orders, and established protocols; notice; standards.
- Section 72:** Amends s. 459.0137, F.S., relating to pain-management clinics.
- Section 73:** Amends s. 459.015, F.S., relating to grounds for disciplinary action; action by the board and department.
- Section 74:** Amends s. 459.025, F.S., relating to formal supervisory relationships, standing orders, and established protocols; notice; standards.
- Section 75:** Amends s. 464.004, F.S., relating to Board of Nursing; membership; appointment; and terms.
- Section 76:** Amends s. 464.0205, F.S., relating to retired volunteer nurse certificate.
- Section 77:** Amends s. 467.003, F.S., relating to definitions.
- Section 78:** Amends s. 480.0475, F.S., relating to massage establishments and prohibited practices.
- Section 79:** Amends s. 483.041, F.S., relating to definitions.
- Section 80:** Amends s. 483.181, F.S., relating to acceptance, collection, identification, and examination of specimens.
- Section 81:** Amends s. 483.801, F.S., relating to exemptions.
- Section 82:** Amends s. 486.021, F.S., relating to definitions.
- Section 83:** Amends s. 490.012, F.S., relating to violations; penalties; and injunction.
- Section 84:** Amends s. 491.0057, F.S., relating to dual licensure as a marriage and family therapist.
- Section 85:** Amends s. 491.012, F.S., relating to violations; penalty; and injunction.
- Section 86:** Amends s. 493.6108, F.S., relating to investigation of applicants by Department of Agriculture and Consumer Services.
- Section 87:** Amends s. 626.9707, F.S., relating to disability insurance; discrimination on basis of sickle-cell trait prohibited.
- Section 88:** Amends s. 627.357, F.S., relating to medical malpractice self-insurance.
- Section 89:** Amends s. 627.6471, F.S., relating to contracts for reduced rates of payment; limitations; and coinsurance and deductibles.

- Section 90:** Amends s. 627.6472, F.S., relating to exclusive provider organizations.
- Section 91:** Amends s. 627.736, F.S., relating to required personal injury protection benefits; exclusions; priority; and claims.
- Section 92:** Amends s. 633.412, F.S., relating to firefighters and qualifications for certification.
- Section 93:** Amends s. 641.3923, F.S., relating to discrimination against providers prohibited.
- Section 94:** Amends s. 641.495, F.S., relating to requirements for issuance and maintenance of certificate.
- Section 95:** Amends s. 744.2006, F.S., relating to Office of Public and Professional Guardians; appointment, notification.
- Section 96:** Amends s. 744.331, F.S., relating to procedures to determine incapacity.
- Section 97:** Amends s. 766.102, F.S., relating to medical negligence; standards of recovery; and expert witness.
- Section 98:** Amends s. 766.103, F.S., relating to Florida Medical Consent Law.
- Section 99:** Amends s. 766.1115, F.S., relating to health care providers; creation of agency relationship with governmental contractors.
- Section 100:** Amends s. 766.1116, F.S., relating to health care practitioner; waiver of license renewal fees and continuing education requirements.
- Section 101:** Amends s. 766.118, F.S., relating to determination of noneconomic damages.
- Section 102:** Amends s. 768.135, F.S., relating to volunteer team physicians and immunity.
- Section 103:** Amends s. 782.071, F.S., relating to vehicular homicide.
- Section 104:** Amends s. 794.08, F.S., relating to female genital mutilation.
- Section 105:** Amends s. 893.02, F.S., relating to definitions.
- Section 106:** Amends s. 893.05, F.S., relating to practitioners and persons administering controlled substances in their absence.
- Section 107:** Amends s. 943.13, F.S., relating to officers' minimum qualifications for employment or appointment.
- Section 108:** Amends s. 945.603, F.S., relating to powers and duties of authority.
- Section 109:** Amends s. 948.03, F.S., terms and conditions of probation.
- Section 110:** Amends s. 960.28, F.S., relating to payment for victims' initial forensic physical examinations.
- Section 111:** Amends s. 1002.20, F.S., relating to K-12 student and parent rights.
- Section 112:** Amends s. 1002.42, F.S., relating to private schools.
- Section 113:** Amends s. 1006.062, F.S., relating to administration of medication and provision of medical services by district school board personnel.
- Section 114:** Amends s. 1006.20, F.S., relating to athletics in public K-12 schools.
- Section 115:** Amends s. 1009.65, F.S., relating to Medical Education Reimbursement and Loan Repayment Program.
- Section 116:** Amends s. 1009.66, F.S., relating to Nursing Student Loan Forgiveness Program.
- Section 117:** Amends s. 1009.67, F.S., relating to nursing scholarship program.
- Section 118:** Provides an effective date of July 1, 2017, except as otherwise expressly provided in the bill.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Applicants for registration as an IAPRN will have to pay an initial application fee, and registered IAPRNs will have to pay a biennial renewal fee, to the Department of Health. The total amount the Department of Health will receive from such fees is indeterminate, because the number of APRNs who choose to register as IAPRNs is not predictable.

The bill authorizes DOH to assess a \$150 registration and registration renewal fee for out-of-state telehealth providers. The revenue generated is anticipated to be \$765,000 biennially, assuming that the number of out-of-state registrants will be comparable to the experience of a similar program in

Texas. Utilizing the Texas Medical Board experience of a 0.54% licensure rate would generate approximately 5,100 Florida telehealth registrants.¹⁷⁶

2. Expenditures:

The bill requires out-of-state health care professionals to register with DOH prior to providing any health care services through telehealth to individuals located in Florida. The State of Texas offers a comparable telehealth license to physicians and physician's assistants out of state. There are currently 405 active telehealth licensed physicians in the state of Texas and a total 74,098 active licensed physicians licensed. Applying the ratio found in Texas of telehealth physicians compared to the total in-state physicians of 0.54% to the current active in-state physicians in the state of Florida, 56,060, an anticipated 303 physicians will seek telehealth licensure in Florida. Applying the same rate to the 820,248 additional medical professionals identified in the bill, an anticipated 4,743 will register as out-of-state telehealth providers in Florida. The Florida Medical Quality Assurance Division currently employs 570 positions to regulate 886,716 active in-state licenses.

The bill provides an appropriation of \$261,389 recurring and \$15,528 nonrecurring from the Medical Quality Assurance Trust Fund and four full time equivalent positions and \$145,870 in salary rate to utilize the funds generated from the bill's \$150 registration fee to offset the workload increase anticipated from an additional 5,128 licenses.

The Revenue Estimating Conference has not yet determined the fiscal impact of the bill. However, committee staff has estimated that the telehealth tax credit may have a maximum negative impact to revenue based of \$8.7 million dollars for health maintenance organizations, and approximately \$16 million to \$18 million for health insurers offering accident and health policies for calendar years 2017 and later.¹⁷⁷

DOH, the effected regulatory boards within DOH, and the Department of Revenue may incur indeterminate, but nominal costs associated with rulemaking, which can be absorbed within existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Health insurers and health maintenance organizations that cover services provided by telehealth may be able to reduce their corporate income tax or insurance premium tax liability by utilizing the tax credit authorized in the bill.

Applicants for registration as an IAPRN will have to pay an application fee and IAPRNs renewing their registration will be subject to renewal fees. The bill authorizes the Board of Nursing to set the application and biennial renewal fees, but they may not exceed \$100 and \$50, respectively.

The bill requires IAPRNs to obtain medical malpractice insurance. The Board may require IAPRNs to have more coverage and therefore a more expensive policy than what is required for APRNs.

¹⁷⁶ Physician Statistics, Physicians In and Out of State Report, Texas Medical Board, September 2016, available at <http://www.tmb.state.tx.us/dl/FA3E654D-B017-F10C-6F44-487DAE447A08> (last viewed February 2, 2017).

¹⁷⁷ E-mail correspondence with staff of the Ways and Means Subcommittee. The bill provides that the tax credit will equal one tenth of one percent of insurance premiums received on accident or health insurance policy or plans delivered or issued in this state in the previous calendar year.

APRNs who have paid physicians in order to be supervised under a protocol achieve some cost-savings if they register as an IAPRN and practice without a written protocol.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None/

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes Department of Health, or the applicable board, to adopt rules regarding the provision of telehealth services in this state.

The bill authorizes the Department of Revenue to adopt rules related to the implementation and administration of the telehealth tax credits.

The Board of Nursing and the Department of Health have sufficient rule-making authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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26 Department of Revenue and the Office of Insurance
 27 Regulation to adopt rules; providing that an insurer
 28 claiming the tax credit is not required to pay any
 29 additional retaliatory tax; providing definitions;
 30 creating s. 456.47, F.S.; providing definitions;
 31 establishing certain practice standards for telehealth
 32 providers; providing for the maintenance and
 33 confidentiality of medical records; providing
 34 registration requirements for out-of-state telehealth
 35 providers; requiring the Department of Health to
 36 publish certain information on its website;
 37 authorizing a board or the department if there is no
 38 board, to revoke a telehealth provider's registration
 39 under certain circumstances; providing venue;
 40 providing exemptions to the registration requirement;
 41 providing an appropriation and authorizing positions;
 42 providing rulemaking authority; amending s. 464.003,
 43 F.S.; revising and providing definitions; re-
 44 designating advanced registered nurse practitioners as
 45 advanced practice registered nurses; providing for
 46 independent advanced practice registered nurses to
 47 practice advanced or specialized nursing and without
 48 the supervision of a physician or protocol; creating a
 49 joint committee to determine the medical acts that may
 50 be performed by independent advanced practice

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51 registered nurses and advanced practice registered
 52 nurses; amending s. 464.012, F.S.; revising advanced
 53 practice registered nurse certification requirements;
 54 creating s. 464.0125, F.S.; providing for the
 55 registration of an independent advanced practice
 56 registered nurse who meet certain requirement;
 57 specifying acts that independent advanced practice
 58 registered nurses are authorized to perform without
 59 physician supervision or protocol; providing for
 60 biennial renewal of registration, including continuing
 61 education requirements; providing for application and
 62 biennial renewal fees; providing rulemaking authority;
 63 amending s. 464.015, F.S.; providing title protection
 64 for independent advanced practice registered nurses;
 65 creating s. 464.0155, F.S.; requiring independent
 66 advanced practice registered nurses to report adverse
 67 incidents to the Department of Health in a certain
 68 manner; providing for department review of adverse
 69 incidents; authorizing the department to take
 70 disciplinary action in cases of adverse incidents;
 71 amending s. 464.016, F.S.; providing penalties for
 72 illegally using certain titles; amending s. 464.018,
 73 F.S.; adding grounds for disciplinary actions against
 74 nurses; amending s. 39.303, F.S.; revising
 75 requirements relating to review of certain cases of

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76 abuse or neglect and standards for face-to-face
 77 medical evaluations by a child protection team;
 78 amending s. 39.304, F.S.; authorizing a physician
 79 assistant and an independent advanced practice
 80 registered nurse to perform or order an examination
 81 and diagnose a child without parental consent under
 82 certain circumstances; amending s. 90.503, F.S.;
 83 redefining the term "psychotherapist" to include an
 84 independent advanced practice registered nurse with a
 85 specified scope of practice; amending s. 112.0455,
 86 F.S.; authorizing an independent advanced practice
 87 registered nurse to collect specimens for drug
 88 testing; amending s. 121.0515, F.S.; designating an
 89 advanced practice registered nurse as a special risk
 90 member under certain conditions; amending ss. 310.071,
 91 310.073, and 310.081, F.S.; authorizing a physician
 92 assistant and an independent advanced practice
 93 registered nurse to administer the physical
 94 examination required for deputy pilot certification
 95 and state pilot licensure; broadening an exception to
 96 the prohibition against the use of controlled
 97 substances by an applicant for a deputy pilot
 98 certificate or a state pilot license to allow the use
 99 of controlled substances prescribed by a physician
 100 assistant, an independent advanced practice registered

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101 nurse, or an advanced practice registered nurse;
 102 requiring a physician assistant or an independent
 103 advanced practice registered nurse performing the
 104 physical examination to know the minimum licensure
 105 standards and certify that such standards are met;
 106 amending s. 320.0848, F.S.; authorizing an independent
 107 advanced practice registered nurse to certify that a
 108 person is disabled; amending s. 381.00315, F.S.;
 109 authorizing the reactivation of an independent
 110 advanced practice registered nurse license in a public
 111 health emergency; amending s. 381.00593, F.S.;
 112 redefining the term "health care practitioner" to
 113 include a physician assistant and an independent
 114 advanced practice registered nurse; amending s.
 115 381.026, F.S.; revising the definition of the term
 116 "health care provider" to include a physician
 117 assistant and an independent advanced practice
 118 registered nurse; amending s. 382.008, F.S.;
 119 authorizing a physician assistant, an independent
 120 advanced practice nurse, or an advanced practice
 121 registered nurse to file a certificate of death or
 122 fetal death under certain circumstances; authorizing a
 123 certified nurse midwife to provide certain information
 124 to a funeral director within a specified time period;
 125 revising the definition of the term "primary or

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126 attending physician"; amending s. 383.14, F.S.;

127 authorizing the release of certain newborn tests and

128 screening results to an independent advanced practice

129 registered nurse; amending ss. 383.141, 627.357, and

130 766.1115, F.S.; revising the definition of the term

131 "health care provider" to include an independent

132 advanced practice registered nurse; amending s.

133 384.27, F.S., authorizing an independent advanced

134 practice registered nurse to provide expedited partner

135 therapy; amending s. 390.0111, F.S.; including an

136 independent advanced practice registered nurse in a

137 list of health care practitioners authorized to review

138 an ultrasound with a woman prior to an abortion

139 procedure; amending s. 390.012, F.S.; including an

140 independent advanced practice registered nurse in a

141 list of health care practitioners authorized to

142 provide postoperative monitoring and required to be

143 available throughout an abortion procedure, remain at

144 the abortion clinic until all patients are discharged,

145 and attempt to assess the patient's recovery within a

146 specified time; amending s. 394.455, F.S.; revising

147 the definition of the term "psychiatric nurse" to

148 include an independent advanced practice registered

149 nurse certified in a specified specialty; amending s.

150 394.463, F.S.; authorizing a physician assistant, an

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151 independent advanced practice registered nurse, or an
 152 advanced practice registered nurse to initiate an
 153 involuntary examination for mental illness under
 154 certain circumstances; providing for examination of a
 155 patient by a physician assistant or psychiatric nurse;
 156 authorizing a psychiatric nurse to approve the release
 157 of a patient under certain conditions; amending s.
 158 395.0191, F.S.; authorizing an independent advanced
 159 practice registered nurse to apply for clinical
 160 privileges; providing an exception to the requirement
 161 for onsite medical direction for certain independent
 162 advanced practice registered nurses; amending s.
 163 395.605, F.S.; including independent advanced practice
 164 registered nurses in a list of health care
 165 practitioners who must supervise the care of a patient
 166 or be on duty for a specified duration in an emergency
 167 care setting; amending s. 397.311, F.S.; revising the
 168 definition of the term "qualified professional" to
 169 include an independent advanced practice registered
 170 nurse; conforming terminology; amending s. 397.405,
 171 F.S.; providing that an independent advanced practice
 172 registered nurse's practice may not be limited under
 173 certain circumstances; amending s. 397.501, F.S.;

174 prohibiting the denial of certain services to an
 175 individual who takes medication prescribed by a

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176 physician assistant, an independent advanced practice
 177 registered nurse, or an advanced practice registered
 178 nurse; amending ss. 397.6792 and 397.6793, F.S.;
 179 revising the list of persons authorized to initiate a
 180 certificate for an emergency admission for a person
 181 who is substance abuse impaired; amending s. 400.021,
 182 F.S.; revising the definition of the term "geriatric
 183 outpatient clinic" to include a site staffed by an
 184 independent advanced practice registered nurse;
 185 amending s. 400.0255, F.S.; including independent
 186 advanced practice registered nurses in a list of
 187 health care practitioners who must sign a notice of
 188 discharge or transfer; amending s. 400.172, F.S.;
 189 including independent advanced practice registered
 190 nurses and advanced practice registered nurses in a
 191 list of health care practitioners who may provide a
 192 prospective respite care resident with certain medical
 193 information; amending s. 400.462, F.S.; defining the
 194 term "independent advanced practice registered nurse";
 195 amending s. 400.487, F.S.; including independent
 196 advanced practice registered nurses in a list of
 197 health care practitioners who must establish treatment
 198 orders for certain patients under certain
 199 circumstances; amending s. 400.506, F.S.; applying
 200 medical treatment plan requirements to independent

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201 advanced practice registered nurses; amending s.
 202 400.9905, F.S.; exempting entities where health care
 203 services are provided by independent advanced practice
 204 registered nurses from clinic licensure requirements;
 205 amending 400.9973, F.S.; revising the list of
 206 professional authorized to prescribe admission to a
 207 transitional living facility; amending s. 400.9974,
 208 F.S.; revising the criteria for the comprehensive
 209 treatment plan; amending 400.9976, F.S.; revising the
 210 list of professionals that may medications to be
 211 administered to a client; amending 400.9979, F.S.;
 212 revising the list of professionals that may order
 213 physical restraints or chemical restraints of a
 214 client; amending s. 401.445, F.S.; prohibiting
 215 recovery of damages in court against an independent
 216 advanced practice registered nurse under certain
 217 circumstances; requiring an independent advanced
 218 practice registered nurse to attempt to obtain a
 219 person's consent prior to providing emergency
 220 services; amending ss. 409.905 and 409.908, F.S.;
 221 requiring the agency to reimburse independent advanced
 222 practice registered nurses for providing certain
 223 mandatory Medicaid services; amending s. 409.9081,
 224 F.S.; requiring copayments under the Medicaid program
 225 to be paid for independent advanced practice

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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226 registered nurse services; amending s. 409.973, F.S.;

227 requiring managed care plans to cover independent

228 advanced practice registered nurse services; amending

229 s. 429.26, F.S.; prohibiting independent advanced

230 practice registered nurses from having a financial

231 interest in the assisted living facility that employs

232 them; including independent advanced practice

233 registered nurses in a list of health care

234 practitioners from whom an assisted living facility

235 resident may obtain an examination prior to admission;

236 amending s. 429.918, F.S.; revising the definition of

237 the term "ADRD participant" to include participants

238 who have a documented diagnosis of Alzheimer's disease

239 or a dementia-related disorder from an independent

240 advanced practice registered nurse; including

241 independent advanced practice registered nurses in a

242 list of health care practitioners from whom an ADRD

243 participant may obtain signed medical documentation;

244 amending s. 440.102, F.S.; authorizing, for the

245 purpose of drug-free workforce program requirements,

246 an independent advanced practice registered nurse to

247 collect a specimen for a drug test; amending s.

248 456.048, F.S.; requiring independent advanced practice

249 registered nurses to maintain medical malpractice

250 insurance or provide proof of financial

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251 responsibility; exempting independent advanced
 252 practice registered nurses from such requirements
 253 under certain circumstances; amending s. 456.053,
 254 F.S.; revising the definition of the term "board" to
 255 include the Board of Nursing; revising the definitions
 256 of the terms "health care provider" and "sole
 257 provider" to include independent advanced practice
 258 registered nurses; authorizing an independent advanced
 259 practice registered nurse to make referrals under
 260 certain circumstances; conforming a reference;
 261 amending s. 456.072, F.S.; requiring the suspension
 262 and fining of a physician assistant, an independent
 263 advanced practice registered nurse, or an advanced
 264 practice registered nurse for prescribing or
 265 dispensing a controlled substance in a certain manner;
 266 amending s. 456.44, F.S.; providing certain
 267 requirements for physician assistants, independent
 268 advanced practice registered nurses, and advanced
 269 practice registered nurses who prescribe controlled
 270 substances for the treatment of chronic nonmalignant
 271 pain; amending ss. 458.3265 and 459.0137, F.S.;
 272 requiring an independent advanced practice registered
 273 nurse to perform a physical examination of a patient
 274 at a pain-management clinic under certain
 275 circumstances; amending s. 458.347, F.S.; deleting the

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276 requirement for a formulary list of controlled
 277 substances that a physician assistant may not
 278 prescribe; amending ss. 458.348 and 459.025, F.S.;
 279 deleting obsolete provisions; amending s. 464.0205,
 280 F.S.; authorizing an independent advanced practice
 281 registered nurse to directly supervise a certified
 282 retired volunteer nurse; amending s. 480.0475;
 283 authorizing the operation of a massage establishment
 284 during specified times if a massage is prescribed by
 285 an independent advanced practice registered nurse;
 286 amending s. 483.041, F.S.; revising the definition of
 287 the term "licensed practitioner" to include a
 288 physician assistant and an independent advanced
 289 practice registered nurse; amending s. 483.181, F.S.;
 290 requiring clinical laboratories to accept a human
 291 specimen submitted by an independent advanced practice
 292 registered nurse; amending s. 486.021, F.S.;
 293 authorizing a physical therapist to implement a plan
 294 of treatment provided by an independent advanced
 295 practice registered nurse; amending s. 490.012, F.S.;
 296 allowing certain qualified independent advanced
 297 practice registered nurses to use the word, or a form
 298 of the word, "psychotherapy"; amending s. 491.0057,
 299 F.S.; authorizing certain qualified independent
 300 advanced practice registered nurses to be licensed as

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301 marriage and family therapists; amending s. 491.012,
 302 F.S.; authorizing certain qualified independent
 303 advanced practice registered nurses to use specified
 304 terms; amending s. 493.6108, F.S.; authorizing an
 305 independent advanced practice registered nurse to
 306 certify the physical fitness of a certain class of
 307 applicants to bear a weapon or firearm; amending s.
 308 626.9707, F.S.; including independent advanced
 309 practice registered nurses in a list of entities and
 310 individuals that are protected from insurer
 311 discrimination when providing services to a person
 312 with the sickle-cell trait; amending s. 627.357, F.S.;
 313 revising definition of "health care provider" to
 314 include an independent advanced practice registered
 315 nurse; amending s. 627.6471, F.S.; requiring insurers
 316 to provide eligibility criteria for certain qualified
 317 independent advanced practice registered nurses under
 318 certain circumstances; amending s. 627.6472, F.S.;
 319 requiring insurers to provide eligibility criteria for
 320 certain qualified independent advanced practice
 321 registered nurses under certain circumstances;
 322 prohibiting an exclusive provider organization from
 323 discriminating against participation by an independent
 324 advanced practice registered nurse; amending s.
 325 627.736, F.S.; requiring personal injury protection

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326 insurance to cover a certain percentage of medical
 327 services and care provided by an independent advanced
 328 practice registered nurse, a practitioner supervised
 329 by an independent advanced practice registered nurse,
 330 or an entity wholly owned by one or more independent
 331 advanced practice registered nurses; reimbursing
 332 independent advanced practice registered nurses up to
 333 a specified amount for providing medical services and
 334 care; amending s. 633.412, F.S.; authorizing an
 335 independent advanced practice registered nurse to
 336 medically examine an applicant for firefighter
 337 certification; amending s. 641.3923, F.S.; prohibiting
 338 a health maintenance organization from discriminating
 339 against the participation of a physician assistant or
 340 an independent advanced practice registered nurse;
 341 amending s. 641.495, F.S.; requiring a health
 342 maintenance organization to disclose in certain
 343 documents that certain services may be provided by
 344 independent advanced practice registered nurses;
 345 amending s. 744.2006, F.S.; adding independent
 346 advanced practice registered nurses to a list of
 347 authorized professionals with whom a public guardian
 348 may contract to carry out guardianship functions;
 349 amending s. 744.331, F.S.; including a physician
 350 assistant as an eligible member of an examining

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351 committee; conforming terminology; amending s.
 352 766.102, F.S.; providing requirements for
 353 qualification as an expert witness in a medical
 354 negligence case concerning the standard of care for an
 355 independent advanced practice registered nurse and an
 356 advanced practice registered nurse; amending s.
 357 766.103, F.S.; prohibiting recovery of damages against
 358 an independent advanced practice registered nurse
 359 under certain conditions; amending s. 766.1116, F.S.;
 360 revising the definition of the term "health care
 361 practitioner" to include an independent advanced
 362 practice registered nurse; amending s. 766.118, F.S.;
 363 revising the definition of the term "practitioner" to
 364 include an independent advanced practice registered
 365 nurse; amending s. 768.135, F.S.; providing immunity
 366 from liability for an independent advanced practice
 367 registered nurse who provides volunteer services under
 368 certain circumstances; amending s. 782.071, F.S.;
 369 allowing an independent advanced practice registered
 370 nurse or an advanced practice registered nurse to
 371 supervise a person who is completing community service
 372 hours in a trauma center or hospital; amending s.
 373 794.08, F.S.; providing that the section does not
 374 apply to procedures conducted by an independent
 375 advanced practice registered nurse under certain

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376 | circumstances; amending s. 893.02, F.S.; revising the
 377 | definition of the term "practitioner" to include a
 378 | physician assistant, an independent advanced practice
 379 | registered nurse, and an advanced practice registered
 380 | nurse; amending s. 943.13, F.S.; authorizing a law
 381 | enforcement officer or correctional officer to satisfy
 382 | qualifications for employment or appointment by
 383 | passing a physical examination conducted by an
 384 | independent advanced practice registered nurse;
 385 | amending s. 945.603, F.S.; authorizing the
 386 | Correctional Medical Authority to review and make
 387 | recommendations relating to the use of advanced
 388 | practice registered nurses as physician extenders;
 389 | amending s. 948.03, F.S., revising the list of persons
 390 | who may prescribe drugs or narcotics to a probationer
 391 | to include an independent advanced practice registered
 392 | nurse; amending ss. 1002.20 and 1002.42, F.S.;
 393 | including independent advanced practice registered
 394 | nurses in a list of individuals who have immunity
 395 | relating to the use of epinephrine auto-injectors in
 396 | public and private schools; amending s. 1006.062,
 397 | F.S.; authorizing nonmedical assistive personnel to
 398 | perform health services if trained by an independent
 399 | advanced practice registered nurse; requiring
 400 | monitoring of such personnel by an independent

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401 advanced practice registered nurse; including
 402 independent advanced practice registered nurses in a
 403 list of practitioners who must determine whether such
 404 personnel may perform certain invasive medical
 405 services; amending s. 1006.20, F.S.; authorizing an
 406 independent advanced practice registered nurse to
 407 medically evaluate a student athlete; amending ss.
 408 110.12315, 252.515, 395.602, 397.427, 456.0391,
 409 456.0392, 456.041, 458.331, 459.015, 464.004, 467.003,
 410 483.801, 893.05; 960.28, 1009.65, 1009.66, and
 411 1009.67, F.S.; conforming terminology; providing an
 412 effective date.

413

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

415 Section 1. Effective upon this act becoming law, section
 416 220.197, Florida Statutes, is created to read:

417 220.197 Telehealth tax credit.-

418 (1) For tax years beginning on or after January 1, 2018,
 419 for taxpayers eligible to receive the tax credit provided for in
 420 s. 624.509(9)(a), but with insufficient tax liability under s.
 421 624.509 to use such tax credit, there shall be allowed a credit
 422 against the tax imposed by this chapter equal to the credit
 423 amount pursuant to s. 624.509(9)(a).

424 (2) If the credit allowed pursuant to this section is not
 425 fully used in any single year because of insufficient tax

426 liability on the part of the taxpayer, the unused amount may be
 427 carried forward for a period not to exceed 5 years.

428 (3)a. In addition to its existing audit and investigation
 429 authority, the department may perform any additional financial
 430 and technical audits and investigations, including examining the
 431 accounts, books, and records of the taxpayer, which are
 432 necessary to verify eligibility for the credit authorized by
 433 this section and to ensure compliance with this section. The
 434 Office of Insurance Regulation shall provide technical
 435 assistance when requested by the department on any audits or
 436 examinations performed pursuant to this subparagraph.

437 b. If the department determines, as a result of an audit
 438 or examination or from information received from the Office of
 439 Insurance Regulation, that a taxpayer received a tax credit
 440 pursuant to this subsection to which it was not entitled, the
 441 department shall pursue recovery of such funds pursuant to the
 442 laws and rules governing the assessment of taxes.

443 (4) A taxpayer may transfer a credit for which it
 444 qualifies under subsection (1), in whole or in part, to any
 445 taxpayer by written agreement. In order to perfect the transfer,
 446 the transferor shall provide the department with a written
 447 transfer statement stating the transferor's intent to transfer
 448 the tax credit to the transferee; the date that the transfer is
 449 effective; the transferee's name, address, and federal taxpayer
 450 identification number; the tax period; and the amount of tax

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451 credit to be transferred. Upon receipt of the transfer
 452 statement, the department shall provide the transferee and the
 453 office with a certificate reflecting the transferred tax credit
 454 amount. A copy of the certificate must be attached to each tax
 455 return for which the transferee seeks to apply the credit.

456 (5) The department and the Office of Insurance Regulation
 457 may adopt rules to administer this section, including rules
 458 relating to:

459 a. The forms, if any, necessary to claim a tax credit
 460 under this section, the requirements and basis for establishing
 461 an entitlement to a credit, and the examination and audit
 462 procedures required to administer this section.

463 b. The implementation and administration of the provisions
 464 allowing a transfer of a tax credit, including rules prescribing
 465 forms, reporting requirements, and specific procedures,
 466 guidelines, and requirements necessary to transfer a tax credit.

467 Section 2. Effective upon this act becoming law,
 468 subsection (9) of section 624.509, Florida Statutes, is
 469 renumbered as subsection (10) and amended, and a new subsection
 470 (9) is added to that section, to read:

471 624.509 Premium tax; rate and computation.—

472 (9)(a) For tax years beginning on or after January 1,
 473 2018, any health insurer or health maintenance organization that
 474 covers services provided by telehealth shall be allowed a credit
 475 against the tax imposed by this section equal to one tenth of

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476 one percent of total insurance premiums received on accident and
 477 health insurance policies or plans delivered or issued in this
 478 state in the previous calendar year that provide medical, major
 479 medical, or similar comprehensive coverage. The office shall
 480 confirm such coverage to the Department of Revenue following its
 481 annual rate and form review for each health insurance policy or
 482 plan.

483 (b) If the credit allowed pursuant to this subsection is
 484 not fully used in any single year because of insufficient tax
 485 liability on the part of a health insurer or health maintenance
 486 organization and the same health insurer or health maintenance
 487 organization does not use the credit available pursuant to s.
 488 220.197, the unused amount may be carried forward for a period
 489 not to exceed 5 years.

490 (c)1. In addition to its existing audit and investigation
 491 authority, the Department of Revenue may perform any additional
 492 financial and technical audits and investigations, including
 493 examining the accounts, books, and records of the health insurer
 494 or health maintenance organization, which are necessary to
 495 verify eligibility for the credit authorized by this subsection
 496 and to ensure compliance with this subsection. The office shall
 497 provide technical assistance when requested by the Department of
 498 Revenue on any audits or examinations performed pursuant to this
 499 subparagraph.

500 2. If the Department of Revenue determines, as a result of

501 an audit or examination or from information received from the
 502 office, that a taxpayer received a tax credit pursuant to this
 503 subsection to which it was not entitled, the Department of
 504 Revenue shall pursue recovery of such funds pursuant to the laws
 505 and rules governing the assessment of taxes.

506 (d) A health insurer or health maintenance organization
 507 may transfer a credit for which it qualifies under paragraph
 508 (a), in whole or in part, to any insurer by written agreement.
 509 In order to perfect the transfer, the transferor shall provide
 510 the Department of Revenue with a written transfer statement
 511 stating the transferor's intent to transfer the tax credit to
 512 the transferee; the date that the transfer is effective; the
 513 transferee's name, address, and federal taxpayer identification
 514 number; the tax period; and the amount of tax credit to be
 515 transferred. Upon receipt of the transfer statement, the
 516 Department of Revenue shall provide the transferee and the
 517 office with a certificate reflecting the transferred tax credit
 518 amount. A copy of the certificate must be attached to each tax
 519 return for which the transferee seeks to apply the credit.

520 (e) The Department of Revenue and the office may adopt
 521 rules to administer this section, including rules relating to:
 522 1. The forms, if any, necessary to claim a tax credit
 523 under this section, the requirements and basis for establishing
 524 an entitlement to a credit, and the examination and audit
 525 procedures required to administer this section.

526 2. The implementation and administration of the provisions
 527 allowing a transfer of a tax credit, including rules prescribing
 528 forms, reporting requirements, and specific procedures,
 529 guidelines, and requirements necessary to transfer a tax credit.

530 (f) An insurer that claims a credit against tax liability
 531 under this subsection need not pay any additional retaliatory
 532 tax levied under s. 624.5091 as a result of claiming such a
 533 credit. Section 624.5091 does not limit such a credit in any
 534 manner.

535 (10)(9) As used in this section:

536 (a) The term "insurer" includes any entity subject to the
 537 tax imposed by this section.

538 (b) The term "health insurer" means an authorized insurer
 539 offering health insurance as defined in s. 624.603.

540 (c) The term "telehealth" means the use of synchronous or
 541 asynchronous telecommunications technology by a health care
 542 provider to provide health care services, including, but not
 543 limited to, patient assessment, diagnosis, consultation,
 544 treatment, and monitoring; transfer of medical data; patient and
 545 professional health-related education; public health services;
 546 and health administration. The term does not include audio-only
 547 telephone calls, e-mail messages, or facsimile transmissions.

548 (d) The term "health maintenance organization" has the same
 549 meaning as provided in s. 641.19.

550 Section 3. Section 456.47, Florida Statutes, is created to

551 read:

552 456.47 Use of telehealth to provide services.-

553 (1) DEFINITIONS.-As used in this section, the term:

554 (a) "Telehealth" means the use of synchronous or
 555 asynchronous telecommunications technology by a telehealth
 556 provider to provide health care services, including, but not
 557 limited to, patient assessment, diagnosis, consultation,
 558 treatment, and monitoring; transfer of medical data; patient and
 559 professional health-related education; public health services;
 560 and health administration. The term does not include audio-only
 561 telephone calls, e-mail messages, or facsimile transmissions.

562 (b) "Telehealth provider" means any individual who
 563 provides health care and related services using telehealth and
 564 who is licensed under s. 393.17; part III of chapter 401;
 565 chapter 457; chapter 458; chapter 459; chapter 460; chapter 461;
 566 chapter 463; chapter 464; chapter 465; chapter 466; chapter 467;
 567 part I, part III, part IV, part V, part X, part XIII, or part
 568 XIV of chapter 468; chapter 478; chapter 480; part III of
 569 chapter 483; chapter 484; chapter 486; chapter 490; or chapter
 570 491; or who is registered under and complies with subsection
 571 (4).

572 (2) PRACTICE STANDARD.-

573 (a) The standard of care for telehealth providers who
 574 provide health care services is the same as the standard of care
 575 for health care professionals who provide in-person health care

576 services to patients in this state. If the telehealth provider
 577 conducts a patient evaluation sufficient to diagnose and treat
 578 the patient, the telehealth provider is not required to research
 579 a patient's medical history or conduct a physical examination of
 580 the patient before using telehealth to provide services to the
 581 patient. The evaluation may be performed using telehealth.

582 (b) A telehealth provider may not use telehealth to
 583 prescribe a controlled substance to treat chronic nonmalignant
 584 pain, as defined under s. 456.44, unless the controlled
 585 substance is ordered for inpatient treatment at a hospital
 586 licensed under chapter 395, is prescribed for a patient
 587 receiving hospice services, as defined under s. 400.601, or is
 588 prescribed for a resident of a nursing home facility as defined
 589 under s. 400.021(12).

590 (c) A telehealth provider and a patient may each be in any
 591 location when telehealth is used to provide health care services
 592 to a patient.

593 (d) A nonphysician telehealth provider using telehealth
 594 and acting within the relevant scope of practice, as established
 595 by Florida law and rule, is not a violation of s. 458.327(1)(a)
 596 or s. 459.013(1)(a).

597 (3) RECORDS.—A telehealth provider shall document in the
 598 patient's medical record the health care services rendered using
 599 telehealth according to the same standard as used for in-person
 600 services. Medical records, including video, audio, electronic,

601 or other records generated as a result of providing such
 602 services, are confidential pursuant to ss. 395.3025(4) and
 603 456.057.

604 (4) REGISTRATION OF OUT-OF-STATE TELEHEALTH PROVIDERS.—

605 (a) A health care professional not licensed in this state
 606 may provide health care services to a patient located in this
 607 state using telehealth if the telehealth provider registers with
 608 the applicable board, or the department if there is no board,
 609 and provides health care services within the relevant scope of
 610 practice established by Florida law or rule.

611 (b) The board, or the department if there is no board,
 612 shall register a health care professional not licensed in this
 613 state as a telehealth provider if the health care professional:

- 614 1. Completes an application in the format prescribed by
 615 the department;
- 616 2. Pays a \$150 registration fee; and
- 617 3. Holds an active, unencumbered license for a profession
 618 listed in paragraph (1)(b) which is issued by another state, the
 619 District of Columbia, or a possession or territory of the United
 620 States and against whom no disciplinary action has been taken
 621 during the 5 years before submission of the application. The
 622 department shall use the National Practitioner Data Bank to
 623 verify information submitted by an applicant.

624 (c) A telehealth provider registered pursuant to paragraph
 625 (b) must, as a condition of biennial registration renewal,

626 complete a renewal application and pay a renewal registration
 627 fee of \$150.

628 (d) A health care professional may not register under this
 629 subsection if his or her license to provide health care services
 630 is subject to a pending disciplinary investigation or action, or
 631 has been revoked in any state or jurisdiction. A health care
 632 professional registered under this section must notify the
 633 appropriate board, or the department if there is no board, of
 634 restrictions placed on the health care professional's license to
 635 practice, or disciplinary action taken or pending against the
 636 health care professional, in any state or jurisdiction. The
 637 notification must be provided within 5 business days after the
 638 restriction is placed or disciplinary action is initiated or
 639 taken.

640 (e) A health care professional registered under this
 641 subsection may not open an office in this state and may not
 642 provide in-person health care services to patients located in
 643 this state.

644 (f) A pharmacist registered under this subsection may only
 645 use a pharmacy permitted under chapter 465, a nonresident
 646 pharmacy registered under s. 465.0156, or a nonresident pharmacy
 647 or outsourcing facility holding an active permit pursuant to s.
 648 465.0158, to dispense medicinal drugs to patients located in
 649 this state.

650 (g) The department shall publish on its website a list of

651 all registrants and include, to the extent applicable, each
 652 registrant's:
 653 1. Name.
 654 2. Health care occupation.
 655 3. Completed health care training and education, including
 656 completion dates and any certificates or degrees obtained.
 657 4. Out-of-state health care license with license number.
 658 5. Florida telehealth provider registration number.
 659 6. Specialty.
 660 7. Board certification.
 661 8. Five-year disciplinary history, including sanctions and
 662 board actions.
 663 9. Medical malpractice insurance provider and policy
 664 limits, including whether the policy covers claims which arise
 665 in this state.
 666 (h) The board, or the department if there is no board, may
 667 revoke an out-of-state telehealth provider's registration if the
 668 registrant:
 669 1. Fails to notify the applicable board, or the
 670 department, of any adverse actions taken against his or her
 671 license as required under paragraph (d).
 672 2. Has restrictions placed on or disciplinary action taken
 673 against his or her license in any state or jurisdiction.
 674 3. Violates any of the requirements of this section.
 675 (5) VENUE.-For the purposes of this section, any act that

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676 constitutes the delivery of health care services is deemed to
 677 occur at the place where the patient is located at the time the
 678 act is performed.

679 (6) EXEMPTIONS.—A health care professional who is not
 680 licensed to provide health care services in this state but who
 681 holds an active license to provide health care services in
 682 another state or jurisdiction, and who provides health care
 683 services using telehealth to a patient located in this state, is
 684 not subject to the registration requirement under this section
 685 if the services are provided:

686 (a) In response to an emergency medical condition as
 687 defined in s. 395.002; or

688 (b) In consultation with a health care professional
 689 licensed in this state and that health care professional retains
 690 ultimate authority over the diagnosis and care of the patient.

691 (7) RULEMAKING.—The applicable board, or the department if
 692 there is no board, may adopt rules to administer this section.

693 Section 4. For the 2017-2018 fiscal year, the sums of
 694 \$261,389 in recurring funds and \$15,528 in nonrecurring funds
 695 from the Medical Quality Assurance Trust Fund are appropriated
 696 to the Department of Health, and four full-time equivalent
 697 positions with associated salary rate of 145,870 are authorized,
 698 for the purpose of implementing this act.

699 Section 5. Subsections (2), (3), (20), and (22) of section
 700 464.003, Florida Statutes, are amended to read:

701 464.003 Definitions.—As used in this part, the term:
 702 (2) "Advanced or specialized nursing practice" or "to
 703 practice advanced or specialized nursing" means, in addition to
 704 the practice of professional nursing, the performance of
 705 advanced-level nursing acts approved by the board which, by
 706 virtue of postbasic specialized education, training, and
 707 experience, are appropriately performed by an independent
 708 advanced practice registered nurse or an advanced practice
 709 registered nurse practitioner. Within the context of advanced or
 710 specialized nursing practice, the independent advanced practice
 711 registered nurse and the advanced practice registered nurse
 712 ~~practitioner~~ may perform acts of nursing diagnosis and nursing
 713 treatment of alterations of the health status. The independent
 714 advanced practice registered nurse and the advanced practice
 715 registered nurse practitioner may also perform acts of medical
 716 diagnosis, ~~and~~ treatment, prescription, and operation ~~as~~
 717 ~~authorized within the framework of an established supervisory~~
 718 ~~protocol~~ which are identified and approved by a joint committee
 719 composed of three members appointed by the Board of Nursing, one
 720 of whom must be an independent advanced practice registered
 721 nurse and one of whom must be an advanced practice registered
 722 nurse; three members appointed by the Board of Medicine, two of
 723 whom must have had work experience with advanced practice
 724 registered nurses; and the State Surgeon General or the State
 725 Surgeon General's designee. Each committee member appointed by a

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726 board shall be appointed to a term of 4 years unless a shorter
 727 term is required to establish or maintain staggered terms. The
 728 Board of Nursing shall adopt rules authorizing the performance
 729 of any such acts approved by the joint committee. Unless
 730 otherwise specified by the joint committee and unless such acts
 731 are performed by an independent advanced practice nurse, such
 732 medical acts must be performed within the framework of an
 733 established supervisory protocol. The department may, by rule,
 734 require that a copy of the protocol be filed with the department
 735 along with the notice required by s. 458.348 or s. 459.025.

736 (3) "Advanced practice registered nurse ~~practitioner~~"
 737 means any person licensed in this state to practice professional
 738 nursing and certified in advanced or specialized nursing
 739 practice, including certified registered nurse anesthetists,
 740 certified nurse midwives, and certified nurse practitioners.

741 (16) "Independent advanced practice registered nurse"
 742 means an advanced practice registered nurse who maintains an
 743 active and unencumbered certification under s. 464.012(2) and
 744 registration under s. 464.0125 to practice advanced or
 745 specialized nursing independently and without the supervision of
 746 a physician or a protocol.

747 ~~(21)~~(20) "Practice of professional nursing" means the
 748 performance of those acts requiring substantial specialized
 749 knowledge, judgment, and nursing skill based upon applied
 750 principles of psychological, biological, physical, and social

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751 sciences which shall include, but not be limited to:

752 (a) The observation, assessment, nursing diagnosis,
 753 planning, intervention, and evaluation of care; health teaching
 754 and counseling of the ill, injured, or infirm; and the promotion
 755 of wellness, maintenance of health, and prevention of illness of
 756 others.

757 (b) The prescribing and administration of medications and
 758 treatments as ~~prescribed or~~ authorized by a ~~duly licensed~~
 759 ~~practitioner authorized by the laws of this state to prescribe~~
 760 ~~such medications and treatments.~~

761 (c) The supervision and teaching of other personnel in the
 762 theory and performance of any of the acts described in this
 763 subsection.

764

765 A professional nurse is responsible and accountable for making
 766 decisions that are based upon the individual's educational
 767 preparation and experience in nursing.

768 ~~(23)-(22)~~ "Registered nurse" means any person licensed in
 769 this state to practice professional nursing, except such
 770 licensed person may only administer medications and treatments
 771 authorized by a duly licensed practitioner authorized by the
 772 laws of this state to prescribe such medications and treatments.

773 Section 6. Section 464.012, Florida Statutes, is amended
 774 to read:

775 464.012 Certification of advanced practice registered

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776 nurses ~~nurse practitioners~~; fees; controlled substance
 777 prescribing.-

778 (1) Any nurse desiring to be certified as an advanced
 779 practice registered nurse ~~practitioner~~ shall apply to the board
 780 ~~department~~ and submit proof that the nurse ~~he or she~~ holds a
 781 current license to practice professional nursing and that the
 782 nurse ~~he or she~~ meets ~~one or more~~ of the following requirements
 783 as ~~determined by the board~~:

784 ~~(a) Satisfactory completion of a formal postbasic~~
 785 ~~educational program of at least one academic year, the primary~~
 786 ~~purpose of which is to prepare nurses for advanced or~~
 787 ~~specialized practice.~~

788 ~~(a)(b)~~ Certification by an appropriate specialty board.
 789 Such certification shall be required for initial state
 790 certification and any recertification as a registered nurse
 791 anesthetist, psychiatric nurse, or nurse midwife. The board may
 792 by rule provide for provisional state certification of graduate
 793 nurse practitioners, nurse anesthetists, psychiatric nurses, and
 794 nurse midwives for a period of time determined to be appropriate
 795 for preparing for and passing the national certification
 796 examination.

797 (c) Graduation from a ~~program leading to a~~ master's degree
 798 program in a nursing clinical specialty area with preparation in
 799 specialized practitioner skills. ~~For applicants graduating on or~~
 800 ~~after October 1, 1998, graduation from a master's degree program~~

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801 ~~shall be required for initial certification as a nurse~~
 802 ~~practitioner under paragraph (4)(c). For applicants graduating~~
 803 ~~on or after October 1, 2001, graduation from a master's degree~~
 804 ~~program shall be required for initial certification as a~~
 805 ~~registered nurse anesthetist under paragraph (4)(a).~~

806 (2) The board shall provide by rule the appropriate
 807 requirements for advanced practice registered nurses ~~nurse~~
 808 ~~practitioners~~ in the categories of certified registered nurse
 809 anesthetist, certified nurse midwife, and certified nurse
 810 practitioner.

811 (3) An advanced practice registered nurse ~~practitioner~~
 812 shall perform those functions authorized in this section within
 813 the framework of an established protocol that is filed with the
 814 board upon biennial license renewal and within 30 days after
 815 entering into a supervisory relationship with a physician or
 816 changes to the protocol. The board shall review the protocol to
 817 ensure compliance with applicable regulatory standards for
 818 protocols. The board shall refer to the department licensees
 819 submitting protocols that are not compliant with the regulatory
 820 standards for protocols. A practitioner currently licensed under
 821 chapter 458, chapter 459, or chapter 466 shall maintain
 822 supervision for directing the specific course of medical
 823 treatment. Within the established framework, an advanced
 824 registered nurse practitioner may:

825 (a) Prescribe, dispense, administer, or order any drug;

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826 | however, an advanced registered nurse practitioner may prescribe
 827 | or dispense a controlled substance as defined in s. 893.03 only
 828 | if the advanced registered nurse practitioner has graduated from
 829 | a program leading to a master's or doctoral degree in a clinical
 830 | nursing specialty area with training in specialized practitioner
 831 | skills.

832 | (b) Initiate appropriate therapies for certain conditions.

833 | (c) Perform additional functions as may be determined by
 834 | rule in accordance with s. 464.003(2).

835 | (d) Order diagnostic tests and physical and occupational
 836 | therapy.

837 | (e) Order any medication for administration to a patient
 838 | in a facility licensed under chapter 395 or part II of chapter
 839 | 400, notwithstanding any provisions in chapter 465 or chapter
 840 | 893.

841 | (4) In addition to the general functions specified in
 842 | subsection (3), an advanced practice registered nurse
 843 | ~~practitioner~~ may perform the following acts within his or her
 844 | specialty:

845 | (a) The certified registered nurse anesthetist may, to the
 846 | extent authorized by established protocol approved by the
 847 | medical staff of the facility in which the anesthetic service is
 848 | performed, perform any or all of the following:

849 | 1. Determine the health status of the patient as it
 850 | relates to the risk factors and to the anesthetic management of

851 the patient through the performance of the general functions.
 852 2. Based on history, physical assessment, and supplemental
 853 laboratory results, determine, with the consent of the
 854 responsible physician, the appropriate type of anesthesia within
 855 the framework of the protocol.
 856 3. Order under the protocol preanesthetic medication.
 857 4. Perform under the protocol procedures commonly used to
 858 render the patient insensible to pain during the performance of
 859 surgical, obstetrical, therapeutic, or diagnostic clinical
 860 procedures. These procedures include ordering and administering
 861 regional, spinal, and general anesthesia; inhalation agents and
 862 techniques; intravenous agents and techniques; and techniques of
 863 hypnosis.
 864 5. Order or perform monitoring procedures indicated as
 865 pertinent to the anesthetic health care management of the
 866 patient.
 867 6. Support life functions during anesthesia health care,
 868 including induction and intubation procedures, the use of
 869 appropriate mechanical supportive devices, and the management of
 870 fluid, electrolyte, and blood component balances.
 871 7. Recognize and take appropriate corrective action for
 872 abnormal patient responses to anesthesia, adjunctive medication,
 873 or other forms of therapy.
 874 8. Recognize and treat a cardiac arrhythmia while the
 875 patient is under anesthetic care.

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876 9. Participate in management of the patient while in the
 877 postanesthesia recovery area, including ordering the
 878 administration of fluids and drugs.

879 10. Place special peripheral and central venous and
 880 arterial lines for blood sampling and monitoring as appropriate.

881 (b) The certified nurse midwife may, to the extent
 882 authorized by an established protocol which has been approved by
 883 the medical staff of the health care facility in which the
 884 midwifery services are performed, or approved by the nurse
 885 midwife's physician backup when the delivery is performed in a
 886 patient's home, perform any or all of the following:

- 887 1. Perform superficial minor surgical procedures.
- 888 2. Manage the patient during labor and delivery to include
- 889 amniotomy, episiotomy, and repair.
- 890 3. Order, initiate, and perform appropriate anesthetic
- 891 procedures.
- 892 4. Perform postpartum examination.
- 893 5. Order appropriate medications.
- 894 6. Provide family-planning services and well-woman care.
- 895 7. Manage the medical care of the normal obstetrical
- 896 patient and the initial care of a newborn patient.

897 (c) The certified nurse practitioner may perform any or
 898 all of the following acts within the framework of established
 899 protocol:

- 900 1. Manage selected medical problems.

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901 2. Order physical and occupational therapy.
 902 3. Initiate, monitor, or alter therapies for certain
 903 uncomplicated acute illnesses.
 904 4. Monitor and manage patients with stable chronic
 905 diseases.
 906 5. Establish behavioral problems and diagnosis and make
 907 treatment recommendations.
 908 (5) A psychiatric nurse, as defined in s. 394.455, within
 909 the framework of an established protocol with a psychiatrist,
 910 may prescribe psychotropic controlled substances for the
 911 treatment of mental disorders.
 912 (6) The board shall certify, and the department shall
 913 issue a certificate to, any nurse meeting the qualifications in
 914 this section. The board shall establish an application fee not
 915 to exceed \$100 and a biennial renewal fee not to exceed \$50. The
 916 board is authorized to adopt such other rules as are necessary
 917 to implement the provisions of this section.
 918 (7)(a) The board shall establish a committee to recommend
 919 a formulary of controlled substances that an advanced registered
 920 nurse practitioner may not prescribe or may prescribe only for
 921 specific uses or in limited quantities. The committee must
 922 consist of three advanced registered nurse practitioners
 923 licensed under this section, recommended by the board; three
 924 physicians licensed under chapter 458 or chapter 459 who have
 925 work experience with advanced registered nurse practitioners,

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926 recommended by the Board of Medicine; and a pharmacist licensed
 927 under chapter 465 who is a doctor of pharmacy, recommended by
 928 the Board of Pharmacy. The committee may recommend an evidence-
 929 based formulary applicable to all advanced registered nurse
 930 practitioners which is limited by specialty certification, is
 931 limited to approved uses of controlled substances, or is subject
 932 to other similar restrictions the committee finds are necessary
 933 to protect the health, safety, and welfare of the public. The
 934 formulary must restrict the prescribing of psychiatric mental
 935 health controlled substances for children younger than 18 years
 936 of age to advanced registered nurse practitioners who also are
 937 psychiatric nurses as defined in s. 394.455. The formulary must
 938 also limit the prescribing of Schedule II controlled substances
 939 as listed in s. 893.03 to a 7-day supply, except that such
 940 restriction does not apply to controlled substances that are
 941 psychiatric medications prescribed by psychiatric nurses as
 942 defined in s. 394.455.

943 (b) The board shall adopt by rule the recommended
 944 formulary and any revision to the formulary which it finds is
 945 supported by evidence-based clinical findings presented by the
 946 Board of Medicine, the Board of Osteopathic Medicine, or the
 947 Board of Dentistry.

948 (c) The formulary required under this subsection does not
 949 apply to a controlled substance that is dispensed for
 950 administration pursuant to an order, including an order for

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951 medication authorized by subparagraph (4)(a)3., subparagraph
 952 (4)(a)4., or subparagraph (4)(a)9.

953 (d) The board shall adopt the committee's initial
 954 recommendation no later than October 31, 2016.

955 (8) This section shall be known as "The Barbara Lumpkin
 956 Prescribing Act."

957 Section 7. Section 464.0125, Florida Statutes, is created
 958 to read:

959 464.0125 Registration of independent advanced practice
 960 registered nurses; fees.-

961 (1) To be registered as an independent advanced practice
 962 registered nurse, an applicant must hold an active and
 963 unencumbered certificate under s. 464.012, and must have:

964 (a) Completed, in any jurisdiction of the United States,
 965 at least 2,000 clinical practice hours within a 3-year period
 966 immediately preceding the submission of the application and
 967 while practicing as an advanced practice registered nurse.

968 (b) Not been subject to any disciplinary action under s.
 969 464.018 or s. 456.072, or any similar disciplinary action in any
 970 other jurisdiction, during the 5 years immediately preceding the
 971 submission of the application.

972 (c) Completed a graduate level course in pharmacology.

973 (2) The board may provide by rule additional requirements
 974 appropriate for each applicant practicing in a specialty under
 975 s. 464.012(4).

976 (3) An independent advanced practice registered nurse may
 977 perform, without physician supervision or a protocol, the
 978 functions authorized in s. 464.012(3), the acts within his or
 979 her specialty as described in s. 464.012(4), and any of the
 980 following:

981 (a) For a patient who requires the services of a health
 982 care facility, as defined in s. 408.032(8):

983 1. Admit the patient to the facility.

984 2. Manage the care that the patient receives in the
 985 facility.

986 3. Discharge the patient from the facility.

987 (b) Provide a signature, certification, stamp,
 988 verification, affidavit, or other endorsement that is otherwise
 989 required by law to be provided by a physician.

990 (4) An advanced practice registered nurse registered under
 991 this section must submit to the department proof of registration
 992 along with the information required under s. 456.0391, and the
 993 department shall include the registration in the advanced
 994 practice registered nurse's practitioner profile created
 995 pursuant to s. 456.041.

996 (5) To be eligible for biennial renewal of registration,
 997 an independent advanced practice registered nurse must complete
 998 at least 10 hours of continuing education approved by the board
 999 in pharmacology in addition to completing the continuing
 1000 education requirements established by board rule pursuant to s.

1001 464.013. The biennial renewal for registration shall coincide
 1002 with the independent advanced practice registered nurse's
 1003 biennial renewal period for advanced practice registered nurse
 1004 certification. If the initial renewal period occurs before
 1005 January 1, 2018, an independent advanced practice registered
 1006 nurse is not required to complete the continuing education
 1007 requirement under this subsection until the following biennial
 1008 renewal period.

1009 (6) The board shall register any nurse meeting the
 1010 qualifications in this section. The board shall establish an
 1011 application fee not to exceed \$100 and a biennial renewal fee
 1012 not to exceed \$50. The board is authorized to adopt rules as
 1013 necessary to implement this section.

1014 Section 8. Subsections (8) and (9) of section 464.015,
 1015 Florida Statutes, are amended to read:

1016 464.015 Titles and abbreviations; restrictions; penalty.-

1017 (8) Only a person certified under s. 464.012 ~~persons who~~
 1018 ~~hold valid certificates~~ to practice as an advanced practice
 1019 ~~registered nurse practitioners~~ in this state may use the title
 1020 "Advanced Practice Registered Nurse Practitioner" and the
 1021 abbreviation "A.P.R.N." Only a person registered under s.
 1022 464.0125 to practice as an independent advanced practice
 1023 registered nurse in this state may use the title "Independent
 1024 Advanced Practice Registered Nurse" and the abbreviation
 1025 "I.A.P.R.N." ~~"A.R.N.P."~~

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1026 (9) A person may not practice or advertise as, or assume
 1027 the title of, registered nurse, licensed practical nurse,
 1028 clinical nurse specialist, certified registered nurse
 1029 anesthetist, certified nurse midwife, certified nurse
 1030 practitioner, ~~or~~ advanced practice registered nurse, or
 1031 independent advanced practice registered nurse practitioner or
 1032 use the abbreviation "R.N.," "L.P.N.," "C.N.S.," "C.R.N.A.,"
 1033 "C.N.M.," "C.N.P." "A.P.R.N.," or "I.A.P.R.N." "~~A.R.N.P.~~" or take
 1034 any other action that would lead the public to believe that
 1035 person was certified or registered as such or is performing
 1036 nursing services pursuant to the exception set forth in s.
 1037 464.022(8), unless that person is licensed, ~~or~~ certified,
 1038 registered to practice as such.

1039 Section 9. Section 464.0155, Florida Statutes, is created
 1040 to read:

1041 464.0155 Reports of adverse incidents by independent
 1042 advanced practice registered nurses.-

1043 (1) Effective January 1, 2018, an independent advanced
 1044 practice registered nurse must report an adverse incident to the
 1045 department in accordance with this section.

1046 (2) The report must be in writing, sent to the department
 1047 by certified mail, and postmarked within 15 days after the
 1048 adverse incident if the adverse incident occurs when the patient
 1049 is at the office of the independent advanced practice registered
 1050 nurse. If the adverse incident occurs when the patient is not at

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1051 the office of the independent advanced practice registered
 1052 nurse, the report must be postmarked within 15 days after the
 1053 independent advanced practice registered nurse discovers, or
 1054 reasonably should have discovered, the occurrence of the adverse
 1055 incident.

1056 (3) For the purpose of this section, the term "adverse
 1057 incident" means any of the following events when it is
 1058 reasonable to believe that the event is attributable to the
 1059 prescription of a controlled substance by the independent
 1060 advanced practice registered nurse:

1061 (a) A condition that requires the transfer of a patient to
 1062 a hospital licensed under chapter 395.

1063 (b) Permanent physical injury to the patient.

1064 (c) Death of the patient.

1065 (4) The department shall review each adverse incident and
 1066 determine whether the independent advanced practice registered
 1067 nurse caused the adverse incident. The board may take
 1068 disciplinary action upon such a finding, in which case s.
 1069 456.073 applies.

1070 Section 10. Paragraph (a) of subsection (2) of section
 1071 464.016, Florida Statutes, is amended to read:

1072 464.016 Violations and penalties.—

1073 (2) Each of the following acts constitutes a misdemeanor
 1074 of the first degree, punishable as provided in s. 775.082 or s.
 1075 775.083:

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1076 (a) Using the name or title "Nurse," "Registered Nurse,"
 1077 "Licensed Practical Nurse," "Clinical Nurse Specialist,"
 1078 "Certified Registered Nurse Anesthetist," "Certified Nurse
 1079 Midwife," "Certified Nurse Practitioner," "Advanced Practice
 1080 Registered Nurse ~~Practitioner,~~ " Independent Advanced Practice
 1081 Registered Nurse," or any other name or title that ~~which~~ implies
 1082 that a person was licensed, ~~or~~ certified, or registered as same,
 1083 unless such person is duly licensed, ~~or~~ certified, or
 1084 registered.

1085 Section 11. Paragraph (p) is amended and paragraph (r) is
 1086 added to subsection (1) of section 464.018, Florida Statutes, to
 1087 read:

1088 464.018 Disciplinary actions.—

1089 (1) The following acts constitute grounds for denial of a
 1090 license or disciplinary action, as specified in s. 456.072(2):

1091 (p) For an advanced practice registered nurse ~~practitioner~~
 1092 or an independent advanced practice registered nurse:

- 1093 1. Presigning blank prescription forms.
- 1094 2. Prescribing for office use any medicinal drug appearing
 1095 on Schedule II in chapter 893.
- 1096 3. Prescribing, ordering, dispensing, administering,
 1097 supplying, selling, or giving a drug that is an amphetamine, a
 1098 sympathomimetic amine drug, or a compound designated in s.
 1099 893.03(2) as a Schedule II controlled substance, to or for any
 1100 person except for:

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1101 a. The treatment of narcolepsy; hyperkinesis; behavioral
 1102 syndrome in children characterized by the developmentally
 1103 inappropriate symptoms of moderate to severe distractibility,
 1104 short attention span, hyperactivity, emotional lability, and
 1105 impulsivity; or drug-induced brain dysfunction.

1106 b. The differential diagnostic psychiatric evaluation of
 1107 depression or the treatment of depression shown to be refractory
 1108 to other therapeutic modalities.

1109 c. The clinical investigation of the effects of such drugs
 1110 or compounds when an investigative protocol is submitted to,
 1111 reviewed by, and approved by the department before such
 1112 investigation is begun.

1113 4. Prescribing, ordering, dispensing, administering,
 1114 supplying, selling, or giving growth hormones, testosterone or
 1115 its analogs, human chorionic gonadotropin (HCG), or other
 1116 hormones for the purpose of muscle building or to enhance
 1117 athletic performance. As used in this subparagraph, the term
 1118 "muscle building" does not include the treatment of injured
 1119 muscle. A prescription written for the drug products identified
 1120 in this subparagraph may be dispensed by a pharmacist with the
 1121 presumption that the prescription is for legitimate medical use.

1122 5. Promoting or advertising on any prescription form a
 1123 community pharmacy unless the form also states: "This
 1124 prescription may be filled at any pharmacy of your choice."

1125 6. Prescribing, dispensing, administering, mixing, or

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1126 otherwise preparing a legend drug, including a controlled
 1127 substance, other than in the course of his or her professional
 1128 practice. For the purposes of this subparagraph, it is legally
 1129 presumed that prescribing, dispensing, administering, mixing, or
 1130 otherwise preparing legend drugs, including all controlled
 1131 substances, inappropriately or in excessive or inappropriate
 1132 quantities is not in the best interest of the patient and is not
 1133 in the course of the advanced registered nurse practitioner's
 1134 professional practice, without regard to his or her intent.

1135 7. Prescribing, dispensing, or administering a medicinal
 1136 drug appearing on any schedule set forth in chapter 893 to
 1137 himself or herself, except a drug prescribed, dispensed, or
 1138 administered to the advanced practice registered nurse
 1139 ~~practitioner~~ or the independent advanced practice registered
 1140 nurse by another practitioner authorized to prescribe, dispense,
 1141 or administer medicinal drugs.

1142 8. Prescribing, ordering, dispensing, administering,
 1143 supplying, selling, or giving amygdalin (laetrile) to any
 1144 person.

1145 9. Dispensing a substance designated in s. 893.03(2) or
 1146 (3) as a substance controlled in Schedule II or Schedule III,
 1147 respectively, in violation of s. 465.0276.

1148 10. Promoting or advertising through any communication
 1149 medium the use, sale, or dispensing of a substance designated in
 1150 s. 893.03 as a controlled substance.

1151 (r) For an independent advanced practice registered nurse
 1152 registered under s. 464.0125:
 1153 1. Paying or receiving any commission, bonus, kickback, or
 1154 rebate, or engaging in any split-fee arrangement in any form
 1155 whatsoever with a health care practitioner, organization,
 1156 agency, or person, either directly or indirectly, for patients
 1157 referred to providers of health care goods and services,
 1158 including, but not limited to, hospitals, nursing homes,
 1159 clinical laboratories, ambulatory surgical centers, or
 1160 pharmacies. The provisions of this subparagraph may not be
 1161 construed to prevent an independent advanced practice registered
 1162 nurse from receiving a fee for professional consultation
 1163 services.
 1164 2. Exercising influence within a patient-independent advanced
 1165 practice registered nurse relationship for purposes of engaging
 1166 a patient in sexual activity. A patient shall be presumed to be
 1167 incapable of giving free, full, and informed consent to sexual
 1168 activity with his or her independent advanced practice
 1169 registered nurse.
 1170 3. Making deceptive, untrue, or fraudulent representations
 1171 in or related to the practice of advanced or specialized nursing
 1172 or employing a trick or scheme in the practice of advanced or
 1173 specialized nursing.
 1174 4. Soliciting patients, either personally or through an
 1175 agent, through the use of fraud, intimidation, undue influence,

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1176 | or a form of overreaching or vexatious conduct. A solicitation
 1177 | is any communication that directly or implicitly requests an
 1178 | immediate oral response from the recipient.

1179 | 5. Failing to keep legible, as defined by department rule
 1180 | in consultation with the board, medical records that identify
 1181 | the independent advanced practice registered nurse by name and
 1182 | professional title who is responsible for rendering, ordering,
 1183 | supervising, or billing for each diagnostic or treatment
 1184 | procedure and that justify the course of treatment of the
 1185 | patient, including, but not limited to, patient histories;
 1186 | examination results; test results; records of drugs prescribed,
 1187 | dispensed, or administered; and reports of consultations or
 1188 | referrals.

1189 | 6. Exercising influence on a patient or client in a manner
 1190 | as to exploit the patient or client for financial gain of the
 1191 | licensee or of a third party, which shall include, but not be
 1192 | limited to, the promoting or selling of services, goods,
 1193 | appliances, or drugs.

1194 | 7. Performing professional services that have not been
 1195 | duly authorized by the patient or client, or his or her legal
 1196 | representative, except as provided in s. 766.103 or s. 768.13.

1197 | 8. Performing any procedure or prescribing any therapy
 1198 | that, by the prevailing standards of advanced or specialized
 1199 | nursing practice in the community, would constitute

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1200 experimentation on a human subject, without first obtaining
 1201 full, informed, and written consent.

1202 9. Delegating professional responsibilities to a person
 1203 when the licensee delegating the responsibilities knows or has
 1204 reason to know that the person is not qualified by training,
 1205 experience, or licensure to perform the responsibilities.

1206 10. Conspiring with another independent advanced practice
 1207 registered nurse or with any other person to commit an act, or
 1208 committing an act, which would tend to coerce, intimidate, or
 1209 preclude another independent advanced practice registered nurse
 1210 from lawfully advertising his or her services.

1211 11. Advertising or holding oneself out as having
 1212 certification in a specialty that the independent advanced
 1213 practice registered nurse has not received.

1214 12. Failing to comply with the requirements of ss. 381.026
 1215 and 381.0261 to provide patients with information about their
 1216 patient rights and how to file a patient complaint.

1217 13. Providing deceptive or fraudulent expert witness
 1218 testimony related to the advanced or specialized practice of
 1219 nursing.

1220 Section 12. Paragraph (c) of subsection (5) and paragraph
 1221 (a) of subsection (6) of section 39.303, Florida Statutes, is
 1222 amended to read:

1223 39.303 Child protection teams; services; eligible cases.--

1224 (5) All abuse and neglect cases transmitted for

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1225 investigation to a district by the hotline must be
 1226 simultaneously transmitted to the Department of Health child
 1227 protection team for review. For the purpose of determining
 1228 whether face-to-face medical evaluation by a child protection
 1229 team is necessary, all cases transmitted to the child protection
 1230 team which meet the criteria in subsection (4) must be timely
 1231 reviewed by:

1232 (c) An advanced practice registered nurse certified, or an
 1233 independent advanced practice registered nurse registered,
 1234 ~~practitioner licensed~~ under chapter 464 who has a specialty in
 1235 pediatrics or family medicine and is a member of a child
 1236 protection team;

1237 (6) A face-to-face medical evaluation by a child
 1238 protection team is not necessary when:

1239 (a) The child was examined for the alleged abuse or
 1240 neglect by a physician or an independent advanced practice
 1241 registered nurse who is not a member of the child protection
 1242 team, and a consultation between the child protection team
 1243 board-certified pediatrician, advanced practice registered nurse
 1244 ~~practitioner~~, physician assistant working under the supervision
 1245 of a child protection team board-certified pediatrician, or
 1246 registered nurse working under the direct supervision of a child
 1247 protection team board-certified pediatrician, and the examining
 1248 practitioner ~~physician~~ concludes that a further medical
 1249 evaluation is unnecessary;

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1250
 1251 Notwithstanding paragraphs (a), (b), and (c), a child protection
 1252 team pediatrician, as authorized in subsection (5), may
 1253 determine that a face-to-face medical evaluation is necessary.

1254 Section 13. Paragraph (b) of subsection (1) of section
 1255 39.304, Florida Statutes, is amended to read:

1256 39.304 Photographs, medical examinations, X rays, and
 1257 medical treatment of abused, abandoned, or neglected child.—

1258 (1)

1259 (b) If the areas of trauma visible on a child indicate a
 1260 need for a medical examination, or if the child verbally
 1261 complains or otherwise exhibits distress as a result of injury
 1262 through suspected child abuse, abandonment, or neglect, or is
 1263 alleged to have been sexually abused, the person required to
 1264 investigate may cause the child to be referred for diagnosis to
 1265 a licensed physician, a physician assistant, an independent
 1266 advanced practice registered nurse, or an emergency department
 1267 in a hospital without the consent of the child's parents or
 1268 legal custodian. Such examination may be performed by a ~~any~~
 1269 licensed physician, a physician assistant, a registered
 1270 independent advanced practice registered nurse, or a certified
 1271 ~~an advanced practice registered nurse practitioner licensed~~
 1272 ~~pursuant to part I of chapter 464.~~ Any examining practitioner
 1273 ~~licensed physician, or advanced registered nurse practitioner~~
 1274 ~~licensed pursuant to part I of chapter 464,~~ who has reasonable

1275 cause to suspect that an injury was the result of child abuse,
 1276 abandonment, or neglect may authorize a radiological examination
 1277 to be performed on the child without the consent of the child's
 1278 parent or legal custodian.

1279 Section 14. Paragraph (a) of subsection (1) of section
 1280 90.503, Florida Statutes, is amended to read:

1281 90.503 Psychotherapist-patient privilege.-

1282 (1) For purposes of this section:

1283 (a) A "psychotherapist" is:

1284 1. A person authorized to practice medicine in any state
 1285 or nation, or reasonably believed by the patient so to be, who
 1286 is engaged in the diagnosis or treatment of a mental or
 1287 emotional condition, including alcoholism and other drug
 1288 addiction;

1289 2. A person licensed or certified as a psychologist under
 1290 the laws of any state or nation, who is engaged primarily in the
 1291 diagnosis or treatment of a mental or emotional condition,
 1292 including alcoholism and other drug addiction;

1293 3. A person licensed or certified as a clinical social
 1294 worker, marriage and family therapist, or mental health
 1295 counselor under the laws of this state, who is engaged primarily
 1296 in the diagnosis or treatment of a mental or emotional
 1297 condition, including alcoholism and other drug addiction;

1298 4. Treatment personnel of facilities licensed by the state
 1299 pursuant to chapter 394, chapter 395, or chapter 397, of

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1300 facilities designated by the Department of Children and Families
 1301 pursuant to chapter 394 as treatment facilities, or of
 1302 facilities defined as community mental health centers pursuant
 1303 to s. 394.907(1), who are engaged primarily in the diagnosis or
 1304 treatment of a mental or emotional condition, including
 1305 alcoholism and other drug addiction; or

1306 5. An independent advanced practice registered nurse or
 1307 advanced practice registered nurse ~~practitioner certified under~~
 1308 ~~s. 464.012~~, whose primary scope of practice is the diagnosis or
 1309 treatment of mental or emotional conditions, including chemical
 1310 abuse, and limited only to actions performed in accordance with
 1311 part I of chapter 464.

1312 Section 15. Subsection (7) of section 110.12315, Florida
 1313 Statutes, is amended to read:

1314 110.12315 Prescription drug program.—The state employees'
 1315 prescription drug program is established. This program shall be
 1316 administered by the Department of Management Services, according
 1317 to the terms and conditions of the plan as established by the
 1318 relevant provisions of the annual General Appropriations Act and
 1319 implementing legislation, subject to the following conditions:

1320 (7) The department shall establish the reimbursement
 1321 schedule for prescription pharmaceuticals dispensed under the
 1322 program. Reimbursement rates for a prescription pharmaceutical
 1323 must be based on the cost of the generic equivalent drug if a
 1324 generic equivalent exists, unless the physician, independent

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1325 advanced practice registered nurse, advanced practice registered
 1326 nurse ~~practitioner,~~ or physician assistant prescribing the
 1327 pharmaceutical clearly states on the prescription that the brand
 1328 name drug is medically necessary or that the drug product is
 1329 included on the formulary of drug products that may not be
 1330 interchanged as provided in chapter 465, in which case
 1331 reimbursement must be based on the cost of the brand name drug
 1332 as specified in the reimbursement schedule adopted by the
 1333 department.

1334 Section 16. Paragraph (e) of subsection (8) of section
 1335 112.0455, Florida Statutes, is amended to read:

1336 112.0455 Drug-Free Workplace Act.—

1337 (8) PROCEDURES AND EMPLOYEE PROTECTION.—All specimen
 1338 collection and testing for drugs under this section shall be
 1339 performed in accordance with the following procedures:

1340 (e) A specimen for a drug test may be taken or collected
 1341 by any of the following persons:

1342 1. A physician, a physician ~~physician's~~ assistant, an
 1343 independent advanced practice registered nurse, an advanced
 1344 practice registered nurse, a registered ~~professional~~ nurse, a
 1345 licensed practical nurse, ~~a nurse practitioner,~~ or a certified
 1346 paramedic who is present at the scene of an accident for the
 1347 purpose of rendering emergency medical service or treatment.

1348 2. A qualified person employed by a licensed laboratory.

1349 Section 17. Paragraph (f) of subsection (3) of section

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1350 121.0515, Florida Statutes, is amended to read:
1351 121.0515 Special Risk Class.—
1352 (3) CRITERIA.—A member, to be designated as a special risk
1353 member, must meet the following criteria:
1354 (f) Effective January 1, 2001, the member must be employed
1355 in one of the following classes and must spend at least 75
1356 percent of his or her time performing duties which involve
1357 contact with patients or inmates in a correctional or forensic
1358 facility or institution:
1359 1. Dietitian (class codes 5203 and 5204);
1360 2. Public health nutrition consultant (class code 5224);
1361 3. Psychological specialist (class codes 5230 and 5231);
1362 4. Psychologist (class code 5234);
1363 5. Senior psychologist (class codes 5237 and 5238);
1364 6. Regional mental health consultant (class code 5240);
1365 7. Psychological Services Director—DCF (class code 5242);
1366 8. Pharmacist (class codes 5245 and 5246);
1367 9. Senior pharmacist (class codes 5248 and 5249);
1368 10. Dentist (class code 5266);
1369 11. Senior dentist (class code 5269);
1370 12. Registered nurse (class codes 5290 and 5291);
1371 13. Senior registered nurse (class codes 5292 and 5293);
1372 14. Registered nurse specialist (class codes 5294 and
1373 5295);
1374 15. Clinical associate (class codes 5298 and 5299);

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1375 16. Advanced practice registered nurse ~~practitioner~~ (class
1376 codes 5297 and 5300);

1377 17. Advanced practice registered nurse ~~practitioner~~
1378 specialist (class codes 5304 and 5305);

1379 18. Registered nurse supervisor (class codes 5306 and
1380 5307);

1381 19. Senior registered nurse supervisor (class codes 5308
1382 and 5309);

1383 20. Registered nursing consultant (class codes 5312 and
1384 5313);

1385 21. Quality management program supervisor (class code
1386 5314);

1387 22. Executive nursing director (class codes 5320 and
1388 5321);

1389 23. Speech and hearing therapist (class code 5406); or

1390 24. Pharmacy manager (class code 5251);

1391 Section 18. Paragraph (a) of subsection (3) of section
1392 252.515, Florida Statutes, is amended to read:

1393 252.515 Postdisaster Relief Assistance Act; immunity from
1394 civil liability.—

1395 (3) As used in this section, the term:

1396 (a) "Emergency first responder" means:

1397 1. A physician licensed under chapter 458.

1398 2. An osteopathic physician licensed under chapter 459.

1399 3. A chiropractic physician licensed under chapter 460.

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- 1400 4. A podiatric physician licensed under chapter 461.
 1401 5. A dentist licensed under chapter 466.
 1402 6. An advanced practice registered nurse ~~practitioner~~
 1403 certified under s. 464.012.
 1404 7. A physician assistant licensed under s. 458.347 or s.
 1405 459.022.
 1406 8. A worker employed by a public or private hospital in
 1407 the state.
 1408 9. A paramedic as defined in s. 401.23(17).
 1409 10. An emergency medical technician as defined in s.
 1410 401.23(11).
 1411 11. A firefighter as defined in s. 633.102.
 1412 12. A law enforcement officer as defined in s. 943.10.
 1413 13. A member of the Florida National Guard.
 1414 14. Any other personnel designated as emergency personnel
 1415 by the Governor pursuant to a declared emergency.
 1416 Section 19. Paragraph (c) of subsection (1) of section
 1417 310.071, Florida Statutes, is amended to read:
 1418 310.071 Deputy pilot certification.—
 1419 (1) In addition to meeting other requirements specified in
 1420 this chapter, each applicant for certification as a deputy pilot
 1421 must:
 1422 (c) Be in good physical and mental health, as evidenced by
 1423 documentary proof of having satisfactorily passed a complete
 1424 physical examination administered by a licensed physician,

1425 licensed physician assistant, or registered independent advanced
 1426 practice registered nurse within the preceding 6 months. The
 1427 board shall adopt rules to establish requirements for passing
 1428 the physical examination, which rules shall establish minimum
 1429 standards for the physical or mental capabilities necessary to
 1430 carry out the professional duties of a certificated deputy
 1431 pilot. Such standards shall include zero tolerance for any
 1432 controlled substance regulated under chapter 893 unless that
 1433 individual is under the care of a physician, an independent
 1434 advanced practice registered nurse, an advanced practice
 1435 registered nurse ~~practitioner~~, or a physician assistant and that
 1436 controlled substance was prescribed by that physician,
 1437 independent advanced practice registered nurse, advanced
 1438 practice registered nurse ~~practitioner~~, or physician assistant.
 1439 To maintain eligibility as a certificated deputy pilot, each
 1440 certificated deputy pilot must annually provide documentary
 1441 proof of having satisfactorily passed a complete physical
 1442 examination administered by a licensed physician, licensed
 1443 physician assistant, or registered independent advanced practice
 1444 registered nurse. The ~~practitioner~~ physician must know the
 1445 minimum standards and certify that the certificateholder
 1446 satisfactorily meets the standards. The standards for
 1447 certificateholders shall include a drug test.

1448 Section 20. Subsection (3) of section 310.073, Florida
 1449 Statutes, is amended to read:

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1450 310.073 State pilot licensing.—In addition to meeting
 1451 other requirements specified in this chapter, each applicant for
 1452 license as a state pilot must:

1453 (3) Be in good physical and mental health, as evidenced by
 1454 documentary proof of having satisfactorily passed a complete
 1455 physical examination administered by a licensed physician,
 1456 licensed physician assistant, or registered independent advanced
 1457 practice registered nurse within the preceding 6 months. The
 1458 board shall adopt rules to establish requirements for passing
 1459 the physical examination, which rules shall establish minimum
 1460 standards for the physical or mental capabilities necessary to
 1461 carry out the professional duties of a licensed state pilot.
 1462 Such standards shall include zero tolerance for any controlled
 1463 substance regulated under chapter 893 unless that individual is
 1464 under the care of a physician, an independent advanced practice
 1465 registered nurse, an advanced practice registered nurse
 1466 ~~practitioner~~, or a physician assistant and that controlled
 1467 substance was prescribed by that physician, independent advanced
 1468 practice registered nurse, advanced practice registered nurse
 1469 ~~practitioner~~, or physician assistant. To maintain eligibility as
 1470 a licensed state pilot, each licensed state pilot must annually
 1471 provide documentary proof of having satisfactorily passed a
 1472 complete physical examination administered by a licensed
 1473 physician, licensed physician assistant, or registered
 1474 independent advanced practice registered nurse. The examining

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1475 practitioner ~~physician~~ must know the minimum standards and
 1476 certify that the licensee satisfactorily meets the standards.
 1477 The standards for licensees shall include a drug test.

1478 Section 21. Paragraph (b) of subsection (3) of section
 1479 310.081, Florida Statutes, is amended to read:

1480 310.081 Department to examine and license state pilots and
 1481 certificate deputy pilots; vacancies.-

1482 (3) Pilots shall hold their licenses or certificates
 1483 pursuant to the requirements of this chapter so long as they:

1484 (b) Are in good physical and mental health as evidenced by
 1485 documentary proof of having satisfactorily passed a physical
 1486 examination administered by a licensed physician, an independent
 1487 advanced practice registered nurse, or a physician assistant
 1488 within each calendar year. The board shall adopt rules to
 1489 establish requirements for passing the physical examination,
 1490 which rules shall establish minimum standards for the physical
 1491 or mental capabilities necessary to carry out the professional
 1492 duties of a licensed state pilot or a certificated deputy pilot.
 1493 Such standards shall include zero tolerance for any controlled
 1494 substance regulated under chapter 893 unless that individual is
 1495 under the care of a physician, independent advanced practice
 1496 registered nurse, an advanced practice registered nurse
 1497 ~~practitioner~~, or a physician assistant and that controlled
 1498 substance was prescribed by that physician, independent advanced
 1499 practice registered nurse, advanced practice registered nurse

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1500 ~~practitioner~~, or physician assistant. To maintain eligibility as
 1501 a certificated deputy pilot or licensed state pilot, each
 1502 certificated deputy pilot or licensed state pilot must annually
 1503 provide documentary proof of having satisfactorily passed a
 1504 complete physical examination administered by a licensed
 1505 physician. The examining practitioner ~~physician~~ must know the
 1506 minimum standards and certify that the certificateholder or
 1507 licensee satisfactorily meets the standards. The standards for
 1508 certificateholders and for licensees shall include a drug test.

1509
 1510 Upon resignation or in the case of disability permanently
 1511 affecting a pilot's ability to serve, the state license or
 1512 certificate issued under this chapter shall be revoked by the
 1513 department.

1514 Section 22. Paragraph (b) of subsection (1) of section
 1515 320.0848, Florida Statutes, is amended to read:

1516 320.0848 Persons who have disabilities; issuance of
 1517 disabled parking permits; temporary permits; permits for certain
 1518 providers of transportation services to persons who have
 1519 disabilities.-

1520 (1)

1521 (b)1. The person must be currently certified as being
 1522 legally blind or as having any of the following disabilities
 1523 that render him or her unable to walk 200 feet without stopping
 1524 to rest:

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1525 a. Inability to walk without the use of or assistance from
 1526 a brace, cane, crutch, prosthetic device, or other assistive
 1527 device, or without the assistance of another person. If the
 1528 assistive device significantly restores the person's ability to
 1529 walk to the extent that the person can walk without severe
 1530 limitation, the person is not eligible for the exemption parking
 1531 permit.

1532 b. The need to permanently use a wheelchair.

1533 c. Restriction by lung disease to the extent that the
 1534 person's forced (respiratory) expiratory volume for 1 second,
 1535 when measured by spirometry, is less than 1 liter, or the
 1536 person's arterial oxygen is less than 60 mm/hg on room air at
 1537 rest.

1538 d. Use of portable oxygen.

1539 e. Restriction by cardiac condition to the extent that the
 1540 person's functional limitations are classified in severity as
 1541 Class III or Class IV according to standards set by the American
 1542 Heart Association.

1543 f. Severe limitation in the person's ability to walk due
 1544 to an arthritic, neurological, or orthopedic condition.

1545 2. The certification of disability which is required under
 1546 subparagraph 1. must be provided by a physician licensed under
 1547 chapter 458, chapter 459, or chapter 460, by a podiatric
 1548 physician licensed under chapter 461; ~~by~~ an optometrist
 1549 licensed under chapter 463; ~~by~~ an independent advanced practice

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1550 registered nurse registered, or an advanced practice registered
 1551 nurse certified, practitioner licensed under part I of chapter
 1552 464; under the protocol of a licensed physician as stated in
 1553 ~~this subparagraph,~~ by a physician assistant licensed under
 1554 chapter 458 or chapter 459, or by a similarly licensed physician
 1555 from another state if the application is accompanied by
 1556 documentation of the physician's licensure in the other state
 1557 and a form signed by the out-of-state physician verifying his or
 1558 her knowledge of this state's eligibility guidelines.

1559 Section 23. Paragraph (c) of subsection (1) of section
 1560 381.00315, Florida Statutes, is amended to read:

1561 381.00315 Public health advisories; public health
 1562 emergencies; isolation and quarantines.—The State Health Officer
 1563 is responsible for declaring public health emergencies, issuing
 1564 public health advisories, and ordering isolation or quarantines.

1565 (1) As used in this section, the term:

1566 (c) "Public health emergency" means any occurrence, or
 1567 threat thereof, whether natural or manmade, which results or may
 1568 result in substantial injury or harm to the public health from
 1569 infectious disease, chemical agents, nuclear agents, biological
 1570 toxins, or situations involving mass casualties or natural
 1571 disasters. Before declaring a public health emergency, the State
 1572 Health Officer shall, to the extent possible, consult with the
 1573 Governor and shall notify the Chief of Domestic Security. The
 1574 declaration of a public health emergency shall continue until

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1575 the State Health Officer finds that the threat or danger has
 1576 been dealt with to the extent that the emergency conditions no
 1577 longer exist and he or she terminates the declaration. However,
 1578 a declaration of a public health emergency may not continue for
 1579 longer than 60 days unless the Governor concurs in the renewal
 1580 of the declaration. The State Health Officer, upon declaration
 1581 of a public health emergency, may take actions that are
 1582 necessary to protect the public health. Such actions include,
 1583 but are not limited to:

1584 1. Directing manufacturers of prescription drugs or over-
 1585 the-counter drugs who are permitted under chapter 499 and
 1586 wholesalers of prescription drugs located in this state who are
 1587 permitted under chapter 499 to give priority to the shipping of
 1588 specified drugs to pharmacies and health care providers within
 1589 geographic areas that have been identified by the State Health
 1590 Officer. The State Health Officer must identify the drugs to be
 1591 shipped. Manufacturers and wholesalers located in the state must
 1592 respond to the State Health Officer's priority shipping
 1593 directive before shipping the specified drugs.

1594 2. Notwithstanding chapters 465 and 499 and rules adopted
 1595 thereunder, directing pharmacists employed by the department to
 1596 compound bulk prescription drugs and provide these bulk
 1597 prescription drugs to physicians and nurses of county health
 1598 departments or any qualified person authorized by the State
 1599 Health Officer for administration to persons as part of a

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1600 prophylactic or treatment regimen.

1601 3. Notwithstanding s. 456.036, temporarily reactivating

1602 the inactive license of the following health care practitioners,

1603 when such practitioners are needed to respond to the public

1604 health emergency: physicians licensed under chapter 458 or

1605 chapter 459; physician assistants licensed under chapter 458 or

1606 chapter 459; independent advanced practice registered nurses

1607 registered ~~licensed~~ practical nurses ~~or~~ registered nurses

1608 licensed, and advanced practice registered nurses certified

1609 ~~nurse practitioners licensed~~ under part I of chapter 464;

1610 respiratory therapists licensed under part V of chapter 468; and

1611 emergency medical technicians and paramedics certified under

1612 part III of chapter 401. Only those health care practitioners

1613 specified in this paragraph who possess an unencumbered inactive

1614 license and who request that such license be reactivated are

1615 eligible for reactivation. An inactive license that is

1616 reactivated under this paragraph shall return to inactive status

1617 when the public health emergency ends or before the end of the

1618 public health emergency if the State Health Officer determines

1619 that the health care practitioner is no longer needed to provide

1620 services during the public health emergency. Such licenses may

1621 only be reactivated for a period not to exceed 90 days without

1622 meeting the requirements of s. 456.036 or chapter 401, as

1623 applicable.

1624 4. Ordering an individual to be examined, tested,

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1625 vaccinated, treated, isolated, or quarantined for communicable
 1626 diseases that have significant morbidity or mortality and
 1627 present a severe danger to public health. Individuals who are
 1628 unable or unwilling to be examined, tested, vaccinated, or
 1629 treated for reasons of health, religion, or conscience may be
 1630 subjected to isolation or quarantine.

1631 a. Examination, testing, vaccination, or treatment may be
 1632 performed by any qualified person authorized by the State Health
 1633 Officer.

1634 b. If the individual poses a danger to the public health,
 1635 the State Health Officer may subject the individual to isolation
 1636 or quarantine. If there is no practical method to isolate or
 1637 quarantine the individual, the State Health Officer may use any
 1638 means necessary to vaccinate or treat the individual.

1639
 1640 Any order of the State Health Officer given to effectuate this
 1641 paragraph shall be immediately enforceable by a law enforcement
 1642 officer under s. 381.0012.

1643 Section 24. Subsection (3) of section 381.00593, Florida
 1644 Statutes, is amended to read:

1645 381.00593 Public school volunteer health care practitioner
 1646 program.—

1647 (3) For purposes of this section, the term "health care
 1648 practitioner" means a physician or physician assistant licensed
 1649 under chapter 458; an osteopathic physician or physician

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1650 assistant licensed under chapter 459; a chiropractic physician
 1651 licensed under chapter 460; a podiatric physician licensed under
 1652 chapter 461; an optometrist licensed under chapter 463; an
 1653 independent advanced practice registered nurse registered, an
 1654 advanced practice registered nurse certified practitioner, or a
 1655 registered nurse, or licensed practical nurse licensed under
 1656 part I of chapter 464; a pharmacist licensed under chapter 465;
 1657 a dentist or dental hygienist licensed under chapter 466; a
 1658 midwife licensed under chapter 467; a speech-language
 1659 pathologist or audiologist licensed under part I of chapter 468;
 1660 a dietitian/nutritionist licensed under part X of chapter 468;
 1661 or a physical therapist licensed under chapter 486.

1662 Section 25. Paragraph (c) of subsection (2) of section
 1663 381.026, Florida Statutes, is amended to read:

1664 381.026 Florida Patient's Bill of Rights and
 1665 Responsibilities.—

1666 (2) DEFINITIONS.—As used in this section and s. 381.0261,
 1667 the term:

1668 (c) "Health care provider" means a physician or physician
 1669 assistant licensed under chapter 458, an osteopathic physician
 1670 or physician assistant licensed under chapter 459, ~~or~~ a
 1671 podiatric physician licensed under chapter 461, or an
 1672 independent advanced practice registered nurse registered under
 1673 part I of chapter 464.

1674 Section 26. Paragraph (a) of subsection (2) and

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1675 subsections (3), (4), and (5) of section 382.008, Florida
 1676 Statutes, are amended to read:
 1677 382.008 Death and fetal death registration.—
 1678 (2)(a) The funeral director who first assumes custody of a
 1679 dead body or fetus shall file the certificate of death or fetal
 1680 death. In the absence of the funeral director, the physician,
 1681 physician assistant, independent advanced practice registered
 1682 nurse, advanced practice registered nurse, or other person in
 1683 attendance at or after the death or the district medical
 1684 examiner of the county in which the death occurred or the body
 1685 was found shall file the certificate of death or fetal death.
 1686 The person who files the certificate shall obtain personal data
 1687 from a legally authorized person as described in s. 497.005 or
 1688 the best qualified person or source available. The medical
 1689 certification of cause of death shall be furnished to the
 1690 funeral director, either in person or via certified mail or
 1691 electronic transfer, by the physician, physician assistant,
 1692 independent advanced practice registered nurse, advanced
 1693 practice registered nurse, or medical examiner responsible for
 1694 furnishing such information. For fetal deaths, the physician,
 1695 certified nurse midwife, midwife, or hospital administrator
 1696 shall provide any medical or health information to the funeral
 1697 director within 72 hours after expulsion or extraction.
 1698 (3) Within 72 hours after receipt of a death or fetal
 1699 death certificate from the funeral director, the medical

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1700 certification of cause of death shall be completed and made
 1701 available to the funeral director by the decedent's primary or
 1702 attending practitioner ~~physician~~ or, if s. 382.011 applies, the
 1703 district medical examiner of the county in which the death
 1704 occurred or the body was found. The primary or attending
 1705 practitioner ~~physician~~ or the medical examiner shall certify
 1706 over his or her signature the cause of death to the best of his
 1707 or her knowledge and belief. As used in this section, the term
 1708 "primary or attending practitioner ~~physician~~" means a physician,
 1709 a physician assistant, an independent advanced practice
 1710 registered nurse, or an advanced practice registered nurse, who
 1711 treated the decedent through examination, medical advice, or
 1712 medication during the 12 months preceding the date of death.

1713 (a) The department may grant the funeral director an
 1714 extension of time upon a good and sufficient showing of any of
 1715 the following conditions:

- 1716 1. An autopsy is pending.
- 1717 2. Toxicology, laboratory, or other diagnostic reports
 1718 have not been completed.
- 1719 3. The identity of the decedent is unknown and further
 1720 investigation or identification is required.

1721 (b) If the decedent's primary or attending practitioner
 1722 ~~physician~~ or the district medical examiner of the county in
 1723 which the death occurred or the body was found indicates that he
 1724 or she will sign and complete the medical certification of cause

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1725 of death but will not be available until after the 5-day
 1726 registration deadline, the local registrar may grant an
 1727 extension of 5 days. If a further extension is required, the
 1728 funeral director must provide written justification to the
 1729 registrar.

1730 (4) If the department or local registrar grants an
 1731 extension of time to provide the medical certification of cause
 1732 of death, the funeral director shall file a temporary
 1733 certificate of death or fetal death which shall contain all
 1734 available information, including the fact that the cause of
 1735 death is pending. The decedent's primary or attending
 1736 practitioner physician or the district medical examiner of the
 1737 county in which the death occurred or the body was found shall
 1738 provide an estimated date for completion of the permanent
 1739 certificate.

1740 (5) A permanent certificate of death or fetal death,
 1741 containing the cause of death and any other information that was
 1742 previously unavailable, shall be registered as a replacement for
 1743 the temporary certificate. The permanent certificate may also
 1744 include corrected information if the items being corrected are
 1745 noted on the back of the certificate and dated and signed by the
 1746 funeral director, physician, physician assistant, independent
 1747 advanced practice registered nurse, advanced practice registered
 1748 nurse, or district medical examiner of the county in which the
 1749 death occurred or the body was found, as appropriate.

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1750 Section 27. Paragraph (c) of subsection (1) of section
1751 383.14, Florida Statutes, is amended to read:
1752 383.14 Screening for metabolic disorders, other hereditary
1753 and congenital disorders, and environmental risk factors.—
1754 (1) SCREENING REQUIREMENTS.—To help ensure access to the
1755 maternal and child health care system, the Department of Health
1756 shall promote the screening of all newborns born in Florida for
1757 metabolic, hereditary, and congenital disorders known to result
1758 in significant impairment of health or intellect, as screening
1759 programs accepted by current medical practice become available
1760 and practical in the judgment of the department. The department
1761 shall also promote the identification and screening of all
1762 newborns in this state and their families for environmental risk
1763 factors such as low income, poor education, maternal and family
1764 stress, emotional instability, substance abuse, and other high-
1765 risk conditions associated with increased risk of infant
1766 mortality and morbidity to provide early intervention,
1767 remediation, and prevention services, including, but not limited
1768 to, parent support and training programs, home visitation, and
1769 case management. Identification, perinatal screening, and
1770 intervention efforts shall begin prior to and immediately
1771 following the birth of the child by the attending health care
1772 provider. Such efforts shall be conducted in hospitals,
1773 perinatal centers, county health departments, school health
1774 programs that provide prenatal care, and birthing centers, and

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1775 reported to the Office of Vital Statistics.

1776 (c) Release of screening results.—Notwithstanding any law
 1777 to the contrary, the State Public Health Laboratory may release,
 1778 directly or through the Children's Medical Services program, the
 1779 results of a newborn's hearing and metabolic tests or screenings
 1780 to the newborn's health care practitioner. As used in this
 1781 paragraph, the term "health care practitioner" means a physician
 1782 or physician assistant licensed under chapter 458; an
 1783 osteopathic physician or physician assistant licensed under
 1784 chapter 459; an independent advanced practice registered nurse
 1785 registered, an advanced practice registered nurse certified
 1786 practitioner, or a registered nurse, or ~~licensed~~ practical nurse
 1787 licensed under part I of chapter 464; a midwife licensed under
 1788 chapter 467; a speech-language pathologist or audiologist
 1789 licensed under part I of chapter 468; or a dietician or
 1790 nutritionist licensed under part X of chapter 468.

1791 Section 28. Paragraph (c) of subsection (1) of section
 1792 383.141, Florida Statutes, is amended to read:

1793 383.141 Prenatally diagnosed conditions; patient to be
 1794 provided information; definitions; information clearinghouse;
 1795 advisory council.—

1796 (1) As used in this section, the term:

1797 (c) "Health care provider" means a practitioner licensed
 1798 or registered under chapter 458 or chapter 459, or an
 1799 independent advanced practice registered nurse registered, or an

1800 advanced practice registered nurse ~~practitioner~~ certified, under
 1801 part I of chapter 464.

1802 Section 29. Paragraph (a) of subsection (7) of section
 1803 384.27, Florida Statutes, is amended to read:

1804 384.27 Physical examination and treatment.—

1805 (7)(a) A health care practitioner licensed under chapter
 1806 458 or chapter 459, registered under s. 464.0125, or certified
 1807 under s. 464.012 may provide expedited partner therapy if the
 1808 following requirements are met:

1809 1. The patient has a laboratory-confirmed or suspected
 1810 clinical diagnosis of a sexually transmissible disease.

1811 2. The patient indicates that he or she has a partner with
 1812 whom he or she engaged in sexual activity before the diagnosis
 1813 of the sexually transmissible disease.

1814 3. The patient indicates that his or her partner is unable
 1815 or unlikely to seek clinical services in a timely manner.

1816 Section 30. Paragraph (a) of subsection (3) of section
 1817 390.0111, Florida Statutes, is amended to read:

1818 390.0111 Termination of pregnancies.—

1819 (3) CONSENTS REQUIRED.—A termination of pregnancy may not
 1820 be performed or induced except with the voluntary and informed
 1821 written consent of the pregnant woman or, in the case of a
 1822 mental incompetent, the voluntary and informed written consent
 1823 of her court-appointed guardian.

1824 (a) Except in the case of a medical emergency, consent to

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1825 a termination of pregnancy is voluntary and informed only if:
 1826 1. The physician who is to perform the procedure, or the
 1827 referring physician, has, at a minimum, orally, while physically
 1828 present in the same room, and at least 24 hours before the
 1829 procedure, informed the woman of:
 1830 a. The nature and risks of undergoing or not undergoing
 1831 the proposed procedure that a reasonable patient would consider
 1832 material to making a knowing and willful decision of whether to
 1833 terminate a pregnancy.
 1834 b. The probable gestational age of the fetus, verified by
 1835 an ultrasound, at the time the termination of pregnancy is to be
 1836 performed.
 1837 (I) The ultrasound must be performed by the physician who
 1838 is to perform the abortion or by a person having documented
 1839 evidence that he or she has completed a course in the operation
 1840 of ultrasound equipment as prescribed by rule and who is working
 1841 in conjunction with the physician.
 1842 (II) The person performing the ultrasound must offer the
 1843 woman the opportunity to view the live ultrasound images and
 1844 hear an explanation of them. If the woman accepts the
 1845 opportunity to view the images and hear the explanation, a
 1846 physician or a registered nurse, licensed practical nurse,
 1847 advanced practice registered nurse ~~practitioner~~, an independent
 1848 advanced practice registered nurse, or a physician assistant
 1849 working in conjunction with the physician must contemporaneously

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1850 review and explain the images to the woman before the woman
 1851 gives informed consent to having an abortion procedure
 1852 performed.

1853 (III) The woman has a right to decline to view and hear
 1854 the explanation of the live ultrasound images after she is
 1855 informed of her right and offered an opportunity to view the
 1856 images and hear the explanation. If the woman declines, the
 1857 woman shall complete a form acknowledging that she was offered
 1858 an opportunity to view and hear the explanation of the images
 1859 but that she declined that opportunity. The form must also
 1860 indicate that the woman's decision was not based on any undue
 1861 influence from any person to discourage her from viewing the
 1862 images or hearing the explanation and that she declined of her
 1863 own free will.

1864 (IV) Unless requested by the woman, the person performing
 1865 the ultrasound may not offer the opportunity to view the images
 1866 and hear the explanation and the explanation may not be given
 1867 if, at the time the woman schedules or arrives for her
 1868 appointment to obtain an abortion, a copy of a restraining
 1869 order, police report, medical record, or other court order or
 1870 documentation is presented which provides evidence that the
 1871 woman is obtaining the abortion because the woman is a victim of
 1872 rape, incest, domestic violence, or human trafficking or that
 1873 the woman has been diagnosed as having a condition that, on the
 1874 basis of a physician's good faith clinical judgment, would

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1875 create a serious risk of substantial and irreversible impairment
 1876 of a major bodily function if the woman delayed terminating her
 1877 pregnancy.

1878 c. The medical risks to the woman and fetus of carrying
 1879 the pregnancy to term.

1880

1881 The physician may provide the information required in this
 1882 subparagraph within 24 hours before the procedure if requested
 1883 by the woman at the time she schedules or arrives for her
 1884 appointment to obtain an abortion and if she presents to the
 1885 physician a copy of a restraining order, police report, medical
 1886 record, or other court order or documentation evidencing that
 1887 she is obtaining the abortion because she is a victim of rape,
 1888 incest, domestic violence, or human trafficking.

1889 2. Printed materials prepared and provided by the
 1890 department have been provided to the pregnant woman, if she
 1891 chooses to view these materials, including:

1892 a. A description of the fetus, including a description of
 1893 the various stages of development.

1894 b. A list of entities that offer alternatives to
 1895 terminating the pregnancy.

1896 c. Detailed information on the availability of medical
 1897 assistance benefits for prenatal care, childbirth, and neonatal
 1898 care.

1899 3. The woman acknowledges in writing, before the

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1900 termination of pregnancy, that the information required to be
 1901 provided under this subsection has been provided.
 1902
 1903 Nothing in this paragraph is intended to prohibit a physician
 1904 from providing any additional information which the physician
 1905 deems material to the woman's informed decision to terminate her
 1906 pregnancy.
 1907 Section 31. Paragraphs (c), (e), and (f) of subsection (3)
 1908 of section 390.012, Florida Statutes, are amended to read:
 1909 390.012 Powers of agency; rules; disposal of fetal
 1910 remains.—
 1911 (3) For clinics that perform or claim to perform abortions
 1912 after the first trimester of pregnancy, the agency shall adopt
 1913 rules pursuant to ss. 120.536(1) and 120.54 to implement the
 1914 provisions of this chapter, including the following:
 1915 (c) Rules relating to abortion clinic personnel. At a
 1916 minimum, these rules shall require that:
 1917 1. The abortion clinic designate a medical director who is
 1918 licensed to practice medicine in this state, and all physicians
 1919 who perform abortions in the clinic have admitting privileges at
 1920 a hospital within reasonable proximity to the clinic, unless the
 1921 clinic has a written patient transfer agreement with a hospital
 1922 within reasonable proximity to the clinic which includes the
 1923 transfer of the patient's medical records held by both the
 1924 clinic and the treating physician.

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1925 2. If a physician is not present after an abortion is
 1926 performed, a registered nurse, a licensed practical nurse, an
 1927 independent advanced practice registered nurse, an advanced
 1928 practice registered nurse practitioner, or a physician assistant
 1929 be present and remain at the clinic to provide postoperative
 1930 monitoring and care until the patient is discharged.

1931 3. Surgical assistants receive training in counseling,
 1932 patient advocacy, and the specific responsibilities associated
 1933 with the services the surgical assistants provide.

1934 4. Volunteers receive training in the specific
 1935 responsibilities associated with the services the volunteers
 1936 provide, including counseling and patient advocacy as provided
 1937 in the rules adopted by the director for different types of
 1938 volunteers based on their responsibilities.

1939 (e) Rules relating to the abortion procedure. At a
 1940 minimum, these rules shall require:

1941 1. That a physician, a registered nurse, a licensed
 1942 practical nurse, an advanced practice registered nurse
 1943 practitioner, an independent advanced practice registered nurse,
 1944 or a physician assistant is available to all patients throughout
 1945 the abortion procedure.

1946 2. Standards for the safe conduct of abortion procedures
 1947 that conform to obstetric standards in keeping with established
 1948 standards of care regarding the estimation of fetal age as
 1949 defined in rule.

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1950 3. Appropriate use of general and local anesthesia,
 1951 analgesia, and sedation if ordered by the physician.
 1952 4. Appropriate precautions, such as the establishment of
 1953 intravenous access at least for patients undergoing post-first
 1954 trimester abortions.
 1955 5. Appropriate monitoring of the vital signs and other
 1956 defined signs and markers of the patient's status throughout the
 1957 abortion procedure and during the recovery period until the
 1958 patient's condition is deemed to be stable in the recovery room.
 1959 (f) Rules that prescribe minimum recovery room standards.
 1960 At a minimum, these rules must require that:
 1961 1. Postprocedure recovery rooms be supervised and staffed
 1962 to meet the patients' needs.
 1963 2. Immediate postprocedure care consist of observation in
 1964 a supervised recovery room for as long as the patient's
 1965 condition warrants.
 1966 3. A registered nurse, a licensed practical nurse, an
 1967 advanced practice registered nurse practitioner, an independent
 1968 advanced practice registered nurse, or physician assistant who
 1969 is trained in the management of the recovery area and is capable
 1970 of providing basic cardiopulmonary resuscitation and related
 1971 emergency procedures remain on the premises of the abortion
 1972 clinic until all patients are discharged.
 1973 4. A physician sign the discharge order and be readily
 1974 accessible and available until the last patient is discharged to

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1975 facilitate the transfer of emergency cases if hospitalization of
 1976 the patient or viable fetus is necessary.

1977 5. A physician discuss Rho(D) immune globulin with each
 1978 patient for whom it is indicated and ensure that it is offered
 1979 to the patient in the immediate postoperative period or will be
 1980 available to her within 72 hours after completion of the
 1981 abortion procedure. If the patient refuses the Rho(D) immune
 1982 globulin, she and a witness must sign a refusal form approved by
 1983 the agency which must be included in the medical record.

1984 6. Written instructions with regard to postabortion
 1985 coitus, signs of possible problems, and general aftercare which
 1986 are specific to the patient be given to each patient. The
 1987 instructions must include information regarding access to
 1988 medical care for complications, including a telephone number for
 1989 use in the event of a medical emergency.

1990 7. A minimum length of time be specified, by type of
 1991 abortion procedure and duration of gestation, during which a
 1992 patient must remain in the recovery room.

1993 8. The physician ensures ~~ensure~~ that, with the patient's
 1994 consent, a registered nurse, a licensed practical nurse, an
 1995 advanced practice registered nurse ~~practitioner~~, an independent
 1996 advance practice registered nurse, or a physician assistant from
 1997 the abortion clinic makes a good faith effort to contact the
 1998 patient by telephone within 24 hours after surgery to assess the
 1999 patient's recovery.

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2000 9. Equipment and services be readily accessible to provide
 2001 appropriate emergency resuscitative and life support procedures
 2002 pending the transfer of the patient or viable fetus to the
 2003 hospital.

2004 Section 32. Subsection (35) of section 394.455, Florida
 2005 Statutes, is amended to read:

2006 394.455 Definitions.—As used in this part, the term:

2007 (35) "Psychiatric nurse" means an advanced practice
 2008 registered nurse ~~practitioner~~ certified or an independent
 2009 advanced practice registered nurse registered under part I of
 2010 chapter 464 s. ~~464.012~~ who has a master's or doctoral degree in
 2011 psychiatric nursing, holds a national advanced practice
 2012 certification as a psychiatric mental health advanced practice
 2013 nurse, and has 2 years of post-master's clinical experience
 2014 under the supervision of a physician, or an independent advanced
 2015 practice registered nurse registered under, or an advanced
 2016 practice registered nurse certified under, part I of chapter
 2017 464, who obtains national certification as a psychiatric-mental
 2018 health advanced practice nurse.

2019 Section 33. Paragraphs (a) and (f) of subsection (2) of
 2020 section 394.463, Florida Statutes, are amended to read:

2021 394.463 Involuntary examination.—

2022 (2) INVOLUNTARY EXAMINATION.—

2023 (a) An involuntary examination may be initiated by any one
 2024 of the following means:

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2025 1. A circuit or county court may enter an ex parte order
 2026 stating that a person appears to meet the criteria for
 2027 involuntary examination and specifying the findings on which
 2028 that conclusion is based. The ex parte order for involuntary
 2029 examination must be based on written or oral sworn testimony
 2030 that includes specific facts that support the findings. If other
 2031 less restrictive means are not available, such as voluntary
 2032 appearance for outpatient evaluation, a law enforcement officer,
 2033 or other designated agent of the court, shall take the person
 2034 into custody and deliver him or her to an appropriate, or the
 2035 nearest, facility within the designated receiving system
 2036 pursuant to s. 394.462 for involuntary examination. The order of
 2037 the court shall be made a part of the patient's clinical record.
 2038 A fee may not be charged for the filing of an order under this
 2039 subsection. A facility accepting the patient based on this order
 2040 must send a copy of the order to the department the next working
 2041 day. The order may be submitted electronically through existing
 2042 data systems, if available. The order shall be valid only until
 2043 the person is delivered to the facility or for the period
 2044 specified in the order itself, whichever comes first. If no time
 2045 limit is specified in the order, the order shall be valid for 7
 2046 days after the date that the order was signed.

2047 2. A law enforcement officer shall take a person who
 2048 appears to meet the criteria for involuntary examination into
 2049 custody and deliver the person or have him or her delivered to

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2050 an appropriate, or the nearest, facility within the designated
 2051 receiving system pursuant to s. 394.462 for examination. The
 2052 officer shall execute a written report detailing the
 2053 circumstances under which the person was taken into custody,
 2054 which must be made a part of the patient's clinical record. Any
 2055 facility accepting the patient based on this report must send a
 2056 copy of the report to the department the next working day.

2057 3. A physician, a physician assistant, a clinical
 2058 psychologist, a psychiatric nurse, an independent advanced
 2059 practice registered nurse, an advanced practice registered
 2060 nurse, a mental health counselor, marriage and family therapist,
 2061 or clinical social worker may execute a certificate stating that
 2062 he or she has examined a person within the preceding 48 hours
 2063 and finds that the person appears to meet the criteria for
 2064 involuntary examination and stating the observations upon which
 2065 that conclusion is based. If other less restrictive means, such
 2066 as voluntary appearance for outpatient evaluation, are not
 2067 available, a law enforcement officer shall take into custody the
 2068 person named in the certificate and deliver him or her to the
 2069 appropriate, or nearest, facility within the designated
 2070 receiving system pursuant to s. 394.462 for involuntary
 2071 examination. The law enforcement officer shall execute a written
 2072 report detailing the circumstances under which the person was
 2073 taken into custody. The report and certificate shall be made a
 2074 part of the patient's clinical record. Any facility accepting

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2075 | the patient based on this certificate must send a copy of the
 2076 | certificate to the department the next working day. The document
 2077 | may be submitted electronically through existing data systems,
 2078 | if applicable.

2079 | (f) A patient shall be examined by a physician, physician
 2080 | assistant, ~~or~~ a clinical psychologist, or by a psychiatric nurse
 2081 | performing within the framework of an established protocol with
 2082 | a psychiatrist at a facility without unnecessary delay to
 2083 | determine if the criteria for involuntary services are met.
 2084 | Emergency treatment may be provided upon the order of a
 2085 | physician if the physician determines that such treatment is
 2086 | necessary for the safety of the patient or others. The patient
 2087 | may not be released by the receiving facility or its contractor
 2088 | without the documented approval of a psychiatrist or a clinical
 2089 | psychologist or, if the receiving facility is owned or operated
 2090 | by a hospital or health system, the release may also be approved
 2091 | by a psychiatric nurse performing within the framework of an
 2092 | established protocol with a psychiatrist, or an attending
 2093 | emergency department physician with experience in the diagnosis
 2094 | and treatment of mental illness after completion of an
 2095 | involuntary examination pursuant to this subsection. A
 2096 | psychiatric nurse may not approve the release of a patient if
 2097 | the involuntary examination was initiated by a psychiatrist
 2098 | unless the release is approved by the initiating psychiatrist.

2099 | Section 34. Paragraphs (a) and (b) of subsection (2) and

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2100 subsection (4) of section 395.0191, Florida Statutes, are
 2101 amended to read:
 2102 395.0191 Staff membership and clinical privileges.—
 2103 (2)(a) Each licensed facility shall establish rules and
 2104 procedures for consideration of an application for clinical
 2105 privileges submitted by an independent advanced practice
 2106 registered nurse registered, or an advanced practice registered
 2107 nurse practitioner licensed and certified, under part I of
 2108 chapter 464, in accordance with the provisions of this section.
 2109 A ~~No~~ licensed facility may not shall deny such application
 2110 solely because the applicant is registered or certified licensed
 2111 under part I of chapter 464 or because the applicant is not a
 2112 participant in the Florida Birth-Related Neurological Injury
 2113 Compensation Plan.
 2114 (b) An advanced practice registered nurse ~~practitioner~~ who
 2115 is a ~~certified as a~~ registered nurse anesthetist ~~licensed~~ under
 2116 part I of chapter 464 shall administer anesthesia under the
 2117 onsite medical direction of a professional licensed under
 2118 chapter 458, chapter 459, or chapter 466, and in accordance with
 2119 an established protocol approved by the medical staff. The
 2120 medical direction shall specifically address the needs of the
 2121 individual patient. This paragraph does not apply to an
 2122 independent advanced practice registered nurse who is a
 2123 certified registered nurse anesthetist under part I of chapter
 2124 464.

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2125 (4) Nothing herein shall restrict in any way the authority
 2126 of the medical staff of a licensed facility to review for
 2127 approval or disapproval all applications for appointment and
 2128 reappointment to all categories of staff and to make
 2129 recommendations on each applicant to the governing board,
 2130 including the delineation of privileges to be granted in each
 2131 case. In making such recommendations and in the delineation of
 2132 privileges, each applicant shall be considered individually
 2133 pursuant to criteria for a doctor licensed under chapter 458,
 2134 chapter 459, chapter 461, or chapter 466;~~or~~ for an independent
 2135 advanced practice registered nurse registered, or an advanced
 2136 practice registered nurse practitioner licensed and certified
 2137 under part I of chapter 464;~~or~~ or for a psychologist licensed
 2138 under chapter 490, as applicable. The applicant's eligibility
 2139 for staff membership or clinical privileges shall be determined
 2140 by the applicant's background, experience, health, training, and
 2141 demonstrated competency; the applicant's adherence to applicable
 2142 professional ethics; the applicant's reputation; and the
 2143 applicant's ability to work with others and by such other
 2144 elements as determined by the governing board, consistent with
 2145 this part.

2146 Section 35. Subsection (3) of section 395.602, Florida
 2147 Statutes, is amended to read:

2148 395.602 Rural hospitals.—

2149 (3) USE OF FUNDS.—It is the intent of the Legislature that

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2150 funds as appropriated shall be utilized by the department for
 2151 the purpose of increasing the number of primary care physicians,
 2152 physician assistants, certified nurse midwives, certified nurse
 2153 practitioners, and nurses in rural areas, either through the
 2154 Medical Education Reimbursement and Loan Repayment Program as
 2155 defined by s. 1009.65 or through a federal loan repayment
 2156 program which requires state matching funds. The department may
 2157 use funds appropriated for the Medical Education Reimbursement
 2158 and Loan Repayment Program as matching funds for federal loan
 2159 repayment programs for health care personnel, such as that
 2160 authorized in Pub. L. No. 100-177, s. 203. If the department
 2161 receives federal matching funds, the department shall only
 2162 implement the federal program. Reimbursement through either
 2163 program shall be limited to:

2164 (a) Primary care physicians, physician assistants,
 2165 certified nurse midwives, certified nurse practitioners, and
 2166 nurses employed by or affiliated with rural hospitals, as
 2167 defined in this act; and

2168 (b) Primary care physicians, physician assistants,
 2169 certified nurse midwives, certified nurse practitioners, and
 2170 nurses employed by or affiliated with rural area health
 2171 education centers, as defined in this section. These personnel
 2172 shall practice:

2173 1. In a county with a population density of no greater
 2174 than 100 persons per square mile; or

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2175 2. Within the boundaries of a hospital tax district which
2176 encompasses a population of no greater than 100 persons per
2177 square mile.

2178
2179 If the department administers a federal loan repayment program,
2180 priority shall be given to obligating state and federal matching
2181 funds pursuant to paragraphs (a) and (b). The department may use
2182 federal matching funds in other health workforce shortage areas
2183 and medically underserved areas in the state for loan repayment
2184 programs for primary care physicians, physician assistants,
2185 certified nurse midwives, certified nurse practitioners, and
2186 nurses who are employed by publicly financed health care
2187 programs that serve medically indigent persons.

2188 Section 36. Paragraphs (b) and (c) of subsection (8) of
2189 section 395.605, Florida Statutes, are amended to read:

2190 395.605 Emergency care hospitals.—

2191 (8)

2192 (b) All patients shall be under the care of a physician or
2193 an independent advanced practice registered nurse or under the
2194 care of an ~~a~~ advanced practice registered nurse practitioner or
2195 a physician assistant supervised by a physician.

2196 (c) A physician, an independent advanced practice
2197 registered nurse, an advanced practice registered nurse
2198 ~~practitioner~~, or a physician assistant shall be on duty at all
2199 times, or a physician shall be on call and available within 30

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2200 minutes at all times.

2201 Section 37. Subsection (33) of section 397.311, Florida
 2202 Statutes, is amended to read:

2203 397.311 Definitions.—As used in this chapter, except part
 2204 VIII, the term:

2205 (33) "Qualified professional" means a physician or a
 2206 physician assistant licensed under chapter 458 or chapter 459; a
 2207 professional licensed under chapter 490 or chapter 491; an
 2208 independent advanced practice registered nurse registered or
 2209 advanced practice registered nurse certified practitioner
 2210 ~~licensed~~ under part I of chapter 464; or a person who is
 2211 certified through a department-recognized certification process
 2212 for substance abuse treatment services and who holds, at a
 2213 minimum, a bachelor's degree. A person who is certified in
 2214 substance abuse treatment services by a state-recognized
 2215 certification process in another state at the time of employment
 2216 with a licensed substance abuse provider in this state may
 2217 perform the functions of a qualified professional as defined in
 2218 this chapter but must meet certification requirements contained
 2219 in this subsection no later than 1 year after his or her date of
 2220 employment.

2221 Section 38. Section 397.405, Florida Statutes, is amended
 2222 to read:

2223 397.405 Exemptions from licensure.—The following are
 2224 exempt from the licensing provisions of this chapter:

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- 2225 (1) A hospital or hospital-based component licensed under
 2226 chapter 395.
- 2227 (2) A nursing home facility as defined in s. 400.021.
- 2228 (3) A substance abuse education program established
 2229 pursuant to s. 1003.42.
- 2230 (4) A facility or institution operated by the Federal
 2231 Government.
- 2232 (5) A physician or physician assistant licensed under
 2233 chapter 458 or chapter 459.
- 2234 (6) A psychologist licensed under chapter 490.
- 2235 (7) A social worker, marriage and family therapist, or
 2236 mental health counselor licensed under chapter 491.
- 2237 (8) A legally cognizable church or nonprofit religious
 2238 organization or denomination providing substance abuse services,
 2239 including prevention services, which are solely religious,
 2240 spiritual, or ecclesiastical in nature. A church or nonprofit
 2241 religious organization or denomination providing any of the
 2242 licensed service components itemized under s. 397.311(25) is not
 2243 exempt from substance abuse licensure but retains its exemption
 2244 with respect to all services which are solely religious,
 2245 spiritual, or ecclesiastical in nature.
- 2246 (9) Facilities licensed under chapter 393 which, in
 2247 addition to providing services to persons with developmental
 2248 disabilities, also provide services to persons developmentally
 2249 at risk as a consequence of exposure to alcohol or other legal

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2250 or illegal drugs while in utero.

2251 (10) DUI education and screening services provided

2252 pursuant to ss. 316.192, 316.193, 322.095, 322.271, and 322.291.

2253 Persons or entities providing treatment services must be

2254 licensed under this chapter unless exempted from licensing as

2255 provided in this section.

2256 (11) A facility licensed under s. 394.875 as a crisis

2257 stabilization unit.

2258

2259 The exemptions from licensure in this section do not apply to

2260 any service provider that receives an appropriation, grant, or

2261 contract from the state to operate as a service provider as

2262 defined in this chapter or to any substance abuse program

2263 regulated pursuant to s. 397.406. Furthermore, this chapter may

2264 not be construed to limit the practice of a physician or

2265 physician assistant licensed under chapter 458 or chapter 459, a

2266 psychologist licensed under chapter 490, a psychotherapist

2267 licensed under chapter 491, or an independent advanced practice

2268 registered nurse registered, or an advanced practice registered

2269 nurse certified, practitioner licensed under part I of chapter

2270 464, who provides substance abuse treatment, unless a

2271 practitioner represents so long as the physician, physician

2272 assistant, psychologist, psychotherapist, or advanced registered

2273 nurse practitioner does not represent to the public that the

2274 practitioner he or she is a licensed service provider and

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2275 provides ~~does not provide~~ services to individuals pursuant to
 2276 part V of this chapter. Failure to comply with any requirement
 2277 necessary to maintain an exempt status under this section is a
 2278 misdemeanor of the first degree, punishable as provided in s.
 2279 775.082 or s. 775.083.

2280 Section 39. Subsections (4), (7), and (8) of section
 2281 397.427, Florida Statutes, are amended to read:

2282 397.427 Medication-assisted treatment service providers;
 2283 rehabilitation program; needs assessment and provision of
 2284 services; persons authorized to issue takeout medication;
 2285 unlawful operation; penalty.—

2286 (4) Notwithstanding s. 465.019(2), a physician assistant,
 2287 a registered nurse, an advanced practice registered nurse
 2288 ~~practitioner~~, or a licensed practical nurse working for a
 2289 licensed service provider may deliver takeout medication for
 2290 opiate treatment to persons enrolled in a maintenance treatment
 2291 program for medication-assisted treatment for opiate addiction
 2292 if:

2293 (a) The medication-assisted treatment program for opiate
 2294 addiction has an appropriate valid permit issued pursuant to
 2295 rules adopted by the Board of Pharmacy;

2296 (b) The medication for treatment of opiate addiction has
 2297 been delivered pursuant to a valid prescription written by the
 2298 program's physician licensed pursuant to chapter 458 or chapter
 2299 459;

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2300 (c) The medication for treatment of opiate addiction which
 2301 is ordered appears on a formulary and is prepackaged and
 2302 prelabeled with dosage instructions and distributed from a
 2303 source authorized under chapter 499;

2304 (d) Each licensed provider adopts written protocols which
 2305 provide for supervision of the physician assistant, registered
 2306 nurse, advanced practice registered nurse ~~practitioner~~, or
 2307 licensed practical nurse by a physician licensed pursuant to
 2308 chapter 458 or chapter 459 and for the procedures by which
 2309 patients' medications may be delivered by the physician
 2310 assistant, registered nurse, advanced practice registered nurse
 2311 ~~practitioner~~, or licensed practical nurse. Such protocols shall
 2312 be signed by the supervising physician and either the
 2313 administering registered nurse, the advanced practice registered
 2314 nurse ~~practitioner~~, or the licensed practical nurse.

2315 (e) Each licensed service provider maintains and has
 2316 available for inspection by representatives of the Board of
 2317 Pharmacy all medical records and patient care protocols,
 2318 including records of medications delivered to patients, in
 2319 accordance with the board.

2320 (7) A physician assistant, a registered nurse, an advanced
 2321 practice registered nurse ~~practitioner~~, or a licensed practical
 2322 nurse working for a licensed service provider may deliver
 2323 medication as prescribed by rule if:

2324 (a) The service provider is authorized to provide

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2325 medication-assisted treatment;

2326 (b) The medication has been administered pursuant to a

2327 valid prescription written by the program's physician who is

2328 licensed under chapter 458 or chapter 459; and

2329 (c) The medication ordered appears on a formulary or meets

2330 federal requirements for medication-assisted treatment.

2331 (8) Each licensed service provider that provides

2332 medication-assisted treatment must adopt written protocols as

2333 specified by the department and in accordance with federally

2334 required rules, regulations, or procedures. The protocol shall

2335 provide for the supervision of the physician assistant,

2336 registered nurse, advanced practice registered nurse

2337 ~~practitioner~~, or licensed practical nurse working under the

2338 supervision of a physician who is licensed under chapter 458 or

2339 chapter 459. The protocol must specify how the medication will

2340 be used in conjunction with counseling or psychosocial treatment

2341 and that the services provided will be included on the treatment

2342 plan. The protocol must specify the procedures by which

2343 medication-assisted treatment may be administered by the

2344 supervised ~~physician assistant, registered nurse, advanced~~

2345 ~~registered nurse practitioner, or licensed practical nurse.~~

2346 These protocols shall be signed by the supervising physician and

2347 the supervised ~~administering physician assistant, registered~~

2348 ~~nurse, advanced registered nurse practitioner, or licensed~~

2349 ~~practical nurse.~~

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2350 Section 40. Paragraph (a) of subsection (2) of section
 2351 397.501, Florida Statutes, is amended to read:

2352 397.501 Rights of individuals.—Individuals receiving
 2353 substance abuse services from any service provider are
 2354 guaranteed protection of the rights specified in this section,
 2355 unless otherwise expressly provided, and service providers must
 2356 ensure the protection of such rights.

2357 (2) RIGHT TO NONDISCRIMINATORY SERVICES.—

2358 (a) Service providers may not deny an individual access to
 2359 substance abuse services solely on the basis of race, gender,
 2360 ethnicity, age, sexual preference, human immunodeficiency virus
 2361 status, prior service departures against medical advice,
 2362 disability, or number of relapse episodes. Service providers may
 2363 not deny an individual who takes medication prescribed by a
 2364 physician, a physician assistant, an independent advanced
 2365 practice registered nurse, or an advanced practice registered
 2366 nurse access to substance abuse services solely on that basis.
 2367 Service providers who receive state funds to provide substance
 2368 abuse services may not, if space and sufficient state resources
 2369 are available, deny access to services based solely on inability
 2370 to pay.

2371 Section 41. Section 397.679, Florida Statutes, is amended
 2372 to read:

2373 397.679 Emergency admission; circumstances justifying.—A
 2374 person who meets the criteria for involuntary admission in s.

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2375 397.675 may be admitted to a hospital or to a licensed
 2376 detoxification facility or addictions receiving facility for
 2377 emergency assessment and stabilization, or to a less intensive
 2378 component of a licensed service provider for assessment only,
 2379 upon receipt by the facility of a certificate by a physician, an
 2380 independent advanced practice registered nurse, an advanced
 2381 practice registered nurse ~~practitioner~~, a psychiatric nurse, a
 2382 clinical psychologist, a clinical social worker, a marriage and
 2383 family therapist, a mental health counselor, a physician
 2384 assistant working under the scope of practice of the supervising
 2385 physician, or a master's-level-certified addictions professional
 2386 for substance abuse services, if the certificate is specific to
 2387 substance abuse impairment, and the completion of an application
 2388 for emergency admission.

2389 Section 42. Subsection (1) of section 397.6793, Florida
 2390 Statutes, is amended to read:

2391 397.6793 Professional's certificate for emergency
 2392 admission.—

2393 (1) A physician, a clinical psychologist, a physician
 2394 assistant working under the scope of practice of the supervising
 2395 physician, a psychiatric nurse, an independent advanced practice
 2396 registered nurse, an advanced practice registered nurse
 2397 ~~practitioner~~, a mental health counselor, a marriage and family
 2398 therapist, a master's-level-certified addictions professional
 2399 for substance abuse services, or a clinical social worker may

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2400 execute a professional's certificate for emergency admission.
 2401 The professional's certificate must include the name of the
 2402 person to be admitted, the relationship between the person and
 2403 the professional executing the certificate, the relationship
 2404 between the applicant and the professional, any relationship
 2405 between the professional and the licensed service provider, a
 2406 statement that the person has been examined and assessed within
 2407 the preceding 5 days after the application date, and factual
 2408 allegations with respect to the need for emergency admission,
 2409 including:

2410 (a) The reason for the belief that the person is substance
 2411 abuse impaired;

2412 (b) The reason for the belief that because of such
 2413 impairment the person has lost the power of self-control with
 2414 respect to substance abuse; and

2415 (c)1. The reason for the belief that, without care or
 2416 treatment, the person is likely to suffer from neglect or refuse
 2417 to care for himself or herself; that such neglect or refusal
 2418 poses a real and present threat of substantial harm to his or
 2419 her well-being; and that it is not apparent that such harm may
 2420 be avoided through the help of willing family members or friends
 2421 or the provision of other services, or there is substantial
 2422 likelihood that the person has inflicted or, unless admitted, is
 2423 likely to inflict, physical harm on himself, herself, or
 2424 another; or

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2425 2. The reason for the belief that the person's refusal to
 2426 voluntarily receive care is based on judgment so impaired by
 2427 reason of substance abuse that the person is incapable of
 2428 appreciating his or her need for care and of making a rational
 2429 decision regarding his or her need for care.

2430 Section 43. Subsection (8) of section 400.021, Florida
 2431 Statutes, is amended to read:

2432 400.021 Definitions.—When used in this part, unless the
 2433 context otherwise requires, the term:

2434 (8) "Geriatric outpatient clinic" means a site for
 2435 providing outpatient health care to persons 60 years of age or
 2436 older, which is staffed by a registered nurse, a physician
 2437 assistant, or a licensed practical nurse under the direct
 2438 supervision of a registered nurse, an independent advanced
 2439 practice registered nurse, advanced practice registered nurse
 2440 ~~practitioner~~, a physician assistant, or a physician.

2441 Section 44. Subsection (3) of section 400.0255, Florida
 2442 Statutes, is amended to read:

2443 400.0255 Resident transfer or discharge; requirements and
 2444 procedures; hearings.—

2445 (3) When a discharge or transfer is initiated by the
 2446 nursing home, the nursing home administrator employed by the
 2447 nursing home that is discharging or transferring the resident,
 2448 or an individual employed by the nursing home who is designated
 2449 by the nursing home administrator to act on behalf of the

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2450 administration, must sign the notice of discharge or transfer.
 2451 Any notice indicating a medical reason for transfer or discharge
 2452 must either be signed by the resident's attending physician or
 2453 the medical director of the facility, or include an attached
 2454 written order for the discharge or transfer. The notice or the
 2455 order must be signed by the resident's physician, medical
 2456 director, treating physician, independent advanced practice
 2457 registered nurse, advanced practice registered nurse
 2458 ~~practitioner~~, or physician assistant.

2459 Section 45. Subsection (3) of section 400.172, Florida
 2460 Statutes, is amended to read:

2461 400.172 Respite care provided in nursing home facilities.-

2462 (3) A prospective respite care resident must provide
 2463 medical information from a physician, a physician assistant, an
 2464 independent advanced practice registered nurse, or an advanced
 2465 practice registered nurse ~~practitioner~~ and any other information
 2466 provided by the primary caregiver required by the facility
 2467 before or when the person is admitted to receive respite care.
 2468 The medical information must include a physician's or an
 2469 independent advanced practice registered nurse's order for
 2470 respite care and proof of a physical examination by a licensed
 2471 physician, a physician assistant, an independent advanced
 2472 practice registered nurse, or an advanced practice registered
 2473 nurse ~~practitioner~~. The ~~physician's~~ order and physical
 2474 examination may be used to provide intermittent respite care for

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2475 up to 12 months after the date the order is written.

2476 Section 46. Subsections (20) through (29) of section
 2477 400.462, Florida Statutes, are renumbered as subsections (21)
 2478 through (30), respectively, subsection (3) is amended, and a new
 2479 subsection (20) is added to that section, to read:

2480 400.462 Definitions.—As used in this part, the term:

2481 (3) "Advanced practice registered nurse practitioner"
 2482 means a person licensed in this state to practice professional
 2483 nursing and certified in advanced or specialized nursing
 2484 practice, as defined in s. 464.003.

2485 (20) "Independent advanced practice registered nurse"
 2486 means a person licensed in this state to practice professional
 2487 nursing as defined in s. 464.003 and registered to practice
 2488 advanced or specialized nursing independently and without
 2489 physician supervision or a protocol.

2490 Section 47. Subsection (2) of section 400.487, Florida
 2491 Statutes, is amended to read:

2492 400.487 Home health service agreements; physician's,
 2493 physician assistant's, independent advanced practice registered
 2494 nurse's and advanced practice registered nurse's ~~nurse~~
 2495 ~~practitioner's~~ treatment orders; patient assessment;
 2496 establishment and review of plan of care; provision of services;
 2497 orders not to resuscitate.—

2498 (2) When required by the provisions of chapter 464; part
 2499 I, part III, or part V of chapter 468; or chapter 486, the

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2500 attending physician, physician assistant, independent advanced
 2501 practice registered nurse, or advanced practice registered nurse
 2502 ~~practitioner~~, acting within his or her respective scope of
 2503 practice, shall establish treatment orders for a patient who is
 2504 to receive skilled care. The treatment orders must be signed by
 2505 the physician, physician assistant, independent advanced
 2506 practice registered nurse, or advanced practice registered nurse
 2507 ~~practitioner~~ before a claim for payment for the skilled services
 2508 is submitted by the home health agency. If the claim is
 2509 submitted to a managed care organization, the treatment orders
 2510 must be signed within the time allowed under the provider
 2511 agreement. The treatment orders shall be reviewed, as frequently
 2512 as the patient's illness requires, by the physician, physician
 2513 assistant, independent advanced practice registered nurse, or
 2514 advanced practice registered nurse ~~practitioner~~ in consultation
 2515 with the home health agency.

2516 Section 48. Paragraph (a) of subsection (13) of section
 2517 400.506, Florida Statutes, is amended to read:

2518 400.506 Licensure of nurse registries; requirements;
 2519 penalties.-

2520 (13) All persons referred for contract in private
 2521 residences by a nurse registry must comply with the following
 2522 requirements for a plan of treatment:

2523 (a) When, in accordance with the privileges and
 2524 restrictions imposed upon a nurse under part I of chapter 464,

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2525 | the delivery of care to a patient is under the direction or
 2526 | supervision of a physician or when a physician is responsible
 2527 | for the medical care of the patient, a medical plan of treatment
 2528 | must be established for each patient receiving care or treatment
 2529 | provided by a licensed nurse in the home. The original medical
 2530 | plan of treatment must be timely signed by the physician,
 2531 | physician assistant, independent advanced practice registered
 2532 | nurse, or advanced practice registered nurse ~~practitioner~~,
 2533 | acting within his or her respective scope of practice, and
 2534 | reviewed in consultation with the licensed nurse at least every
 2535 | 2 months. Any additional order or change in orders must be
 2536 | obtained from, reduced to writing by, and timely signed by the
 2537 | physician, physician assistant, independent advanced practice
 2538 | registered nurse, or advanced practice registered nurse
 2539 | ~~practitioner and reduced to writing and timely signed by the~~
 2540 | ~~physician, physician assistant, or advanced registered nurse~~
 2541 | ~~practitioner~~. The delivery of care under a medical plan of
 2542 | treatment must be substantiated by the appropriate nursing notes
 2543 | or documentation made by the nurse in compliance with nursing
 2544 | practices established under part I of chapter 464.

2545 | Section 49. Paragraph (g) of subsection (4) of section
 2546 | 400.9905, Florida Statutes, is amended to read:

2547 | 400.9905 Definitions.—

2548 | (4) "Clinic" means an entity where health care services
 2549 | are provided to individuals and which tenders charges for

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2550 reimbursement for such services, including a mobile clinic and a
 2551 portable equipment provider. As used in this part, the term does
 2552 not include and the licensure requirements of this part do not
 2553 apply to:

2554 (g) A sole proprietorship, group practice, partnership, or
 2555 corporation that provides health care services by licensed
 2556 health care practitioners under chapter 457, chapter 458,
 2557 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,
 2558 chapter 466, chapter 467, chapter 480, chapter 484, chapter 486,
 2559 chapter 490, chapter 491, or part I, part III, part X, part
 2560 XIII, or part XIV of chapter 468, ~~or~~ s. 464.012, or s. 464.0125
 2561 and that is wholly owned by one or more licensed health care
 2562 practitioners, or the licensed health care practitioners set
 2563 forth in this paragraph and the spouse, parent, child, or
 2564 sibling of a licensed health care practitioner if one of the
 2565 owners who is a licensed health care practitioner is supervising
 2566 the business activities and is legally responsible for the
 2567 entity's compliance with all federal and state laws. However, a
 2568 health care practitioner may not supervise services beyond the
 2569 scope of the practitioner's license, except that, for the
 2570 purposes of this part, a clinic owned by a licensee in s.
 2571 456.053(3)(b) which provides only services authorized pursuant
 2572 to s. 456.053(3)(b) may be supervised by a licensee specified in
 2573 s. 456.053(3)(b).

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2575 Notwithstanding this subsection, an entity shall be deemed a
 2576 clinic and must be licensed under this part in order to receive
 2577 reimbursement under the Florida Motor Vehicle No-Fault Law, ss.
 2578 627.730-627.7405, unless exempted under s. 627.736(5)(h).

2579 Section 50. Subsection (5) and paragraph (b) of subsection
 2580 (7) of section 400.9973, Florida Statutes, is amended to read:

2581 400.9973 Client admission, transfer, and discharge.-

2582 (5) A client admitted to a transitional living facility
 2583 must be admitted upon prescription by a licensed physician,
 2584 physician assistant, independent advanced practice registered
 2585 nurse, or advanced practice registered nurse ~~practitioner~~ and
 2586 must remain under the care of a licensed physician, physician
 2587 assistant, independent advanced practice registered nurse, or
 2588 advanced practice registered nurse ~~practitioner~~ for the duration
 2589 of the client's stay in the facility.

2590 (7) A person may not be admitted to a transitional living
 2591 facility if the person:

2592 (b) Is a danger to himself or herself or others as
 2593 determined by a physician, physician assistant, independent
 2594 advanced practice registered nurse, or advanced practice
 2595 registered nurse ~~practitioner~~ or a mental health practitioner
 2596 licensed under chapter 490 or chapter 491, unless the facility
 2597 provides adequate staffing and support to ensure patient safety;

2598 Section 51. Subsection (1) and paragraphs (a) and (b) of
 2599 subsection (2) of section 400.9974, Florida Statutes, are

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2600 amended to read:
 2601 400.9974 Client comprehensive treatment plans; client
 2602 services.—
 2603 (1) A transitional living facility shall develop a
 2604 comprehensive treatment plan for each client as soon as
 2605 practicable but no later than 30 days after the initial
 2606 comprehensive treatment plan is developed. The comprehensive
 2607 treatment plan must be developed by an interdisciplinary team
 2608 consisting of the case manager, the program director, the
 2609 advanced practice registered nurse ~~practitioner~~, and appropriate
 2610 therapists. The client or, if appropriate, the client's
 2611 representative must be included in developing the comprehensive
 2612 treatment plan. The comprehensive treatment plan must be
 2613 reviewed and updated if the client fails to meet projected
 2614 improvements outlined in the plan or if a significant change in
 2615 the client's condition occurs. The comprehensive treatment plan
 2616 must be reviewed and updated at least once monthly.
 2617 (2) The comprehensive treatment plan must include:
 2618 (a) Orders obtained from the physician, physician
 2619 assistant, independent advanced practice registered nurse, or
 2620 advanced practice registered nurse ~~practitioner~~ and the client's
 2621 diagnosis, medical history, physical examination, and
 2622 rehabilitative or restorative needs.
 2623 (b) A preliminary nursing evaluation, including orders for
 2624 immediate care provided by the physician, physician assistant,

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2625 independent advanced practice registered nurse or advanced
 2626 practice registered nurse practitioner, which shall be completed
 2627 when the client is admitted.

2628 Section 52. Section 400.9976, Florida Statutes, is amended
 2629 to read:

2630 400.9976 Administration of medication.—

2631 (1) An individual medication administration record must be
 2632 maintained for each client. A dose of medication, including a
 2633 self-administered dose, shall be properly recorded in the
 2634 client's record. A client who self-administers medication shall
 2635 be given a pill organizer. Medication must be placed in the pill
 2636 organizer by a nurse. A nurse shall document the date and time
 2637 that medication is placed into each client's pill organizer. All
 2638 medications must be administered in compliance with orders of a
 2639 physician, physician assistant, independent advanced practice
 2640 registered nurse, or advanced practice registered nurse
 2641 practitioner.

2642 (2) If an interdisciplinary team determines that self-
 2643 administration of medication is an appropriate objective, and if
 2644 the physician, physician assistant, independent advanced
 2645 practice registered nurse, or advanced practice registered nurse
 2646 practitioner does not specify otherwise, the client must be
 2647 instructed by the physician, physician assistant, independent
 2648 advanced practice registered nurse, or advanced practice
 2649 registered nurse practitioner to self-administer his or her

2650 medication without the assistance of a staff person. All forms
 2651 of self-administration of medication, including administration
 2652 orally, by injection, and by suppository, shall be included in
 2653 the training. The client's physician, physician assistant,
 2654 independent advanced practice registered nurse, or advanced
 2655 practice registered nurse ~~practitioner~~ must be informed of the
 2656 interdisciplinary team's decision that self-administration of
 2657 medication is an objective for the client. A client may not
 2658 self-administer medication until he or she demonstrates the
 2659 competency to take the correct medication in the correct dosage
 2660 at the correct time, to respond to missed doses, and to contact
 2661 the appropriate person with questions.

2662 (3) Medication administration discrepancies and adverse
 2663 drug reactions must be recorded and reported immediately to a
 2664 physician, physician assistant, independent advanced practice
 2665 registered nurse, or advanced practice registered nurse
 2666 ~~practitioner~~.

2667 Section 53. Subsections (2), (3), (4), and (5) of section
 2668 400.9979, Florida Statutes, are amended to read:

2669 400.9979 Restraint and seclusion; client safety.—

2670 (2) The use of physical restraints must be ordered and
 2671 documented by a physician, physician assistant, independent
 2672 advanced practice registered nurse, or advanced practice
 2673 registered nurse ~~practitioner~~ and must be consistent with the
 2674 policies and procedures adopted by the facility. The client or,

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2675 | if applicable, the client's representative shall be informed of
 2676 | the facility's physical restraint policies and procedures when
 2677 | the client is admitted.

2678 | (3) The use of chemical restraints shall be limited to
 2679 | prescribed dosages of medications as ordered by a physician,
 2680 | physician assistant, independent advanced practice registered
 2681 | nurse, or advanced practice registered nurse ~~practitioner~~ and
 2682 | must be consistent with the client's diagnosis and the policies
 2683 | and procedures adopted by the facility. The client and, if
 2684 | applicable, the client's representative shall be informed of the
 2685 | facility's chemical restraint policies and procedures when the
 2686 | client is admitted.

2687 | (4) Based on the assessment by a physician, physician
 2688 | assistant, independent advanced practice registered nurse, or
 2689 | advanced practice registered nurse ~~practitioner~~, if a client
 2690 | exhibits symptoms that present an immediate risk of injury or
 2691 | death to himself or herself or others, a physician, physician
 2692 | assistant, independent advanced practice registered nurse, or
 2693 | advanced practice registered nurse ~~practitioner~~ may issue an
 2694 | emergency treatment order to immediately administer rapid-
 2695 | response psychotropic medications or other chemical restraints.
 2696 | Each emergency treatment order must be documented and maintained
 2697 | in the client's record.

2698 | (a) An emergency treatment order is not effective for more
 2699 | than 24 hours.

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2700 (b) Whenever a client is medicated under this subsection,
 2701 the client's representative or a responsible party and the
 2702 client's physician, physician assistant, independent advanced
 2703 practice registered nurse, or advanced practice registered nurse
 2704 ~~practitioner~~ shall be notified as soon as practicable.

2705 (5) A client who is prescribed and receives a medication
 2706 that can serve as a chemical restraint for a purpose other than
 2707 an emergency treatment order must be evaluated by his or her
 2708 physician, physician assistant, independent advanced practice
 2709 registered nurse, or advanced practice registered nurse
 2710 ~~practitioner~~ at least monthly to assess:

- 2711 (a) The continued need for the medication.
- 2712 (b) The level of the medication in the client's blood.
- 2713 (c) The need for adjustments to the prescription.

2714 Section 54. Subsections (1) and (2) of section 401.445,
 2715 Florida Statutes, are amended to read:

2716 401.445 Emergency examination and treatment of
 2717 incapacitated persons.—

2718 (1) ~~No~~ Recovery is not shall be allowed in any court in
 2719 this state against any emergency medical technician, paramedic,
 2720 or physician as defined in this chapter; any independent
 2721 advanced practice registered nurse registered under s. 464.0125;
 2722 any advanced practice registered nurse ~~practitioner~~ certified
 2723 under s. 464.012, or any physician assistant licensed under s.
 2724 458.347 or s. 459.022, or any person acting under the direct

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2725 medical supervision of a physician, in an action brought for
 2726 examining or treating a patient without his or her informed
 2727 consent if:

2728 (a) The patient at the time of examination or treatment is
 2729 intoxicated, under the influence of drugs, or otherwise
 2730 incapable of providing informed consent as provided in s.
 2731 766.103;

2732 (b) The patient at the time of examination or treatment is
 2733 experiencing an emergency medical condition; and

2734 (c) The patient would reasonably, under all the
 2735 surrounding circumstances, undergo such examination, treatment,
 2736 or procedure if the patient ~~he or she~~ were advised by the
 2737 emergency medical technician, paramedic, physician, independent
 2738 advanced practice registered nurse, advanced practice registered
 2739 nurse ~~practitioner~~, or physician assistant in accordance with s.
 2740 766.103(3).

2741
 2742 Examination and treatment provided under this subsection shall
 2743 be limited to reasonable examination of the patient to determine
 2744 the medical condition of the patient and treatment reasonably
 2745 necessary to alleviate the emergency medical condition or to
 2746 stabilize the patient.

2747 (2) In examining and treating a person who is apparently
 2748 intoxicated, under the influence of drugs, or otherwise
 2749 incapable of providing informed consent, the emergency medical

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2750 technician, paramedic, physician, independent advanced practice
 2751 registered nurse practitioner, advanced practice registered
 2752 nurse ~~practitioner~~, or physician assistant, or any person acting
 2753 under the direct medical supervision of a physician, shall
 2754 proceed wherever possible with the consent of the person. If the
 2755 person reasonably appears to be incapacitated and refuses his or
 2756 her consent, the person may be examined, treated, or taken to a
 2757 hospital or other appropriate treatment resource if he or she is
 2758 in need of emergency attention, without his or her consent, but
 2759 unreasonable force shall not be used.

2760 Section 55. Subsections (1) and (11) of section 409.905,
 2761 Florida Statutes, are amended to read:

2762 409.905 Mandatory Medicaid services.—The agency may make
 2763 payments for the following services, which are required of the
 2764 state by Title XIX of the Social Security Act, furnished by
 2765 Medicaid providers to recipients who are determined to be
 2766 eligible on the dates on which the services were provided. Any
 2767 service under this section shall be provided only when medically
 2768 necessary and in accordance with state and federal law.

2769 Mandatory services rendered by providers in mobile units to
 2770 Medicaid recipients may be restricted by the agency. Nothing in
 2771 this section shall be construed to prevent or limit the agency
 2772 from adjusting fees, reimbursement rates, lengths of stay,
 2773 number of visits, number of services, or any other adjustments
 2774 necessary to comply with the availability of moneys and any

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2775 limitations or directions provided for in the General
 2776 Appropriations Act or chapter 216.

2777 (1) INDEPENDENT ADVANCED PRACTICE REGISTERED NURSE AND
 2778 ADVANCED PRACTICE REGISTERED NURSE ~~PRACTITIONER~~ SERVICES.—The
 2779 agency shall pay for services provided to a recipient by a
 2780 registered independent advanced practice registered nurse, a
 2781 certified ~~licensed~~ advanced practice registered nurse
 2782 ~~practitioner~~ who has a valid collaboration agreement with a
 2783 licensed physician on file with the Department of Health, or a
 2784 certified registered nurse anesthetist who provides anesthesia
 2785 services in accordance with established protocol required by
 2786 state law and approved by the medical staff of the facility in
 2787 which the anesthetic service is performed. Reimbursement for
 2788 such services must be provided in an amount that equals at least
 2789 ~~not less~~ than 80 percent of the reimbursement to a physician who
 2790 provides the same services, unless otherwise provided for in the
 2791 General Appropriations Act.

2792 (11) RURAL HEALTH CLINIC SERVICES.—The agency shall pay
 2793 for outpatient primary health care services for a recipient
 2794 provided by a clinic certified by and participating in the
 2795 Medicare program which is located in a federally designated,
 2796 rural, medically underserved area and has on its staff one or
 2797 more certified ~~licensed~~ primary care nurse practitioners or
 2798 physician assistants, ~~7~~ and a licensed staff supervising
 2799 physician, ~~or~~ a consulting supervising physician, or an

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2800 independent advanced practice registered nurse.
 2801 Section 56. Paragraph (a) of subsection (3) and subsection
 2802 (8) of section 409.908, Florida Statutes, is amended to read:
 2803 409.908 Reimbursement of Medicaid providers.—Subject to
 2804 specific appropriations, the agency shall reimburse Medicaid
 2805 providers, in accordance with state and federal law, according
 2806 to methodologies set forth in the rules of the agency and in
 2807 policy manuals and handbooks incorporated by reference therein.
 2808 These methodologies may include fee schedules, reimbursement
 2809 methods based on cost reporting, negotiated fees, competitive
 2810 bidding pursuant to s. 287.057, and other mechanisms the agency
 2811 considers efficient and effective for purchasing services or
 2812 goods on behalf of recipients. If a provider is reimbursed based
 2813 on cost reporting and submits a cost report late and that cost
 2814 report would have been used to set a lower reimbursement rate
 2815 for a rate semester, then the provider's rate for that semester
 2816 shall be retroactively calculated using the new cost report, and
 2817 full payment at the recalculated rate shall be effected
 2818 retroactively. Medicare-granted extensions for filing cost
 2819 reports, if applicable, shall also apply to Medicaid cost
 2820 reports. Payment for Medicaid compensable services made on
 2821 behalf of Medicaid eligible persons is subject to the
 2822 availability of moneys and any limitations or directions
 2823 provided for in the General Appropriations Act or chapter 216.
 2824 Further, nothing in this section shall be construed to prevent

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2825 or limit the agency from adjusting fees, reimbursement rates,
 2826 lengths of stay, number of visits, or number of services, or
 2827 making any other adjustments necessary to comply with the
 2828 availability of moneys and any limitations or directions
 2829 provided for in the General Appropriations Act, provided the
 2830 adjustment is consistent with legislative intent.

2831 (3) Subject to any limitations or directions provided for
 2832 in the General Appropriations Act, the following Medicaid
 2833 services and goods may be reimbursed on a fee-for-service basis.
 2834 For each allowable service or goods furnished in accordance with
 2835 Medicaid rules, policy manuals, handbooks, and state and federal
 2836 law, the payment shall be the amount billed by the provider, the
 2837 provider's usual and customary charge, or the maximum allowable
 2838 fee established by the agency, whichever amount is less, with
 2839 the exception of those services or goods for which the agency
 2840 makes payment using a methodology based on capitation rates,
 2841 average costs, or negotiated fees.

2842 (a) Independent advanced practice registered nurse or
 2843 advanced practice registered nurse ~~practitioner~~ services.

2844 (8) A provider of family planning services shall be
 2845 reimbursed the lesser of the amount billed by the provider or an
 2846 all-inclusive amount per type of visit for physicians,
 2847 independent advanced practice registered nurses, and advanced
 2848 practice registered nurses ~~nurse practitioners,~~ as established
 2849 by the agency in a fee schedule.

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2850 Section 57. Subsection (2) of section 409.9081, Florida
 2851 Statutes, is amended to read:

2852 409.9081 Copayments.—

2853 (2) The agency shall, subject to federal regulations and
 2854 any directions or limitations provided for in the General
 2855 Appropriations Act, require copayments for the following
 2856 additional services: hospital inpatient, laboratory and X-ray
 2857 services, transportation services, home health care services,
 2858 community mental health services, rural health services,
 2859 federally qualified health clinic services, and independent
 2860 advanced practice registered nurse or advanced practice
 2861 registered nurse practitioner services. The agency may only
 2862 establish copayments for prescribed drugs or for any other
 2863 federally authorized service if such copayment is specifically
 2864 provided for in the General Appropriations Act or other law.

2865 Section 58. Paragraph (a) of subsection (1) of section
 2866 409.973, Florida Statutes, is amended to read:

2867 409.973 Benefits.—

2868 (1) MINIMUM BENEFITS.—Managed care plans shall cover, at a
 2869 minimum, the following services:

2870 (a) Independent advanced practice registered nurse and
 2871 advanced practice registered nurse practitioner services.

2872 Section 59. Subsections (2), (4), and (5) of section
 2873 429.26, Florida Statutes, are amended to read:

2874 429.26 Appropriateness of placements; examinations of

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2875 residents.-

2876 (2) A physician, a physician assistant, an independent
 2877 advanced practice registered nurse, or an advanced practice
 2878 registered nurse practitioner who is employed by an assisted
 2879 living facility to provide an initial examination for admission
 2880 purposes may not have financial interest in the facility.

2881 (4) If possible, each resident shall have been examined by
 2882 a licensed physician, a licensed physician assistant, a
 2883 registered independent advanced practice registered nurse, or a
 2884 certified advanced practice registered licensed nurse
 2885 practitioner within 60 days before admission to the facility.
 2886 The signed and completed medical examination report shall be
 2887 submitted to the owner or administrator of the facility who
 2888 shall use the information contained therein to assist in the
 2889 determination of the appropriateness of the resident's admission
 2890 and continued stay in the facility. The medical examination
 2891 report shall become a permanent part of the record of the
 2892 resident at the facility and shall be made available to the
 2893 agency during inspection or upon request. An assessment that has
 2894 been completed through the Comprehensive Assessment and Review
 2895 for Long-Term Care Services (CARES) Program fulfills the
 2896 requirements for a medical examination under this subsection and
 2897 s. 429.07(3)(b)6.

2898 (5) Except as provided in s. 429.07, if a medical
 2899 examination has not been completed within 60 days before the

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2900 admission of the resident to the facility, a licensed physician,
 2901 licensed physician assistant, registered independent advanced
 2902 practice registered nurse, or certified advanced practice
 2903 ~~licensed~~ nurse ~~practitioner~~ shall examine the resident and
 2904 complete a medical examination form provided by the agency
 2905 within 30 days following the admission to the facility to enable
 2906 the facility owner or administrator to determine the
 2907 appropriateness of the admission. The medical examination form
 2908 shall become a permanent part of the record of the resident at
 2909 the facility and shall be made available to the agency during
 2910 inspection by the agency or upon request.

2911 Section 60. Paragraph (a) of subsection (2) and paragraph
 2912 (a) of subsection (7) of section 429.918, Florida Statutes, is
 2913 amended to read:

2914 429.918 Licensure designation as a specialized Alzheimer's
 2915 services adult day care center.-

2916 (2) As used in this section, the term:

2917 (a) "ADRD participant" means a participant who has a
 2918 documented diagnosis of Alzheimer's disease or a dementia-
 2919 related disorder (ADRD) from a licensed physician, licensed
 2920 physician assistant, registered independent advanced practice
 2921 registered nurse, or certified ~~a licensed~~ advanced practice
 2922 registered nurse ~~practitioner~~.

2923 (7)(a) An ADRD participant admitted to an adult day care
 2924 center having a license designated under this section, or the

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2925 caregiver when applicable, must:

2926 1. Require ongoing supervision to maintain the highest

2927 level of medical or custodial functioning and have a

2928 demonstrated need for a responsible party to oversee his or her

2929 care.

2930 2. Not actively demonstrate aggressive behavior that

2931 places himself, herself, or others at risk of harm.

2932 3. Provide the following medical documentation signed by a

2933 licensed physician, licensed physician assistant, registered

2934 independent advanced practice registered nurse, or certified a a

2935 ~~licensed~~ advanced practice registered nurse ~~practitioner~~:

2936 a. Any physical, health, or emotional conditions that

2937 require medical care.

2938 b. A listing of the ADRD participant's current prescribed

2939 and over-the-counter medications and dosages, diet restrictions,

2940 mobility restrictions, and other physical limitations.

2941 4. Provide documentation signed by a health care provider

2942 licensed in this state which indicates that the ADRD participant

2943 is free of the communicable form of tuberculosis and free of

2944 signs and symptoms of other communicable diseases.

2945 Section 61. Paragraph (e) of subsection (5) of section

2946 440.102, Florida Statutes, is amended to read:

2947 440.102 Drug-free workplace program requirements.—The

2948 following provisions apply to a drug-free workplace program

2949 implemented pursuant to law or to rules adopted by the Agency

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2950 for Health Care Administration:
 2951 (5) PROCEDURES AND EMPLOYEE PROTECTION.—All specimen
 2952 collection and testing for drugs under this section shall be
 2953 performed in accordance with the following procedures:
 2954 (e) A specimen for a drug test may be taken or collected
 2955 by any of the following persons:
 2956 1. A physician, a physician assistant, an independent
 2957 advanced practice registered nurse, an advanced practice
 2958 registered nurse, a registered ~~professional~~ nurse, a licensed
 2959 practical nurse, ~~or a nurse practitioner~~ or a certified
 2960 paramedic who is present at the scene of an accident for the
 2961 purpose of rendering emergency medical service or treatment.
 2962 2. A qualified person employed by a licensed or certified
 2963 laboratory as described in subsection (9).
 2964 Section 62. Subsection (2) and paragraph (d) of subsection
 2965 (4) of section 456.0391, Florida Statutes, is amended to read:
 2966 456.0391 Advanced practice registered nurse ~~practitioners~~;
 2967 information required for certification.—
 2968 (2) The Department of Health shall send a notice to each
 2969 person certified under s. 464.012 at the certificateholder's
 2970 last known address of record regarding the requirements for
 2971 information to be submitted by advanced practice registered
 2972 nurses ~~nurse-practitioners~~ pursuant to this section in
 2973 conjunction with the renewal of such certificate.
 2974 (4)

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2975 (d) Any applicant for initial certification or renewal of
 2976 certification as an advanced practice registered nurse
 2977 ~~practitioner~~ who submits to the Department of Health a set of
 2978 fingerprints and information required for the criminal history
 2979 check required under this section shall not be required to
 2980 provide a subsequent set of fingerprints or other duplicate
 2981 information required for a criminal history check to the Agency
 2982 for Health Care Administration, the Department of Juvenile
 2983 Justice, or the Department of Children and Families for
 2984 employment or licensure with such agency or department, if the
 2985 applicant has undergone a criminal history check as a condition
 2986 of initial certification or renewal of certification as an
 2987 advanced practice registered nurse ~~practitioner~~ with the
 2988 Department of Health, notwithstanding any other provision of law
 2989 to the contrary. In lieu of such duplicate submission, the
 2990 Agency for Health Care Administration, the Department of
 2991 Juvenile Justice, and the Department of Children and Families
 2992 shall obtain criminal history information for employment or
 2993 licensure of persons certified under s. 464.012 by such agency
 2994 or department from the Department of Health's health care
 2995 practitioner credentialing system.

2996 Section 63. Subsection (2) of section 456.0392, Florida
 2997 Statutes, is amended to read:

2998 456.0392 Prescription labeling.-

2999 (2) A prescription for a drug ~~that is not listed as a~~

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3000 ~~controlled substance in chapter 893 which is~~ written by an
 3001 advanced practice registered nurse ~~practitioner~~ certified under
 3002 s. 464.012 is presumed, subject to rebuttal, to be valid and
 3003 within the parameters of the prescriptive authority delegated by
 3004 a practitioner licensed under chapter 458, chapter 459, or
 3005 chapter 466.

3006 Section 64. Paragraph (a) of subsection (1) and subsection
 3007 (6) of section 456.041, Florida Statutes, is amended to read:
 3008 456.041 Practitioner profile; creation.-

3009 (1)(a) The Department of Health shall compile the
 3010 information submitted pursuant to s. 456.039 into a practitioner
 3011 profile of the applicant submitting the information, except that
 3012 the Department of Health shall develop a format to compile
 3013 uniformly any information submitted under s. 456.039(4)(b).
 3014 Beginning July 1, 2001, the Department of Health may compile the
 3015 information submitted pursuant to s. 456.0391 into a
 3016 practitioner profile of the applicant submitting the
 3017 information. The protocol submitted pursuant to s. 464.012(3)
 3018 must be included in the practitioner profile of the advanced
 3019 practice registered nurse ~~practitioner~~.

3020 (6) The Department of Health shall provide in each
 3021 practitioner profile for every physician or advanced practice
 3022 registered nurse ~~practitioner~~ terminated for cause from
 3023 participating in the Medicaid program, pursuant to s. 409.913,
 3024 or sanctioned by the Medicaid program a statement that the

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3025 practitioner has been terminated from participating in the
 3026 Florida Medicaid program or sanctioned by the Medicaid program.

3027 Section 65. Subsection (1) and paragraphs (a), (d), and
 3028 (e) of subsection (2) of section 456.048, Florida Statutes, are
 3029 amended to read:

3030 456.048 Financial responsibility requirements for certain
 3031 health care practitioners.—

3032 (1) As a prerequisite for licensure or license renewal,
 3033 the Board of Acupuncture, the Board of Chiropractic Medicine,
 3034 the Board of Podiatric Medicine, and the Board of Dentistry
 3035 shall, by rule, require that all health care practitioners
 3036 licensed under the respective board, and the Board of Medicine
 3037 and the Board of Osteopathic Medicine shall, by rule, require
 3038 that all anesthesiologist assistants licensed pursuant to s.
 3039 458.3475 or s. 459.023, and the Board of Nursing shall, by rule,
 3040 require that independent advanced practice registered nurses
 3041 registered under s. 464.0125 and advanced practice registered
 3042 nurses ~~nurse practitioners~~ certified under s. 464.012, and the
 3043 department shall, by rule, require that midwives maintain
 3044 medical malpractice insurance or provide proof of financial
 3045 responsibility in an amount and in a manner determined by the
 3046 board or department to be sufficient to cover claims arising out
 3047 of the rendering of or failure to render professional care and
 3048 services in this state.

3049 (2) The board or department may grant exemptions upon

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3050 application by practitioners meeting any of the following
 3051 criteria:

3052 (a) Any person licensed under chapter 457, s. 458.3475, s.
 3053 459.023, chapter 460, chapter 461, s. 464.012, s. 464.0125,
 3054 chapter 466, or chapter 467 who practices exclusively as an
 3055 officer, employee, or agent of the Federal Government or of the
 3056 state or its agencies or its subdivisions. For the purposes of
 3057 this subsection, an agent of the state, its agencies, or its
 3058 subdivisions is a person who is eligible for coverage under any
 3059 self-insurance or insurance program authorized by the provisions
 3060 of s. 768.28(16) or who is a volunteer under s. 110.501(1).

3061 (d) Any person licensed or certified under chapter 457, s.
 3062 458.3475, s. 459.023, chapter 460, chapter 461, s. 464.012, s.
 3063 464.0125, chapter 466, or chapter 467 who practices only in
 3064 conjunction with his or her teaching duties at an accredited
 3065 school or in its main teaching hospitals. Such person may engage
 3066 in the practice of medicine to the extent that such practice is
 3067 incidental to and a necessary part of duties in connection with
 3068 the teaching position in the school.

3069 (e) Any person holding an active license or certification
 3070 under chapter 457, s. 458.3475, s. 459.023, chapter 460, chapter
 3071 461, s. 464.012, s. 464.0125, chapter 466, or chapter 467 who is
 3072 not practicing in this state. If such person initiates or
 3073 resumes practice in this state, he or she must notify the
 3074 department of such activity.

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3075 Section 66. Paragraphs (a), (i), (o), and (r) of
 3076 subsection (3) and paragraph (g) of subsection (5) of section
 3077 456.053, Florida Statutes, are amended to read:

3078 456.053 Financial arrangements between referring health
 3079 care providers and providers of health care services.—

3080 (3) DEFINITIONS.—For the purpose of this section, the
 3081 word, phrase, or term:

3082 (a) "Board" means any of the following boards relating to
 3083 the respective professions: the Board of Medicine as created in
 3084 s. 458.307; the Board of Osteopathic Medicine as created in s.
 3085 459.004; the Board of Chiropractic Medicine as created in s.
 3086 460.404; the Board of Podiatric Medicine as created in s.
 3087 461.004; the Board of Optometry as created in s. 463.003; the
 3088 Board of Pharmacy as created in s. 465.004; ~~and~~ the Board of
 3089 Dentistry as created in s. 466.004; and the Board of Nursing as
 3090 created in s. 464.004.

3091 (i) "Health care provider" means a ~~any~~ physician licensed
 3092 under chapter 458, chapter 459, chapter 460, or chapter 461; an
 3093 independent advanced practice registered nurse registered under
 3094 s. 464.0125; ~~r~~ or a ~~any~~ health care provider licensed under
 3095 chapter 463 or chapter 466.

3096 (o) "Referral" means any referral of a patient by a health
 3097 care provider for health care services, including, without
 3098 limitation:

3099 1. The forwarding of a patient by a health care provider

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3100 to another health care provider or to an entity which provides
 3101 or supplies designated health services or any other health care
 3102 item or service; or

3103 2. The request or establishment of a plan of care by a
 3104 health care provider, which includes the provision of designated
 3105 health services or other health care item or service.

3106 3. The following orders, recommendations, or plans of care
 3107 shall not constitute a referral by a health care provider:

3108 a. By a radiologist for diagnostic-imaging services.

3109 b. By a physician specializing in the provision of
 3110 radiation therapy services for such services.

3111 c. By a medical oncologist for drugs and solutions to be
 3112 prepared and administered intravenously to such oncologist's
 3113 patient, as well as for the supplies and equipment used in
 3114 connection therewith to treat such patient for cancer and the
 3115 complications thereof.

3116 d. By a cardiologist for cardiac catheterization services.

3117 e. By a pathologist for diagnostic clinical laboratory
 3118 tests and pathological examination services, if furnished by or
 3119 under the supervision of such pathologist pursuant to a
 3120 consultation requested by another physician.

3121 f. By a health care provider who is the sole provider or
 3122 member of a group practice for designated health services or
 3123 other health care items or services that are prescribed or
 3124 provided solely for such referring health care provider's or

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3125 group practice's own patients, and that are provided or
 3126 performed by or under the direct supervision of such referring
 3127 health care provider or group practice; provided, however, ~~that~~
 3128 ~~effective July 1, 1999,~~ a physician licensed pursuant to chapter
 3129 458, chapter 459, chapter 460, or chapter 461 or an independent
 3130 advanced practice registered nurse registered under s. 464.0125
 3131 may refer a patient to a sole provider or group practice for
 3132 diagnostic imaging services, excluding radiation therapy
 3133 services, for which the sole provider or group practice billed
 3134 both the technical and the professional fee for or on behalf of
 3135 the patient, if the referring physician or independent advanced
 3136 practice registered nurse has no investment interest in the
 3137 practice. The diagnostic imaging service referred to a group
 3138 practice or sole provider must be a diagnostic imaging service
 3139 normally provided within the scope of practice to the patients
 3140 of the group practice or sole provider. The group practice or
 3141 sole provider may accept no more than 15 percent of their
 3142 patients receiving diagnostic imaging services from outside
 3143 referrals, excluding radiation therapy services.

3144 g. By a health care provider for services provided by an
 3145 ambulatory surgical center licensed under chapter 395.

3146 h. By a urologist for lithotripsy services.

3147 i. By a dentist for dental services performed by an
 3148 employee of or health care provider who is an independent
 3149 contractor with the dentist or group practice of which the

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3150 dentist is a member.

3151 j. By a physician for infusion therapy services to a
3152 patient of that physician or a member of that physician's group
3153 practice.

3154 k. By a nephrologist for renal dialysis services and
3155 supplies, except laboratory services.

3156 l. By a health care provider whose principal professional
3157 practice consists of treating patients in their private
3158 residences for services to be rendered in such private
3159 residences, except for services rendered by a home health agency
3160 licensed under chapter 400. For purposes of this sub-
3161 subparagraph, the term "private residences" includes patients'
3162 private homes, independent living centers, and assisted living
3163 facilities, but does not include skilled nursing facilities.

3164 m. By a health care provider for sleep-related testing.

3165 (r) "Sole provider" means one health care provider
3166 licensed under chapter 458, chapter 459, chapter 460, ~~or~~ chapter
3167 461, or s. 464.0125, who maintains a separate medical office and
3168 a medical practice separate from any other health care provider
3169 and who bills for his or her services separately from the
3170 services provided by any other health care provider. A sole
3171 provider shall not share overhead expenses or professional
3172 income with any other person or group practice.

3173 (5) PROHIBITED REFERRALS AND CLAIMS FOR PAYMENT.—Except as
3174 provided in this section:

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3175 (g) A violation of this section by a health care provider
 3176 shall constitute grounds for disciplinary action to be taken by
 3177 the applicable board pursuant to s. 458.331(2), s. 459.015(2),
 3178 s. 460.413(2), s. 461.013(2), s. 463.016(2), s. 464.018, or s.
 3179 466.028(2). Any hospital licensed under chapter 395 found in
 3180 violation of this section shall be subject to s. 395.0185(2).

3181 Section 67. Subsection (7) of section 456.072, Florida
 3182 Statutes, is amended to read:

3183 456.072 Grounds for discipline; penalties; enforcement.—

3184 (7) Notwithstanding subsection (2), upon a finding that a
 3185 physician has prescribed or dispensed a controlled substance, or
 3186 caused a controlled substance to be prescribed or dispensed, in
 3187 a manner that violates the standard of practice set forth in s.
 3188 458.331(1)(q) or (t), s. 459.015(1)(t) or (x), s. 461.013(1)(o)
 3189 or (s), or s. 466.028(1)(p) or (x), or that an independent
 3190 advanced practice registered nurse or an advanced practice
 3191 registered nurse practitioner has prescribed or dispensed a
 3192 controlled substance, or caused a controlled substance to be
 3193 prescribed or dispensed, in a manner that violates the standard
 3194 of practice set forth in s. 464.018(1)(n) or (p)6., the
 3195 ~~physician or advanced registered nurse~~ practitioner shall be
 3196 suspended for a period of at least ~~not less than~~ 6 months and
 3197 pay a fine of at least ~~not less than~~ \$10,000 per count. Repeated
 3198 violations shall result in increased penalties.

3199 Section 68. Paragraph (a) of subsection (2) of section

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3200 456.44, Florida Statutes, is amended to read:
 3201 456.44 Controlled substance prescribing.—
 3202 (2) REGISTRATION.—A physician licensed under chapter 458,
 3203 chapter 459, chapter 461, or chapter 466, a physician assistant
 3204 licensed under chapter 458 or chapter 459, or an independent
 3205 advanced practice registered nurse registered or an advanced
 3206 practice registered nurse practitioner certified under part I of
 3207 chapter 464 who prescribes any controlled substance, listed in
 3208 Schedule II, Schedule III, or Schedule IV as defined in s.
 3209 893.03, for the treatment of chronic nonmalignant pain, must:
 3210 (a) Designate himself or herself as a controlled substance
 3211 prescribing practitioner on the practitioner's ~~his or her~~
 3212 practitioner profile.
 3213 Section 69. Paragraph (c) of subsection (2) of section
 3214 458.3265, Florida Statutes, is amended to read:
 3215 458.3265 Pain-management clinics.—
 3216 (2) PHYSICIAN RESPONSIBILITIES.—These responsibilities
 3217 apply to any physician who provides professional services in a
 3218 pain-management clinic that is required to be registered in
 3219 subsection (1).
 3220 (c) A physician, a physician assistant, or an independent
 3221 advanced practice registered nurse, or an advanced practice
 3222 registered nurse practitioner must perform a physical
 3223 examination of a patient on the same day that the physician
 3224 prescribes a controlled substance to a patient at a pain-

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3225 management clinic. If the physician prescribes more than a 72-
 3226 hour dose of controlled substances for the treatment of chronic
 3227 nonmalignant pain, the physician must document in the patient's
 3228 record the reason for prescribing that quantity.

3229 Section 70. Paragraph (dd) of subsection (1) of section
 3230 458.331, Florida Statutes, are amended to read:

3231 458.331 Grounds for disciplinary action; action by the
 3232 board and department.—

3233 (1) The following acts constitute grounds for denial of a
 3234 license or disciplinary action, as specified in s. 456.072(2):

3235 (dd) Failing to supervise adequately the activities of
 3236 those physician assistants, paramedics, emergency medical
 3237 technicians, advanced practice registered nurses ~~nurse~~
 3238 ~~practitioners~~, or anesthesiologist assistants acting under the
 3239 supervision of the physician.

3240 Section 71. Paragraph (a) of subsection (1) and
 3241 subsections (2) and (4) of section 458.348, Florida Statutes,
 3242 are amended to read:

3243 458.348 Formal supervisory relationships, standing orders,
 3244 and established protocols; notice; standards.—

3245 (1) NOTICE.—

3246 (a) When a physician enters into a formal supervisory
 3247 relationship or standing orders with an emergency medical
 3248 technician or paramedic licensed pursuant to s. 401.27, which
 3249 relationship or orders contemplate the performance of medical

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3250 acts, or when a physician enters into an established protocol
 3251 with an advanced practice registered nurse ~~practitioner~~, which
 3252 protocol contemplates the performance of medical acts set forth
 3253 in s. 464.012(3) and (4), the physician shall submit notice to
 3254 the board. The notice shall contain a statement in substantially
 3255 the following form:

3256 I, ...(name and professional license number of
 3257 physician)..., of ...(address of physician)... have hereby
 3258 entered into a formal supervisory relationship, standing orders,
 3259 or an established protocol with ...(number of persons)...
 3260 emergency medical technician(s), ...(number of persons)...
 3261 paramedic(s), or ...(number of persons)... advanced practice
 3262 registered nurse(s) ~~nurse practitioner(s)~~.

3263 (2) ESTABLISHMENT OF STANDARDS BY JOINT COMMITTEE.—The
 3264 joint committee shall determine minimum standards for the
 3265 content of established protocols pursuant to which an advanced
 3266 practice registered nurse ~~practitioner~~ may perform medical acts
 3267 or acts set forth in s. 464.012(3) and (4) and shall determine
 3268 minimum standards for supervision of such acts by the physician,
 3269 unless the joint committee determines that any act set forth in
 3270 s. 464.012(3) or (4) is not a medical act. Such standards shall
 3271 be based on risk to the patient and acceptable standards of
 3272 medical care and shall take into account the special problems of
 3273 medically underserved areas. The standards developed by the
 3274 joint committee shall be adopted as rules by the Board of

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3275 Nursing and the Board of Medicine for purposes of carrying out
 3276 their responsibilities pursuant to part I of chapter 464 and
 3277 this chapter, respectively, but neither board shall have
 3278 disciplinary powers over the licensees of the other board.

3279 (4) SUPERVISORY RELATIONSHIPS IN MEDICAL OFFICE SETTINGS.—
 3280 A physician who supervises an advanced practice registered nurse
 3281 ~~practitioner~~ or physician assistant at a medical office other
 3282 than the physician's primary practice location, where the
 3283 advanced practice registered nurse ~~practitioner~~ or physician
 3284 assistant is not under the onsite supervision of a supervising
 3285 physician, must comply with the standards set forth in this
 3286 subsection. For the purpose of this subsection, a physician's
 3287 "primary practice location" means the address reflected on the
 3288 physician's profile published pursuant to s. 456.041.

3289 (a) A physician who is engaged in providing primary health
 3290 care services may not supervise more than four offices in
 3291 addition to the physician's primary practice location. For the
 3292 purpose of this subsection, "primary health care" means health
 3293 care services that are commonly provided to patients without
 3294 referral from another practitioner, including obstetrical and
 3295 gynecological services, and excludes practices providing
 3296 primarily dermatologic and skin care services, which include
 3297 aesthetic skin care services.

3298 (b) A physician who is engaged in providing specialty
 3299 health care services may not supervise more than two offices in

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3300 addition to the physician's primary practice location. For the
 3301 purpose of this subsection, "specialty health care" means health
 3302 care services that are commonly provided to patients with a
 3303 referral from another practitioner and excludes practices
 3304 providing primarily dermatologic and skin care services, which
 3305 include aesthetic skin care services.

3306 (c) A physician who supervises an advanced practice
 3307 registered nurse ~~practitioner~~ or physician assistant at a
 3308 medical office other than the physician's primary practice
 3309 location, where the advanced practice registered nurse
 3310 ~~practitioner~~ or physician assistant is not under the onsite
 3311 supervision of a supervising physician and the services offered
 3312 at the office are primarily dermatologic or skin care services,
 3313 which include aesthetic skin care services other than plastic
 3314 surgery, must comply with the standards listed in subparagraphs
 3315 1.-4. Notwithstanding s. 458.347(4)(e)6., a physician
 3316 supervising a physician assistant pursuant to this paragraph may
 3317 not be required to review and cosign charts or medical records
 3318 prepared by such physician assistant.

3319 1. The physician shall submit to the board the addresses
 3320 of all offices where he or she is supervising an advanced
 3321 practice registered nurse ~~practitioner~~ or a physician
 3322 ~~physician's~~ assistant which are not the physician's primary
 3323 practice location.

3324 2. The physician must be board certified or board eligible

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3325 in dermatology or plastic surgery as recognized by the board
 3326 pursuant to s. 458.3312.

3327 3. All such offices that are not the physician's primary
 3328 place of practice must be within 25 miles of the physician's
 3329 primary place of practice or in a county that is contiguous to
 3330 the county of the physician's primary place of practice.
 3331 However, the distance between any of the offices may not exceed
 3332 75 miles.

3333 4. The physician may supervise only one office other than
 3334 the physician's primary place of practice ~~except that until July~~
 3335 ~~1, 2011, the physician may supervise up to two medical offices~~
 3336 ~~other than the physician's primary place of practice if the~~
 3337 ~~addresses of the offices are submitted to the board before July~~
 3338 ~~1, 2006. Effective July 1, 2011, the physician may supervise~~
 3339 ~~only one office other than the physician's primary place of~~
 3340 ~~practice, regardless of when the addresses of the offices were~~
 3341 ~~submitted to the board.~~

3342 (d) A physician who supervises an office in addition to
 3343 the physician's primary practice location must conspicuously
 3344 post in each of the physician's offices a current schedule of
 3345 the regular hours when the physician is present in that office
 3346 and the hours when the office is open while the physician is not
 3347 present.

3348 (e) This subsection does not apply to health care services
 3349 provided in facilities licensed under chapter 395 or in

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3350 conjunction with a college of medicine, a college of nursing, an
 3351 accredited graduate medical program, or a nursing education
 3352 program; not-for-profit, family-planning clinics that are not
 3353 licensed pursuant to chapter 390; rural and federally qualified
 3354 health centers; health care services provided in a nursing home
 3355 licensed under part II of chapter 400, an assisted living
 3356 facility licensed under part I of chapter 429, a continuing care
 3357 facility licensed under chapter 651, or a retirement community
 3358 consisting of independent living units and a licensed nursing
 3359 home or assisted living facility; anesthesia services provided
 3360 in accordance with law; health care services provided in a
 3361 designated rural health clinic; health care services provided to
 3362 persons enrolled in a program designed to maintain elderly
 3363 persons and persons with disabilities in a home or community-
 3364 based setting; university primary care student health centers;
 3365 school health clinics; or health care services provided in
 3366 federal, state, or local government facilities. Subsection (3)
 3367 and this subsection do not apply to offices at which the
 3368 exclusive service being performed is laser hair removal by an
 3369 advanced registered nurse practitioner or physician assistant.

3370 Section 72. Paragraph (c) of subsection (2) of section
 3371 459.0137, Florida Statutes, is amended to read:

3372 459.0137 Pain-management clinics.—

3373 (2) PHYSICIAN RESPONSIBILITIES.—These responsibilities
 3374 apply to any osteopathic physician who provides professional

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3375 services in a pain-management clinic that is required to be
 3376 registered in subsection (1).

3377 (c) An osteopathic physician, a physician assistant, or an
 3378 independent advanced practice registered nurse, or an advanced
 3379 practice registered nurse ~~practitioner~~ must perform a physical
 3380 examination of a patient on the same day that the physician
 3381 prescribes a controlled substance to a patient at a pain-
 3382 management clinic. If the osteopathic physician prescribes more
 3383 than a 72-hour dose of controlled substances for the treatment
 3384 of chronic nonmalignant pain, the osteopathic physician must
 3385 document in the patient's record the reason for prescribing that
 3386 quantity.

3387 Section 73. Paragraph (hh) of subsection (1) of section
 3388 459.015, Florida Statutes, is amended to read:

3389 459.015 Grounds for disciplinary action; action by the
 3390 board and department.—

3391 (1) The following acts constitute grounds for denial of a
 3392 license or disciplinary action, as specified in s. 456.072(2):

3393 (hh) Failing to supervise adequately the activities of
 3394 those physician assistants, paramedics, emergency medical
 3395 technicians, advanced practice registered nurses ~~nurse~~
 3396 ~~practitioners~~, anesthesiologist assistants, or other persons
 3397 acting under the supervision of the osteopathic physician.

3398 Section 74. Paragraph (a) of subsection (1) and subsection
 3399 (3) of section 459.025, Florida Statutes, is amended to read:

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3400 459.025 Formal supervisory relationships, standing orders,
3401 and established protocols; notice; standards.-

3402 (1) NOTICE.-

3403 (a) When an osteopathic physician enters into a formal
3404 supervisory relationship or standing orders with an emergency
3405 medical technician or paramedic licensed pursuant to s. 401.27,
3406 which relationship or orders contemplate the performance of
3407 medical acts, or when an osteopathic physician enters into an
3408 established protocol with an advanced practice registered nurse
3409 ~~practitioner~~, which protocol contemplates the performance of
3410 medical acts or acts set forth in s. 464.012(3) and (4), the
3411 osteopathic physician shall submit notice to the board. The
3412 notice must contain a statement in substantially the following
3413 form:

3414 I, ...(name and professional license number of osteopathic
3415 physician)..., of ...(address of osteopathic physician)... have
3416 hereby entered into a formal supervisory relationship, standing
3417 orders, or an established protocol with ...(number of
3418 persons)... emergency medical technician(s), ...(number of
3419 persons)... paramedic(s), or ...(number of persons)... advanced
3420 practice registered nurse(s) ~~nurse practitioner(s)~~.

3421 (3) SUPERVISORY RELATIONSHIPS IN MEDICAL OFFICE SETTINGS.-

3422 An osteopathic physician who supervises an advanced practice
3423 registered nurse ~~practitioner~~ or physician assistant at a
3424 medical office other than the osteopathic physician's primary

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3425 | practice location, where the advanced registered nurse
 3426 | practitioner or physician assistant is not under the onsite
 3427 | supervision of a supervising osteopathic physician, must comply
 3428 | with the standards set forth in this subsection. For the purpose
 3429 | of this subsection, an osteopathic physician's "primary practice
 3430 | location" means the address reflected on the physician's profile
 3431 | published pursuant to s. 456.041.

3432 | (a) An osteopathic physician who is engaged in providing
 3433 | primary health care services may not supervise more than four
 3434 | offices in addition to the osteopathic physician's primary
 3435 | practice location. For the purpose of this subsection, "primary
 3436 | health care" means health care services that are commonly
 3437 | provided to patients without referral from another practitioner,
 3438 | including obstetrical and gynecological services, and excludes
 3439 | practices providing primarily dermatologic and skin care
 3440 | services, which include aesthetic skin care services.

3441 | (b) An osteopathic physician who is engaged in providing
 3442 | specialty health care services may not supervise more than two
 3443 | offices in addition to the osteopathic physician's primary
 3444 | practice location. For the purpose of this subsection,
 3445 | "specialty health care" means health care services that are
 3446 | commonly provided to patients with a referral from another
 3447 | practitioner and excludes practices providing primarily
 3448 | dermatologic and skin care services, which include aesthetic
 3449 | skin care services.

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3450 (c) An osteopathic physician who supervises an advanced
 3451 practice registered nurse ~~practitioner~~ or physician assistant at
 3452 a medical office other than the osteopathic physician's primary
 3453 practice location, where the advanced practice registered nurse
 3454 ~~practitioner~~ or physician assistant is not under the onsite
 3455 supervision of a supervising osteopathic physician and the
 3456 services offered at the office are primarily dermatologic or
 3457 skin care services, which include aesthetic skin care services
 3458 other than plastic surgery, must comply with the standards
 3459 listed in subparagraphs 1.-4. Notwithstanding s.

3460 459.022(4)(e)6., an osteopathic physician supervising a
 3461 physician assistant pursuant to this paragraph may not be
 3462 required to review and cosign charts or medical records prepared
 3463 by such physician assistant.

3464 1. The osteopathic physician shall submit to the Board of
 3465 Osteopathic Medicine the addresses of all offices where the
 3466 osteopathic physician ~~he or she~~ is supervising or has a protocol
 3467 with an advanced practice registered nurse ~~practitioner~~ or a
 3468 physician ~~physician's~~ assistant which are not the osteopathic
 3469 physician's primary practice location.

3470 2. The osteopathic physician must be board certified or
 3471 board eligible in dermatology or plastic surgery as recognized
 3472 by the Board of Osteopathic Medicine pursuant to s. 459.0152.

3473 3. All such offices that are not the osteopathic
 3474 physician's primary place of practice must be within 25 miles of

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3475 the osteopathic physician's primary place of practice or in a
 3476 county that is contiguous to the county of the osteopathic
 3477 physician's primary place of practice. However, the distance
 3478 between any of the offices may not exceed 75 miles.

3479 4. The osteopathic physician may supervise only one office
 3480 other than the osteopathic physician's primary place of practice
 3481 ~~except that until July 1, 2011, the osteopathic physician may~~
 3482 ~~supervise up to two medical offices other than the osteopathic~~
 3483 ~~physician's primary place of practice if the addresses of the~~
 3484 ~~offices are submitted to the Board of Osteopathic Medicine~~
 3485 ~~before July 1, 2006. Effective July 1, 2011, the osteopathic~~
 3486 ~~physician may supervise only one office other than the~~
 3487 ~~osteopathic physician's primary place of practice, regardless of~~
 3488 ~~when the addresses of the offices were submitted to the Board of~~
 3489 ~~Osteopathic Medicine.~~

3490 (d) An osteopathic physician who supervises an office in
 3491 addition to the osteopathic physician's primary practice
 3492 location must conspicuously post in each of the osteopathic
 3493 physician's offices a current schedule of the regular hours when
 3494 the osteopathic physician is present in that office and the
 3495 hours when the office is open while the osteopathic physician is
 3496 not present.

3497 (e) This subsection does not apply to health care services
 3498 provided in facilities licensed under chapter 395 or in
 3499 conjunction with a college of medicine or college of nursing or

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3500 an accredited graduate medical or nursing education program;
 3501 offices where the only service being performed is hair removal
 3502 by an advanced practice registered nurse ~~practitioner~~ or
 3503 physician assistant; not-for-profit, family-planning clinics
 3504 that are not licensed pursuant to chapter 390; rural and
 3505 federally qualified health centers; health care services
 3506 provided in a nursing home licensed under part II of chapter
 3507 400, an assisted living facility licensed under part I of
 3508 chapter 429, a continuing care facility licensed under chapter
 3509 651, or a retirement community consisting of independent living
 3510 units and either a licensed nursing home or assisted living
 3511 facility; anesthesia services provided in accordance with law;
 3512 health care services provided in a designated rural health
 3513 clinic; health care services provided to persons enrolled in a
 3514 program designed to maintain elderly persons and persons with
 3515 disabilities in a home or community-based setting; university
 3516 primary care student health centers; school health clinics; or
 3517 health care services provided in federal, state, or local
 3518 government facilities.

3519 Section 75. Subsection (2) of section 464.004, Florida
 3520 Statutes, is amended to read:

3521 464.004 Board of Nursing; membership; appointment; terms.—

3522 (2) Seven members of the board must be registered nurses
 3523 who are residents of this state and who have been engaged in the
 3524 practice of professional nursing for at least 4 years, including

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3525 at least one advanced practice registered nurse ~~practitioner~~,
 3526 one nurse educator member of an approved program, and one nurse
 3527 executive. These seven board members should be representative of
 3528 the diverse areas of practice within the nursing profession. In
 3529 addition, three members of the board must be licensed practical
 3530 nurses who are residents of this state and who have been
 3531 actively engaged in the practice of practical nursing for at
 3532 least 4 years prior to their appointment. The remaining three
 3533 members must be residents of the state who have never been
 3534 licensed as nurses and who are in no way connected with the
 3535 practice of nursing. No person may be appointed as a lay member
 3536 who is in any way connected with, or has any financial interest
 3537 in, any health care facility, agency, or insurer. At least one
 3538 member of the board must be 60 years of age or older.

3539 Section 76. Paragraph (a) of subsection (4) of section
 3540 464.0205, Florida Statutes, is amended to read:

3541 464.0205 Retired volunteer nurse certificate.-

3542 (4) A retired volunteer nurse receiving certification from
 3543 the board shall:

3544 (a) Work under the direct supervision of the director of a
 3545 county health department, a physician working under a limited
 3546 license issued pursuant to s. 458.317 or s. 459.0075, a
 3547 physician licensed under chapter 458 or chapter 459, an
 3548 independent advanced practice registered nurse registered under
 3549 s. 464.0125, an advanced practice registered nurse ~~practitioner~~

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3550 certified under s. 464.012, or a registered nurse licensed under
 3551 s. 464.008 or s. 464.009.

3552 Section 77. Subsection (2) of section 467.003, Florida
 3553 Statutes, is amended to read:

3554 467.003 Definitions.—As used in this chapter, unless the
 3555 context otherwise requires:

3556 (2) "Certified nurse midwife" means a person who is
 3557 certified ~~licensed~~ as an advanced practice registered nurse
 3558 ~~practitioner~~ under part I of chapter 464 and who is certified to
 3559 practice midwifery by the American College of Nurse Midwives.

3560 Section 78. Paragraph (b) of subsection (1) of section
 3561 480.0475, Florida Statutes, is amended to read:

3562 480.0475 Massage establishments; prohibited practices.—

3563 (1) A person may not operate a massage establishment
 3564 between the hours of midnight and 5 a.m. This subsection does
 3565 not apply to a massage establishment:

3566 (b) In which every massage performed between the hours of
 3567 midnight and 5 a.m. is performed by a massage therapist acting
 3568 under the prescription of a physician or physician assistant
 3569 licensed under chapter 458, an osteopathic physician or
 3570 physician assistant licensed under chapter 459, a chiropractic
 3571 physician licensed under chapter 460, a podiatric physician
 3572 licensed under chapter 461, an independent advanced practice
 3573 registered nurse registered, or an advanced practice registered
 3574 nurse certified ~~practitioner~~ ~~licensed~~ under part I of chapter

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3575 464, or a dentist licensed under chapter 466; or
 3576 Section 79. Subsection (7) of section 483.041, Florida
 3577 Statutes, is amended to read:
 3578 483.041 Definitions.—As used in this part, the term:
 3579 (7) "Licensed practitioner" means a physician licensed
 3580 under chapter 458, chapter 459, chapter 460, or chapter 461; a
 3581 physician assistant licensed under chapter 458 or chapter 459; a
 3582 certified optometrist licensed under chapter 463; a dentist
 3583 licensed under chapter 466; a person licensed under chapter 462;
 3584 a consultant pharmacist or doctor of pharmacy licensed under
 3585 chapter 465; an independent advanced practice registered nurse
 3586 registered, or an advanced practice registered nurse certified
 3587 practitioner licensed under part I of chapter 464; or a duly
 3588 licensed practitioner from another state licensed under similar
 3589 statutes who orders examinations on materials or specimens for
 3590 nonresidents of the State of Florida, but who reside in the same
 3591 state as the requesting licensed practitioner.
 3592 Section 80. Subsection (5) of section 483.181, Florida
 3593 Statutes, is amended to read:
 3594 483.181 Acceptance, collection, identification, and
 3595 examination of specimens.—
 3596 (5) A clinical laboratory licensed under this part must
 3597 make its services available to a practitioner licensed under
 3598 chapter 458, chapter 459, chapter 460, chapter 461, chapter 462,
 3599 chapter 463, s. 464.012, s. 464.0125, or chapter 466, or to a

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3600 consultant pharmacist or doctor of pharmacy licensed under
 3601 chapter 465. A clinical laboratory shall not charge different
 3602 prices for its services based upon the chapter under which a
 3603 practitioner is licensed.

3604 Section 81. Subsection (5) of section 483.801, Florida
 3605 Statutes, is amended to read:

3606 483.801 Exemptions.—This part applies to all clinical
 3607 laboratories and clinical laboratory personnel within this
 3608 state, except:

3609 (5) Advanced practice registered nurses certified ~~nurse~~
 3610 ~~practitioners licensed~~ under part I of chapter 464 who perform
 3611 provider-performed microscopy procedures (PPMP) in an exclusive-
 3612 use laboratory setting.

3613 Section 82. Paragraph (a) of subsection (11) of section
 3614 486.021, Florida Statutes, is amended to read:

3615 486.021 Definitions.—In this chapter, unless the context
 3616 otherwise requires, the term:

3617 (11) "Practice of physical therapy" means the performance
 3618 of physical therapy assessments and the treatment of any
 3619 disability, injury, disease, or other health condition of human
 3620 beings, or the prevention of such disability, injury, disease,
 3621 or other condition of health, and rehabilitation as related
 3622 thereto by the use of the physical, chemical, and other
 3623 properties of air; electricity; exercise; massage; the
 3624 performance of acupuncture only upon compliance with the

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3625 criteria set forth by the Board of Medicine, when no penetration
 3626 of the skin occurs; the use of radiant energy, including
 3627 ultraviolet, visible, and infrared rays; ultrasound; water; the
 3628 use of apparatus and equipment in the application of the
 3629 foregoing or related thereto; the performance of tests of
 3630 neuromuscular functions as an aid to the diagnosis or treatment
 3631 of any human condition; or the performance of electromyography
 3632 as an aid to the diagnosis of any human condition only upon
 3633 compliance with the criteria set forth by the Board of Medicine.

3634 (a) A physical therapist may implement a plan of treatment
 3635 developed by the physical therapist for a patient or provided
 3636 for a patient by a practitioner of record, ~~or by an independent~~
 3637 advanced practice registered nurse registered under s. 464.0125,
 3638 or an advanced practice registered nurse certified practitioner
 3639 ~~licensed~~ under s. 464.012. The physical therapist shall refer
 3640 the patient to or consult with a practitioner of record if the
 3641 patient's condition is found to be outside the scope of physical
 3642 therapy. If physical therapy treatment for a patient is required
 3643 beyond 30 days for a condition not previously assessed by a
 3644 practitioner of record, the physical therapist shall have a
 3645 practitioner of record review and sign the plan. The requirement
 3646 that a physical therapist have a practitioner of record review
 3647 and sign a plan of treatment does not apply when a patient has
 3648 been physically examined by a physician licensed in another
 3649 state, the patient has been diagnosed by the physician as having

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3650 a condition for which physical therapy is required, and the
 3651 physical therapist is treating the condition. For purposes of
 3652 this paragraph, a health care practitioner licensed under
 3653 chapter 458, chapter 459, chapter 460, chapter 461, or chapter
 3654 466 and engaged in active practice is eligible to serve as a
 3655 practitioner of record.

3656 Section 83. Paragraph (d) of subsection (1) of section
 3657 490.012, Florida Statutes, is amended to read:

3658 490.012 Violations; penalties; injunction.--

3659 (1)

3660 (d) No person shall hold herself or himself out by any
 3661 title or description incorporating the word, or a permutation of
 3662 the word, "psychotherapy" unless such person holds a valid,
 3663 active license under chapter 458, chapter 459, chapter 490, or
 3664 chapter 491, or such person is registered as an independent
 3665 advanced practice registered nurse registered under s. 464.0125
 3666 or certified as an advanced practice registered nurse under
 3667 practitioner, pursuant to s. 464.012, and who has been
 3668 determined by the Board of Nursing to be ~~as~~ a specialist in
 3669 psychiatric mental health.

3670 Section 84. Subsection (1) of section 491.0057, Florida
 3671 Statutes, is amended to read:

3672 491.0057 Dual licensure as a marriage and family
 3673 therapist.--The department shall license as a marriage and family
 3674 therapist any person who demonstrates to the board that he or

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3675 she:

3676 (1) Holds a valid, active license as a psychologist under
 3677 chapter 490 or as a clinical social worker or mental health
 3678 counselor under this chapter, or is registered under s. 464.0125
 3679 as an independent advanced practice registered nurse or
 3680 certified under s. 464.012 as an advanced practice registered
 3681 nurse and ~~practitioner who~~ has been determined by the Board of
 3682 Nursing to be ~~as~~ a specialist in psychiatric mental health.

3683 Section 85. Paragraph (d) of subsection (1) and subsection
 3684 (2) of section 491.012, Florida Statutes, is amended to read:
 3685 491.012 Violations; penalty; injunction.—

3686 (1) It is unlawful and a violation of this chapter for any
 3687 person to:

3688 (d) Use the terms psychotherapist, sex therapist, or
 3689 juvenile sexual offender therapist unless such person is
 3690 licensed pursuant to this chapter or chapter 490, or is
 3691 registered under s. 464.0125 as an independent advanced practice
 3692 registered nurse or certified under s. 464.012 as an advanced
 3693 practice registered nurse and ~~practitioner who~~ has been
 3694 determined by the Board of Nursing to be ~~as~~ a specialist in
 3695 psychiatric mental health and the use of such terms is within
 3696 the scope of her or his practice based on education, training,
 3697 and licensure.

3698 (2) It is unlawful and a violation of this chapter for any
 3699 person to describe her or his services using the following terms

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3700 or any derivative thereof, unless such person holds a valid,
 3701 active license under this chapter or chapter 490, or is
 3702 registered under s. 464.0125 as an independent advanced practice
 3703 registered nurse or is certified under s. 464.012 as an advanced
 3704 practice registered nurse and ~~practitioner who~~ has been
 3705 determined by the Board of Nursing to be ~~as~~ a specialist in
 3706 psychiatric mental health and the use of such terms is within
 3707 the scope of her or his practice based on education, training,
 3708 and licensure:

- 3709 (a) "Psychotherapy."
- 3710 (b) "Sex therapy."
- 3711 (c) "Sex counseling."
- 3712 (d) "Clinical social work."
- 3713 (e) "Psychiatric social work."
- 3714 (f) "Marriage and family therapy."
- 3715 (g) "Marriage and family counseling."
- 3716 (h) "Marriage counseling."
- 3717 (i) "Family counseling."
- 3718 (j) "Mental health counseling."

3719 Section 86. Subsection (2) of section 493.6108, Florida
 3720 Statutes, is amended to read:

3721 493.6108 Investigation of applicants by Department of
 3722 Agriculture and Consumer Services.—

3723 (2) In addition to subsection (1), the department shall
 3724 make an investigation of the general physical fitness of the

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3725 Class "G" applicant to bear a weapon or firearm. Determination
 3726 of physical fitness shall be certified by a physician or
 3727 physician assistant currently licensed pursuant to chapter 458,
 3728 chapter 459, or any similar law of another state or authorized
 3729 to act as a licensed physician by a federal agency or
 3730 department, or by an independent advanced practice registered
 3731 nurse registered, or an advanced practice registered nurse
 3732 certified, under part I of ~~practitioner currently licensed~~
 3733 ~~pursuant to~~ chapter 464. Such certification shall be submitted
 3734 on a form provided by the department.

3735 Section 87. Subsection (1) of section 626.9707, Florida
 3736 Statutes, is amended to read:

3737 626.9707 Disability insurance; discrimination on basis of
 3738 sickle-cell trait prohibited.-

3739 (1) An ~~No~~ insurer authorized to transact insurance in this
 3740 state may not shall refuse to issue and deliver in this state
 3741 any policy of disability insurance, whether such policy is
 3742 defined as individual, group, blanket, franchise, industrial, or
 3743 otherwise, which is currently being issued for delivery in this
 3744 state and which affords benefits and coverage for any medical
 3745 treatment or service authorized and permitted to be furnished by
 3746 a hospital, a clinic, a health clinic, a neighborhood health
 3747 clinic, a health maintenance organization, a physician, a
 3748 physician ~~physician's~~ assistant, an independent advanced
 3749 practice registered nurse, an advanced practice registered nurse

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3750 ~~practitioner~~, or a medical service facility or personnel solely
 3751 because the person to be insured has the sickle-cell trait.

3752 Section 88. Paragraph (b) of subsection (1) of section
 3753 627.357, Florida Statutes, is amended to read:

3754 627.357 Medical malpractice self-insurance.—

3755 (1) DEFINITIONS.—As used in this section, the term:

3756 (b) "Health care provider" means any:

3757 1. Hospital licensed under chapter 395.

3758 2. Physician licensed, or physician assistant licensed,
 3759 under chapter 458.

3760 3. Osteopathic physician or physician assistant licensed
 3761 under chapter 459.

3762 4. Podiatric physician licensed under chapter 461.

3763 5. Health maintenance organization certificated under part
 3764 I of chapter 641.

3765 6. Ambulatory surgical center licensed under chapter 395.

3766 7. Chiropractic physician licensed under chapter 460.

3767 8. Psychologist licensed under chapter 490.

3768 9. Optometrist licensed under chapter 463.

3769 10. Dentist licensed under chapter 466.

3770 11. Pharmacist licensed under chapter 465.

3771 12. Registered nurse, licensed practical nurse,

3772 independent advanced practice registered nurse, or advanced

3773 practice registered nurse ~~practitioner~~ licensed, ~~or~~ registered,

3774 or certified under part I of chapter 464.

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3775 13. Other medical facility.
 3776 14. Professional association, partnership, corporation,
 3777 joint venture, or other association established by the
 3778 individuals set forth in subparagraphs 2., 3., 4., 7., 8., 9.,
 3779 10., 11., and 12. for professional activity.

3780 Section 89. Subsection (6) of section 627.6471, Florida
 3781 Statutes, is amended to read:

3782 627.6471 Contracts for reduced rates of payment;
 3783 limitations; coinsurance and deductibles.—

3784 (6) If psychotherapeutic services are covered by a policy
 3785 issued by the insurer, the insurer shall provide eligibility
 3786 criteria for each group of health care providers licensed under
 3787 chapter 458, chapter 459, chapter 490, or chapter 491, which
 3788 include psychotherapy within the scope of their practice as
 3789 provided by law, or for any person who is registered as
 3790 independent advanced practice registered nurse under s. 464.0125
 3791 or certified as an advanced practice registered nurse
 3792 practitioner in psychiatric mental health under s. 464.012 and
 3793 who specializes in psychiatric mental health. When
 3794 psychotherapeutic services are covered, eligibility criteria
 3795 shall be established by the insurer to be included in the
 3796 insurer's criteria for selection of network providers. The
 3797 insurer may not discriminate against a health care provider by
 3798 excluding such practitioner from its provider network solely on
 3799 the basis of the practitioner's license.

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3800 Section 90. Subsections (15) and (17) of section 627.6472,
 3801 Florida Statutes, are amended to read:

3802 627.6472 Exclusive provider organizations.—

3803 (15) If psychotherapeutic services are covered by a policy
 3804 issued by the insurer, the insurer shall provide eligibility
 3805 criteria for all groups of health care providers licensed under
 3806 chapter 458, chapter 459, chapter 490, or chapter 491, which
 3807 include psychotherapy within the scope of their practice as
 3808 provided by law, or for any person who is registered as an
 3809 independent advanced practice registered nurse under s. 464.0125
 3810 or certified as an advanced practice registered nurse
 3811 ~~practitioner in psychiatric mental health~~ under s. 464.012 and
 3812 who specializes in psychiatric mental health. When
 3813 psychotherapeutic services are covered, eligibility criteria
 3814 shall be established by the insurer to be included in the
 3815 insurer's criteria for selection of network providers. The
 3816 insurer may not discriminate against a health care provider by
 3817 excluding such practitioner from its provider network solely on
 3818 the basis of the practitioner's license.

3819 (17) An exclusive provider organization shall not
 3820 discriminate with respect to participation as to any independent
 3821 advanced practice registered nurse registered pursuant to s.
 3822 464.0125 or advanced practice registered nurse practitioner
 3823 ~~licensed and~~ certified pursuant to s. 464.012, who is acting
 3824 within the scope of such registration or license ~~and~~

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3825 certification, solely on the basis of such registration license
 3826 or certification. This subsection shall not be construed to
 3827 prohibit a plan from including providers only to the extent
 3828 necessary to meet the needs of the plan's enrollees or from
 3829 establishing any measure designed to maintain quality and
 3830 control costs consistent with the responsibilities of the plan.

3831 Section 91. Paragraph (a) of subsection (1) of section
 3832 627.736, Florida Statutes, is amended to read:

3833 627.736 Required personal injury protection benefits;
 3834 exclusions; priority; claims.-

3835 (1) REQUIRED BENEFITS.-An insurance policy complying with
 3836 the security requirements of s. 627.733 must provide personal
 3837 injury protection to the named insured, relatives residing in
 3838 the same household, persons operating the insured motor vehicle,
 3839 passengers in the motor vehicle, and other persons struck by the
 3840 motor vehicle and suffering bodily injury while not an occupant
 3841 of a self-propelled vehicle, subject to subsection (2) and
 3842 paragraph (4)(e), to a limit of \$10,000 in medical and
 3843 disability benefits and \$5,000 in death benefits resulting from
 3844 bodily injury, sickness, disease, or death arising out of the
 3845 ownership, maintenance, or use of a motor vehicle as follows:

3846 (a) Medical benefits.-Eighty percent of all reasonable
 3847 expenses for medically necessary medical, surgical, X-ray,
 3848 dental, and rehabilitative services, including prosthetic
 3849 devices and medically necessary ambulance, hospital, and nursing

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3850 services if the individual receives initial services and care
 3851 pursuant to subparagraph 1. within 14 days after the motor
 3852 vehicle accident. The medical benefits provide reimbursement
 3853 only for:

3854 1. Initial services and care that are lawfully provided,
 3855 supervised, ordered, or prescribed by a physician licensed under
 3856 chapter 458 or chapter 459, a dentist licensed under chapter
 3857 466, ~~or~~ a chiropractic physician licensed under chapter 460, or
 3858 an independent advance practice registered nurse registered
 3859 under s. 464.0125, or that are provided in a hospital or in a
 3860 facility that owns, or is wholly owned by, a hospital. Initial
 3861 services and care may also be provided by a person or entity
 3862 licensed under part III of chapter 401 which provides emergency
 3863 transportation and treatment.

3864 2. Upon referral by a provider described in subparagraph
 3865 1., followup services and care consistent with the underlying
 3866 medical diagnosis rendered pursuant to subparagraph 1. which may
 3867 be provided, supervised, ordered, or prescribed only by a
 3868 physician licensed under chapter 458 or chapter 459, a
 3869 chiropractic physician licensed under chapter 460, a dentist
 3870 licensed under chapter 466, an independent advance practice
 3871 registered nurse under s. 464.0125, or, to the extent permitted
 3872 by applicable law and under the supervision of such physician,
 3873 osteopathic physician, chiropractic physician, ~~or~~ dentist, or
 3874 independent advanced practice registered nurse, by a physician

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3875 assistant licensed under chapter 458 or chapter 459 or an
 3876 advanced practice registered nurse certified ~~practitioner~~
 3877 ~~licensed~~ under s. 464.012 ~~chapter 464~~. Followup services and
 3878 care may also be provided by the following persons or entities:
 3879 a. A hospital or ambulatory surgical center licensed under
 3880 chapter 395.
 3881 b. An entity wholly owned by one or more physicians
 3882 licensed under chapter 458 or chapter 459, chiropractic
 3883 physicians licensed under chapter 460, independent advanced
 3884 practice registered nurses registered under s. 464.0125, or
 3885 dentists licensed under chapter 466 or by such practitioners and
 3886 the spouse, parent, child, or sibling of such practitioners.
 3887 c. An entity that owns or is wholly owned, directly or
 3888 indirectly, by a hospital or hospitals.
 3889 d. A physical therapist licensed under chapter 486, based
 3890 upon a referral by a provider described in this subparagraph.
 3891 e. A health care clinic licensed under part X of chapter
 3892 400 which is accredited by an accrediting organization whose
 3893 standards incorporate comparable regulations required by this
 3894 state, or
 3895 (I) Has a medical director licensed under chapter 458,
 3896 chapter 459, or chapter 460;
 3897 (II) Has been continuously licensed for more than 3 years
 3898 or is a publicly traded corporation that issues securities
 3899 traded on an exchange registered with the United States

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3900 Securities and Exchange Commission as a national securities
 3901 exchange; and
 3902 (III) Provides at least four of the following medical
 3903 specialties:
 3904 (A) General medicine.
 3905 (B) Radiography.
 3906 (C) Orthopedic medicine.
 3907 (D) Physical medicine.
 3908 (E) Physical therapy.
 3909 (F) Physical rehabilitation.
 3910 (G) Prescribing or dispensing outpatient prescription
 3911 medication.
 3912 (H) Laboratory services.
 3913 3. Reimbursement for services and care provided in
 3914 subparagraph 1. or subparagraph 2. up to \$10,000 if a physician
 3915 licensed under chapter 458 or chapter 459, a dentist licensed
 3916 under chapter 466, an independent advanced practice registered
 3917 nurse registered under s. 464.0125, a physician assistant
 3918 licensed under chapter 458 or chapter 459, or an advanced
 3919 practice registered nurse certified practitioner ~~licensed~~ under
 3920 s. 464.012 ~~chapter 464~~ has determined that the injured person
 3921 had an emergency medical condition.
 3922 4. Reimbursement for services and care provided in
 3923 subparagraph 1. or subparagraph 2. is limited to \$2,500 if a
 3924 provider listed in subparagraph 1. or subparagraph 2. determines

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3925 that the injured person did not have an emergency medical
3926 condition.

3927 5. Medical benefits do not include massage as defined in
3928 s. 480.033 or acupuncture as defined in s. 457.102, regardless
3929 of the person, entity, or licensee providing massage or
3930 acupuncture, and a licensed massage therapist or licensed
3931 acupuncturist may not be reimbursed for medical benefits under
3932 this section.

3933 6. The Financial Services Commission shall adopt by rule
3934 the form that must be used by an insurer and a health care
3935 provider specified in sub-subparagraph 2.b., sub-subparagraph
3936 2.c., or sub-subparagraph 2.e. to document that the health care
3937 provider meets the criteria of this paragraph. Such rule must
3938 include a requirement for a sworn statement or affidavit.

3939
3940 Only insurers writing motor vehicle liability insurance in this
3941 state may provide the required benefits of this section, and
3942 such insurer may not require the purchase of any other motor
3943 vehicle coverage other than the purchase of property damage
3944 liability coverage as required by s. 627.7275 as a condition for
3945 providing such benefits. Insurers may not require that property
3946 damage liability insurance in an amount greater than \$10,000 be
3947 purchased in conjunction with personal injury protection. Such
3948 insurers shall make benefits and required property damage
3949 liability insurance coverage available through normal marketing

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3950 channels. An insurer writing motor vehicle liability insurance
 3951 in this state who fails to comply with such availability
 3952 requirement as a general business practice violates part IX of
 3953 chapter 626, and such violation constitutes an unfair method of
 3954 competition or an unfair or deceptive act or practice involving
 3955 the business of insurance. An insurer committing such violation
 3956 is subject to the penalties provided under that part, as well as
 3957 those provided elsewhere in the insurance code.

3958 Section 92. Subsection (5) of section 633.412, Florida
 3959 Statutes, is amended to read:

3960 633.412 Firefighters; qualifications for certification.—A
 3961 person applying for certification as a firefighter must:

3962 (5) Be in good physical condition as determined by a
 3963 medical examination given by a physician, surgeon, or physician
 3964 assistant licensed to practice in the state under ~~pursuant to~~
 3965 chapter 458; an osteopathic physician, surgeon, or physician
 3966 assistant licensed to practice in the state under ~~pursuant to~~
 3967 chapter 459; or an independent advanced practice registered
 3968 nurse registered, or an advanced practice registered nurse
 3969 certified practitioner licensed to practice in the state under
 3970 part I of ~~pursuant to~~ chapter 464. Such examination may include,
 3971 but need not be limited to, the National Fire Protection
 3972 Association Standard 1582. A medical examination evidencing good
 3973 physical condition shall be submitted to the division, on a form
 3974 as provided by rule, before an individual is eligible for

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3975 admission into a course under s. 633.408.

3976 Section 93. Section 641.3923, Florida Statutes, is amended
3977 to read:

3978 641.3923 Discrimination against providers prohibited.—A
3979 health maintenance organization may ~~shall~~ not discriminate with
3980 respect to participation as to any independent advanced practice
3981 registered nurse registered under s. 464.0125, advanced practice
3982 registered nurse practitioner licensed and certified under
3983 pursuant to s. 464.012, or physician assistant licensed under
3984 chapter 458 or chapter 459, who is acting within the scope of
3985 such registration, license and certification, license, solely on
3986 the basis of such registration, license or certification, or
3987 license. This section shall not be construed to prohibit a plan
3988 from including providers only to the extent necessary to meet
3989 the needs of the plan's enrollees or from establishing any
3990 measure designed to maintain quality and control costs
3991 consistent with the responsibilities of the plan.

3992 Section 94. Subsection (8) of section 641.495, Florida
3993 Statutes, is amended to read:

3994 641.495 Requirements for issuance and maintenance of
3995 certificate.—

3996 (8) Each organization's contracts, certificates, and
3997 subscriber handbooks shall contain a provision, if applicable,
3998 disclosing that, for certain types of described medical
3999 procedures, services may be provided by physician assistants,

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4000 independent advanced practice registered nurses, advanced
 4001 practice registered nurses ~~nurse-practitioners~~, or other
 4002 individuals who are not licensed physicians.

4003 Section 95. Subsection (1) of section 744.2006, Florida
 4004 Statutes, is amended to read:

4005 744.2006 Office of Public and Professional Guardians;
 4006 appointment, notification.—

4007 (1) The executive director of the Office of Public and
 4008 Professional Guardians, after consultation with the chief judge
 4009 and other circuit judges within the judicial circuit and with
 4010 appropriate advocacy groups and individuals and organizations
 4011 who are knowledgeable about the needs of incapacitated persons,
 4012 may establish, within a county in the judicial circuit or within
 4013 the judicial circuit, one or more offices of public guardian and
 4014 if so established, shall create a list of persons best qualified
 4015 to serve as the public guardian, who have been investigated
 4016 pursuant to s. 744.3135. The public guardian must have knowledge
 4017 of the legal process and knowledge of social services available
 4018 to meet the needs of incapacitated persons. The public guardian
 4019 shall maintain a staff or contract with professionally qualified
 4020 individuals to carry out the guardianship functions, including
 4021 an attorney who has experience in probate areas and another
 4022 person who has a master's degree in social work, or a
 4023 gerontologist, a psychologist, a registered nurse, an
 4024 independent advanced practice registered nurse, or an advanced

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4025 practice registered nurse ~~practitioner~~. A public guardian that
 4026 is a nonprofit corporate guardian under s. 744.309(5) must
 4027 receive tax-exempt status from the United States Internal
 4028 Revenue Service.

4029 Section 96. Paragraph (a) of subsection (3) of section
 4030 744.331, Florida Statutes, is amended to read:

4031 744.331 Procedures to determine incapacity.-

4032 (3) EXAMINING COMMITTEE.-

4033 (a) Within 5 days after a petition for determination of
 4034 incapacity has been filed, the court shall appoint an examining
 4035 committee consisting of three members. One member must be a
 4036 psychiatrist or other physician. The remaining members must be
 4037 either a psychologist, a gerontologist, a ~~another~~ psychiatrist,
 4038 a ~~or other~~ physician, a registered nurse, an advanced practice
 4039 registered nurse practitioner, a physician assistant, a licensed
 4040 social worker, a person with an advanced degree in gerontology
 4041 from an accredited institution of higher education, or another
 4042 ~~other~~ person who by knowledge, skill, experience, training, or
 4043 education may, in the court's discretion, advise the court in
 4044 the form of an expert opinion. One of three members of the
 4045 committee must have knowledge of the type of incapacity alleged
 4046 in the petition. Unless good cause is shown, the attending or
 4047 family physician may not be appointed to the committee. If the
 4048 attending or family physician is available for consultation, the
 4049 committee must consult with the physician. Members of the

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4050 examining committee may not be related to or associated with one
 4051 another, with the petitioner, with counsel for the petitioner or
 4052 the proposed guardian, or with the person alleged to be totally
 4053 or partially incapacitated. A member may not be employed by any
 4054 private or governmental agency that has custody of, or
 4055 furnishes, services or subsidies, directly or indirectly, to the
 4056 person or the family of the person alleged to be incapacitated
 4057 or for whom a guardianship is sought. A petitioner may not serve
 4058 as a member of the examining committee. Members of the examining
 4059 committee must be able to communicate, either directly or
 4060 through an interpreter, in the language that the alleged
 4061 incapacitated person speaks or to communicate in a medium
 4062 understandable to the alleged incapacitated person if she or he
 4063 is able to communicate. The clerk of the court shall send notice
 4064 of the appointment to each person appointed no later than 3 days
 4065 after the court's appointment.

4066 Section 97. Subsection (6) of section 766.102, Florida
 4067 Statutes, is amended to read:

4068 766.102 Medical negligence; standards of recovery; expert
 4069 witness.—

4070 (6) A physician licensed under chapter 458 or chapter 459
 4071 who qualifies as an expert witness under subsection (5) and who,
 4072 by reason of active clinical practice or instruction of
 4073 students, has knowledge of the applicable standard of care for
 4074 nurses, independent advanced practice registered nurses,

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

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4075 advanced practice registered nurses ~~nurse practitioners,~~
 4076 ~~certified registered nurse anesthetists, certified registered~~
 4077 ~~nurse midwives,~~ physician assistants, or other medical support
 4078 staff may give expert testimony in a medical negligence action
 4079 with respect to the standard of care of such medical support
 4080 staff.

4081 Section 98. Subsection (3) of section 766.103, Florida
 4082 Statutes, is amended to read:

4083 766.103 Florida Medical Consent Law.—

4084 (3) ~~No~~ Recovery is not ~~shall be~~ allowed in any court in
 4085 this state against any physician licensed under chapter 458,
 4086 osteopathic physician licensed under chapter 459, chiropractic
 4087 physician licensed under chapter 460, podiatric physician
 4088 licensed under chapter 461, dentist licensed under chapter 466,
 4089 independent advanced practice registered nurse registered under
 4090 s. 464.0125, advanced practice registered nurse ~~practitioner~~
 4091 certified under s. 464.012, or physician assistant licensed
 4092 under s. 458.347 or s. 459.022 in an action brought for
 4093 treating, examining, or operating on a patient without his or
 4094 her informed consent when:

4095 (a)1. The action of the physician, osteopathic physician,
 4096 chiropractic physician, podiatric physician, dentist,
 4097 independent advanced practice registered nurse, advanced
 4098 practice registered nurse ~~practitioner,~~ or physician assistant
 4099 in obtaining the consent of the patient or another person

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4100 authorized to give consent for the patient was in accordance
 4101 with an accepted standard of medical practice among members of
 4102 the medical profession with similar training and experience in
 4103 the same or similar medical community as that of the person
 4104 treating, examining, or operating on the patient for whom the
 4105 consent is obtained; and

4106 2. A reasonable individual, from the information provided
 4107 by the physician, osteopathic physician, chiropractic physician,
 4108 podiatric physician, dentist, independent advanced practice
 4109 registered nurse, advanced practice registered nurse
 4110 ~~practitioner~~, or physician assistant, under the circumstances,
 4111 would have a general understanding of the procedure, the
 4112 medically acceptable alternative procedures or treatments, and
 4113 the substantial risks and hazards inherent in the proposed
 4114 treatment or procedures, which are recognized among other
 4115 physicians, osteopathic physicians, chiropractic physicians,
 4116 podiatric physicians, or dentists in the same or similar
 4117 community who perform similar treatments or procedures; or

4118 (b) The patient would reasonably, under all the
 4119 surrounding circumstances, have undergone such treatment or
 4120 procedure had he or she been advised by the physician,
 4121 osteopathic physician, chiropractic physician, podiatric
 4122 physician, dentist, independent advanced practice registered
 4123 nurse, advanced practice registered nurse ~~practitioner~~, or
 4124 physician assistant in accordance with the provisions of

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4125 paragraph (a).
 4126 Section 99. Paragraph (d) of subsection (3) of section
 4127 766.1115, Florida Statutes, is amended to read:
 4128 766.1115 Health care providers; creation of agency
 4129 relationship with governmental contractors.—
 4130 (3) DEFINITIONS.—As used in this section, the term:
 4131 (d) "Health care provider" or "provider" means:
 4132 1. A birth center licensed under chapter 383.
 4133 2. An ambulatory surgical center licensed under chapter
 4134 395.
 4135 3. A hospital licensed under chapter 395.
 4136 4. A physician or physician assistant licensed under
 4137 chapter 458.
 4138 5. An osteopathic physician or osteopathic physician
 4139 assistant licensed under chapter 459.
 4140 6. A chiropractic physician licensed under chapter 460.
 4141 7. A podiatric physician licensed under chapter 461.
 4142 8. A registered nurse, ~~nurse midwife~~, a licensed practical
 4143 nurse, an independent advanced practice registered nurse, or an
 4144 advanced practice registered nurse practitioner licensed,
 4145 registered, or certified registered ~~registered~~ under part I of chapter 464
 4146 or any facility which employs nurses licensed or registered
 4147 under part I of chapter 464 to supply all or part of the care
 4148 delivered under this section.
 4149 9. A midwife licensed under chapter 467.

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4150 10. A health maintenance organization certificated under
4151 part I of chapter 641.

4152 11. A health care professional association and its
4153 employees or a corporate medical group and its employees.

4154 12. Any other medical facility the primary purpose of
4155 which is to deliver human medical diagnostic services or which
4156 delivers nonsurgical human medical treatment, and which includes
4157 an office maintained by a provider.

4158 13. A dentist or dental hygienist licensed under chapter
4159 466.

4160 14. A free clinic that delivers only medical diagnostic
4161 services or nonsurgical medical treatment free of charge to all
4162 low-income recipients.

4163 15. Any other health care professional, practitioner,
4164 provider, or facility under contract with a governmental
4165 contractor, including a student enrolled in an accredited
4166 program that prepares the student for licensure as any one of
4167 the professionals listed in subparagraphs 4.-9.

4168
4169 The term includes any nonprofit corporation qualified as exempt
4170 from federal income taxation under s. 501(a) of the Internal
4171 Revenue Code, and described in s. 501(c) of the Internal Revenue
4172 Code, which delivers health care services provided by licensed
4173 professionals listed in this paragraph, any federally funded
4174 community health center, and any volunteer corporation or

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4175 volunteer health care provider that delivers health care
4176 services.

4177 Section 100. Subsection (1) of section 766.1116, Florida
4178 Statutes, is amended to read:

4179 766.1116 Health care practitioner; waiver of license
4180 renewal fees and continuing education requirements.-

4181 (1) As used in this section, the term "health care
4182 practitioner" means a physician or physician assistant licensed
4183 under chapter 458; an osteopathic physician or physician
4184 assistant licensed under chapter 459; a chiropractic physician
4185 licensed under chapter 460; a podiatric physician licensed under
4186 chapter 461; an independent advanced practice registered nurse,
4187 an advanced practice registered nurse ~~practitioner~~, a registered
4188 nurse, or a licensed practical nurse licensed, registered, or
4189 certified under part I of chapter 464; a dentist or dental
4190 hygienist licensed under chapter 466; or a midwife licensed
4191 under chapter 467, who participates as a health care provider
4192 under s. 766.1115.

4193 Section 101. Paragraph (c) of subsection (1) of section
4194 766.118, Florida Statutes, is amended to read:

4195 766.118 Determination of noneconomic damages.-

4196 (1) DEFINITIONS.—As used in this section, the term:

4197 (c) "Practitioner" means any person licensed under chapter
4198 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter
4199 463, chapter 466, chapter 467, or chapter 486; registered under

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4200 s. 464.0125; or certified under s. 464.012. "Practitioner" also
 4201 means any association, corporation, firm, partnership, or other
 4202 business entity under which such practitioner practices or any
 4203 employee of such practitioner or entity acting in the scope of
 4204 his or her employment. For the purpose of determining the
 4205 limitations on noneconomic damages set forth in this section,
 4206 the term "practitioner" includes any person or entity for whom a
 4207 practitioner is vicariously liable and any person or entity
 4208 whose liability is based solely on such person or entity being
 4209 vicariously liable for the actions of a practitioner.

4210 Section 102. Subsection (3) of section 768.135, Florida
 4211 Statutes, is amended to read:

4212 768.135 Volunteer team practitioner ~~physicians~~; immunity.-

4213 (3) A practitioner licensed under chapter 458, chapter
 4214 459, chapter 460, ~~or~~ s. 464.012, or s. 464.0125 who gratuitously
 4215 and in good faith conducts an evaluation pursuant to s.
 4216 1006.20(2)(c) is not liable for any civil damages arising from
 4217 that evaluation unless the evaluation was conducted in a
 4218 wrongful manner.

4219 Section 103. Subsection (4) of section 782.071, Florida
 4220 Statutes, is amended to read:

4221 782.071 Vehicular homicide.—"Vehicular homicide" is the
 4222 killing of a human being, or the killing of an unborn child by
 4223 any injury to the mother, caused by the operation of a motor
 4224 vehicle by another in a reckless manner likely to cause the

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4225 death of, or great bodily harm to, another.

4226 (4) In addition to any other punishment, the court may
 4227 order the person to serve 120 community service hours in a
 4228 trauma center or hospital that regularly receives victims of
 4229 vehicle accidents, under the supervision of an independent
 4230 advanced practice registered nurse, an advanced practice
 4231 registered nurse, a registered nurse, an emergency room
 4232 physician, or an emergency medical technician pursuant to a
 4233 voluntary community service program operated by the trauma
 4234 center or hospital.

4235 Section 104. Subsection (5) of section 794.08, Florida
 4236 Statutes, is amended to read:

4237 794.08 Female genital mutilation.—

4238 (5) This section does not apply to procedures performed by
 4239 or under the direction of a physician licensed under chapter
 4240 458;~~;~~ an osteopathic physician licensed under chapter 459;~~;~~ a
 4241 registered nurse ~~licensed under part I of chapter 464,~~ a
 4242 practical nurse ~~licensed under part I of chapter 464,~~ an
 4243 independent advanced practice registered nurse, or an advanced
 4244 practice registered nurse practitioner licensed, registered, or
 4245 certified under part I of chapter 464;~~;~~ a midwife licensed under
 4246 chapter 467;~~;~~ or a physician assistant licensed under chapter
 4247 458 or chapter 459, when necessary to preserve the physical
 4248 health of a female person. This section also does not apply to
 4249 any autopsy or limited dissection conducted pursuant to chapter

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4250 406.

4251 Section 105. Subsection (23) of section 893.02, Florida

4252 Statutes, is amended to read:

4253 893.02 Definitions.—The following words and phrases as

4254 used in this chapter shall have the following meanings, unless

4255 the context otherwise requires:

4256 (23) "Practitioner" means a physician licensed under

4257 chapter 458, a dentist licensed under chapter 466, a

4258 veterinarian licensed under chapter 474, an osteopathic

4259 physician licensed under chapter 459, an independent advanced

4260 practice registered nurse registered under s. 464.0125, an

4261 advanced practice registered nurse ~~practitioner~~ certified under

4262 s. 464.012 ~~chapter 464~~, a naturopath licensed under chapter 462,

4263 a certified optometrist licensed under chapter 463, a

4264 psychiatric nurse as defined in s. 394.455, a podiatric

4265 physician licensed under chapter 461, or a physician assistant

4266 licensed under chapter 458 or chapter 459, provided such

4267 practitioner holds a valid federal controlled substance registry

4268 number.

4269 Section 106. Paragraph (b) of subsection (1) of section

4270 893.05, Florida Statutes, is amended to read:

4271 893.05 Practitioners and persons administering controlled

4272 substances in their absence.—

4273 (1)

4274 (b) Pursuant to s. 458.347(4)(g), s. 459.022(4)(f), or s.

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4275 464.012(3), as applicable, a practitioner who supervises a
 4276 licensed physician assistant or certified advanced practice
 4277 registered nurse ~~practitioner~~ may authorize the licensed
 4278 physician assistant or certified advanced practice registered
 4279 nurse ~~practitioner~~ to order controlled substances for
 4280 administration to a patient in a facility licensed under chapter
 4281 395 or part II of chapter 400.

4282 Section 107. Subsection (6) of section 943.13, Florida
 4283 Statutes, is amended to read:

4284 943.13 Officers' minimum qualifications for employment or
 4285 appointment.—On or after October 1, 1984, any person employed or
 4286 appointed as a full-time, part-time, or auxiliary law
 4287 enforcement officer or correctional officer; on or after October
 4288 1, 1986, any person employed as a full-time, part-time, or
 4289 auxiliary correctional probation officer; and on or after
 4290 October 1, 1986, any person employed as a full-time, part-time,
 4291 or auxiliary correctional officer by a private entity under
 4292 contract to the Department of Corrections, to a county
 4293 commission, or to the Department of Management Services shall:

4294 (6) Have passed a physical examination by a licensed
 4295 physician, a physician assistant, a registered independent
 4296 advanced practice registered nurse, or a certified advanced
 4297 practice registered nurse ~~practitioner~~, based on specifications
 4298 established by the commission. In order to be eligible for the
 4299 presumption set forth in s. 112.18 while employed with an

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4300 | employing agency, a law enforcement officer, correctional
 4301 | officer, or correctional probation officer must have
 4302 | successfully passed the physical examination required by this
 4303 | subsection upon entering into service as a law enforcement
 4304 | officer, correctional officer, or correctional probation officer
 4305 | with the employing agency, which examination must have failed to
 4306 | reveal any evidence of tuberculosis, heart disease, or
 4307 | hypertension. A law enforcement officer, correctional officer,
 4308 | or correctional probation officer may not use a physical
 4309 | examination from a former employing agency for purposes of
 4310 | claiming the presumption set forth in s. 112.18 against the
 4311 | current employing agency.

4312 | Section 108. Subsection (2) of section 945.603, Florida
 4313 | Statutes, is amended to read:

4314 | 945.603 Powers and duties of authority.—The purpose of the
 4315 | authority is to assist in the delivery of health care services
 4316 | for inmates in the Department of Corrections by advising the
 4317 | Secretary of Corrections on the professional conduct of primary,
 4318 | convalescent, dental, and mental health care and the management
 4319 | of costs consistent with quality care, by advising the Governor
 4320 | and the Legislature on the status of the Department of
 4321 | Corrections' health care delivery system, and by assuring that
 4322 | adequate standards of physical and mental health care for
 4323 | inmates are maintained at all Department of Corrections
 4324 | institutions. For this purpose, the authority has the authority

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4325 to:

4326 (2) Review and make recommendations regarding health care
 4327 for the delivery of health care services including, but not
 4328 limited to, acute hospital-based services and facilities,
 4329 primary and tertiary care services, ancillary and clinical
 4330 services, dental services, mental health services, intake and
 4331 screening services, medical transportation services, and the use
 4332 of advanced practice registered nurses ~~nurse practitioner~~ and
 4333 physician assistants ~~assistant personnel~~ to act as physician
 4334 extenders as these relate to inmates in the Department of
 4335 Corrections.

4336 Section 109. Paragraph (n) of subsection (1) of section
 4337 948.03, Florida Statutes, is amended to read:

4338 948.03 Terms and conditions of probation.-

4339 (1) The court shall determine the terms and conditions of
 4340 probation. Conditions specified in this section do not require
 4341 oral pronouncement at the time of sentencing and may be
 4342 considered standard conditions of probation. These conditions
 4343 may include among them the following, that the probationer or
 4344 offender in community control shall:

4345 (n) Be prohibited from using intoxicants to excess or
 4346 possessing any drugs or narcotics unless prescribed by a
 4347 physician, an independent advanced practice registered nurse, an
 4348 advanced practice registered nurse ~~practitioner~~, or a physician
 4349 assistant. The probationer or community controllee may not

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4350 knowingly visit places where intoxicants, drugs, or other
 4351 dangerous substances are unlawfully sold, dispensed, or used.

4352 Section 110. Subsection (2) of section 960.28, Florida
 4353 Statutes, is amended to read:

4354 960.28 Payment for victims' initial forensic physical
 4355 examinations.-

4356 (2) The Crime Victims' Services Office of the department
 4357 shall pay for medical expenses connected with an initial
 4358 forensic physical examination of a victim of sexual battery as
 4359 defined in chapter 794 or a lewd or lascivious offense as
 4360 defined in chapter 800. Such payment shall be made regardless of
 4361 whether the victim is covered by health or disability insurance
 4362 and whether the victim participates in the criminal justice
 4363 system or cooperates with law enforcement. The payment shall be
 4364 made only out of moneys allocated to the Crime Victims' Services
 4365 Office for the purposes of this section, and the payment may not
 4366 exceed \$500 with respect to any violation. The department shall
 4367 develop and maintain separate protocols for the initial forensic
 4368 physical examination of adults and children. Payment under this
 4369 section is limited to medical expenses connected with the
 4370 initial forensic physical examination, and payment may be made
 4371 to a medical provider using an examiner qualified under part I
 4372 of chapter 464, excluding s. 464.003(17) ~~464.003(16)~~; chapter
 4373 458; or chapter 459. Payment made to the medical provider by the
 4374 department shall be considered by the provider as payment in

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4375 full for the initial forensic physical examination associated
 4376 with the collection of evidence. The victim may not be required
 4377 to pay, directly or indirectly, the cost of an initial forensic
 4378 physical examination performed in accordance with this section.

4379 Section 111. Paragraph (i) of subsection (3) of section
 4380 1002.20, Florida Statutes, is amended to read:

4381 1002.20 K-12 student and parent rights.—Parents of public
 4382 school students must receive accurate and timely information
 4383 regarding their child's academic progress and must be informed
 4384 of ways they can help their child to succeed in school. K-12
 4385 students and their parents are afforded numerous statutory
 4386 rights including, but not limited to, the following:

4387 (3) HEALTH ISSUES.—

4388 (i) Epinephrine use and supply.—

4389 1. A student who has experienced or is at risk for life-
 4390 threatening allergic reactions may carry an epinephrine auto-
 4391 injector and self-administer epinephrine by auto-injector while
 4392 in school, participating in school-sponsored activities, or in
 4393 transit to or from school or school-sponsored activities if the
 4394 school has been provided with parental and physician
 4395 authorization. The State Board of Education, in cooperation with
 4396 the Department of Health, shall adopt rules for such use of
 4397 epinephrine auto-injectors that shall include provisions to
 4398 protect the safety of all students from the misuse or abuse of
 4399 auto-injectors. A school district, county health department,

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4400 public-private partner, and their employees and volunteers shall
 4401 be indemnified by the parent of a student authorized to carry an
 4402 epinephrine auto-injector for any and all liability with respect
 4403 to the student's use of an epinephrine auto-injector pursuant to
 4404 this paragraph.

4405 2. A public school may purchase a supply of epinephrine
 4406 auto-injectors from a wholesale distributor as defined in s.
 4407 499.003 or may enter into an arrangement with a wholesale
 4408 distributor or manufacturer as defined in s. 499.003 for the
 4409 epinephrine auto-injectors at fair-market, free, or reduced
 4410 prices for use in the event a student has an anaphylactic
 4411 reaction. The epinephrine auto-injectors must be maintained in a
 4412 secure location on the public school's premises. The
 4413 participating school district shall adopt a protocol developed
 4414 by a licensed physician for the administration by school
 4415 personnel who are trained to recognize an anaphylactic reaction
 4416 and to administer an epinephrine auto-injection. The supply of
 4417 epinephrine auto-injectors may be provided to and used by a
 4418 student authorized to self-administer epinephrine by auto-
 4419 injector under subparagraph 1. or trained school personnel.

4420 3. The school district and its employees, agents, and the
 4421 physician who provides the standing protocol for school
 4422 epinephrine auto-injectors are not liable for any injury arising
 4423 from the use of an epinephrine auto-injector administered by
 4424 trained school personnel who follow the adopted protocol and

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4425 | whose professional opinion is that the student is having an
 4426 | anaphylactic reaction:
 4427 | a. Unless the trained school personnel's action is willful
 4428 | and wanton;
 4429 | b. Notwithstanding that the parents or guardians of the
 4430 | student to whom the epinephrine is administered have not been
 4431 | provided notice or have not signed a statement acknowledging
 4432 | that the school district is not liable; and
 4433 | c. Regardless of whether authorization has been given by
 4434 | the student's parents or guardians or by the student's
 4435 | physician, a physician ~~physician's~~ assistant, an independent
 4436 | advanced practice registered nurse, or an advanced practice
 4437 | registered nurse ~~practitioner~~.
 4438 | Section 112. Paragraph (b) of subsection (17) of section
 4439 | 1002.42, Florida Statutes, is amended to read:
 4440 | 1002.42 Private schools.-
 4441 | (17) EPINEPHRINE SUPPLY.-
 4442 | (b) The private school and its employees, agents, and the
 4443 | physician who provides the standing protocol for school
 4444 | epinephrine auto-injectors are not liable for any injury arising
 4445 | from the use of an epinephrine auto-injector administered by
 4446 | trained school personnel who follow the adopted protocol and
 4447 | whose professional opinion is that the student is having an
 4448 | anaphylactic reaction:
 4449 | 1. Unless the trained school personnel's action is willful

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4450 and wanton;

4451 2. Notwithstanding that the parents or guardians of the
 4452 student to whom the epinephrine is administered have not been
 4453 provided notice or have not signed a statement acknowledging
 4454 that the school district is not liable; and

4455 3. Regardless of whether authorization has been given by
 4456 the student's parents or guardians or by the student's
 4457 physician, a physician ~~physician's~~ assistant, an independent
 4458 advanced practice registered nurse, or an advanced practice
 4459 registered nurse ~~practitioner~~.

4460 Section 113. Subsections (4) and (5) of section 1006.062,
 4461 Florida Statutes, are amended to read:

4462 1006.062 Administration of medication and provision of
 4463 medical services by district school board personnel.—

4464 (4) Nonmedical assistive personnel shall be allowed to
 4465 perform health-related services upon successful completion of
 4466 child-specific training by a registered nurse, an independent
 4467 advanced practice registered nurse, or an advanced practice
 4468 registered nurse ~~practitioner~~ licensed, registered, or certified
 4469 under part I of chapter 464; ~~T~~ a physician licensed pursuant to
 4470 chapter 458 or chapter 459; ~~T~~ or a physician assistant licensed
 4471 pursuant to chapter 458 or chapter 459. All procedures shall be
 4472 monitored periodically by a nurse, an independent advanced
 4473 practice registered nurse, an advanced practice registered nurse
 4474 ~~practitioner~~, a physician assistant, or a physician, including,

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4475 but not limited to:
 4476 (a) Intermittent clean catheterization.
 4477 (b) Gastrostomy tube feeding.
 4478 (c) Monitoring blood glucose.
 4479 (d) Administering emergency injectable medication.
 4480 (5) For all other invasive medical services not listed in
 4481 this subsection, a registered nurse, an independent advanced
 4482 practice registered nurse, or an advanced practice registered
 4483 nurse practitioner licensed, registered, or certified under part
 4484 I of chapter 464; a physician licensed pursuant to chapter 458
 4485 or chapter 459; or a physician assistant licensed pursuant to
 4486 chapter 458 or chapter 459 shall determine if nonmedical
 4487 district school board personnel shall be allowed to perform such
 4488 service.

4489 Section 114. Paragraph (c) of subsection (2) of section
 4490 1006.20, Florida Statutes, is amended to read:

4491 1006.20 Athletics in public K-12 schools.—

4492 (2) ADOPTION OF BYLAWS, POLICIES, OR GUIDELINES.—

4493 (c) The FHSAA shall adopt bylaws that require all students
 4494 participating in interscholastic athletic competition or who are
 4495 candidates for an interscholastic athletic team to
 4496 satisfactorily pass a medical evaluation each year prior to
 4497 participating in interscholastic athletic competition or
 4498 engaging in any practice, tryout, workout, or other physical
 4499 activity associated with the student's candidacy for an

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4500 interscholastic athletic team. Such medical evaluation may be
 4501 administered only by a practitioner licensed under chapter 458,
 4502 chapter 459, chapter 460, ~~or~~ s. 464.012, or s. 464.0125, and in
 4503 good standing with the practitioner's regulatory board. The
 4504 bylaws shall establish requirements for eliciting a student's
 4505 medical history and performing the medical evaluation required
 4506 under this paragraph, which shall include a physical assessment
 4507 of the student's physical capabilities to participate in
 4508 interscholastic athletic competition as contained in a uniform
 4509 preparticipation physical evaluation and history form. The
 4510 evaluation form shall incorporate the recommendations of the
 4511 American Heart Association for participation cardiovascular
 4512 screening and shall provide a place for the signature of the
 4513 practitioner performing the evaluation with an attestation that
 4514 each examination procedure listed on the form was performed by
 4515 the practitioner or by someone under the direct supervision of
 4516 the practitioner. The form shall also contain a place for the
 4517 practitioner to indicate if a referral to another practitioner
 4518 was made in lieu of completion of a certain examination
 4519 procedure. The form shall provide a place for the practitioner
 4520 to whom the student was referred to complete the remaining
 4521 sections and attest to that portion of the examination. The
 4522 preparticipation physical evaluation form shall advise students
 4523 to complete a cardiovascular assessment and shall include
 4524 information concerning alternative cardiovascular evaluation and

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4525 diagnostic tests. Results of such medical evaluation must be
 4526 provided to the school. A student is not eligible to
 4527 participate, as provided in s. 1006.15(3), in any
 4528 interscholastic athletic competition or engage in any practice,
 4529 tryout, workout, or other physical activity associated with the
 4530 student's candidacy for an interscholastic athletic team until
 4531 the results of the medical evaluation have been received and
 4532 approved by the school.

4533 Section 115. Subsection (1) and paragraph (a) of
 4534 subsection (2) of section 1009.65, Florida Statutes, is amended
 4535 to read:

4536 1009.65 Medical Education Reimbursement and Loan Repayment
 4537 Program.—

4538 (1) To encourage qualified medical professionals to
 4539 practice in underserved locations where there are shortages of
 4540 such personnel, there is established the Medical Education
 4541 Reimbursement and Loan Repayment Program. The function of the
 4542 program is to make payments that offset loans and educational
 4543 expenses incurred by students for studies leading to a medical
 4544 or nursing degree, medical or nursing licensure, or advanced
 4545 practice registered nurse ~~practitioner~~ certification or
 4546 physician assistant licensure. The following licensed or
 4547 certified health care professionals are eligible to participate
 4548 in this program: medical doctors with primary care specialties,
 4549 doctors of osteopathic medicine with primary care specialties,

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

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4550 physician ~~physician's~~ assistants, licensed practical nurses and
 4551 registered nurses, and advanced practice registered nurse
 4552 ~~practitioners~~ with primary care specialties such as certified
 4553 nurse midwives. Primary care medical specialties for physicians
 4554 include obstetrics, gynecology, general and family practice,
 4555 internal medicine, pediatrics, and other specialties which may
 4556 be identified by the Department of Health.

4557 (2) From the funds available, the Department of Health
 4558 shall make payments to selected medical professionals as
 4559 follows:

4560 (a) Up to \$4,000 per year for licensed practical nurses
 4561 and registered nurses, up to \$10,000 per year for advanced
 4562 practice registered nurses ~~nurse-practitioners~~ and physician
 4563 ~~physician's~~ assistants, and up to \$20,000 per year for
 4564 physicians. Penalties for noncompliance shall be the same as
 4565 those in the National Health Services Corps Loan Repayment
 4566 Program. Educational expenses include costs for tuition,
 4567 matriculation, registration, books, laboratory and other fees,
 4568 other educational costs, and reasonable living expenses as
 4569 determined by the Department of Health.

4570 Section 116. Subsection (2) of section 1009.66, Florida
 4571 Statutes, is amended to read:

4572 1009.66 Nursing Student Loan Forgiveness Program.—

4573 (2) To be eligible, a candidate must have graduated from
 4574 an accredited or approved nursing program and have received a

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4575 Florida license as a licensed practical nurse or a registered
4576 nurse or a Florida certificate as an advanced practice
4577 registered nurse ~~practitioner~~.

4578 Section 117. Subsection (3) of section 1009.67, Florida
4579 Statutes, is amended to read:

4580 1009.67 Nursing scholarship program.--

4581 (3) A scholarship may be awarded for no more than 2 years,
4582 in an amount not to exceed \$8,000 per year. However, registered
4583 nurses pursuing a graduate degree for a faculty position or to
4584 practice as an advanced practice registered nurse ~~practitioner~~
4585 may receive up to \$12,000 per year. These amounts shall be
4586 adjusted by the amount of increase or decrease in the Consumer
4587 Price Index for All Urban Consumers published by the United
4588 States Department of Commerce.

4589 Section 118. Except as otherwise expressly provided in
4590 this act, this act shall take effect July 1, 2017.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB HQS 17-02 Ratification of Rules of the Board of Medicine
SPONSOR(S): Health Quality Subcommittee
TIED BILLS: IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Health Quality Subcommittee		Siples <i>YS</i>	McElroy <i>uh</i>

SUMMARY ANALYSIS

PCB HQS 17-02 ratifies an adopted rule amendment to Rule 64B8-9.009, F.A.C., so that the adopted rule amendment may go into effect.

The formal rulemaking process begins by an agency giving notice of the proposed rule. The notice is published by the Department of State in the Florida Administrative Register and must provide certain information, including the text of the proposed rule, a summary of the agency's statement of estimated regulatory costs (SERC), if one is prepared, and how a party may request a public hearing on the proposed rule.

Rule 64B8-9.009, F.A.C., establishes the standard of care for various levels of office surgeries. In 2016, the Board of Medicine adopted an amendment to this rule as it applies to Level I office surgeries. Specifically, the rule amendment requires physician offices in which Level I office surgery procedures are performed to maintain the availability of two drugs, Flumazenil and Naloxone, when performing such procedures.

The SERC developed for the adopted rule amendment to Rule 64B8-9.009, F.A.C., shows that the amendment will create an adverse economic effect of \$1,759,429.28, over the first 5 years the rule is in effect. Section 120.54(3), F.S., requires that any rule having an adverse economic impact exceeding \$1 million over the first 5 years it is in effect must be ratified by the Legislature before it may go in effect.

The bill may have a negative fiscal impact on an individual physician office that performs Level I surgeries of \$85.96. The total number of physician offices that may be impacted is 20,468. The bill has no fiscal impact on state or local governments.

The scope of the bill is limited to this rulemaking procedure and does not adopt the substance of the rule into statute.

The bill is effective upon coming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Rulemaking Authority and Legislative Ratification

Rulemaking authority is delegated by the Legislature¹ through statute and authorizes an agency to “adopt, develop, establish, or otherwise create”² a rule.³ To adopt a rule an agency must have a general or specific grant of authority from the Legislature to implement a specific law through rulemaking.⁴ The grant of rulemaking authority itself need not be detailed.⁵ The specific statute being interpreted or implemented through rulemaking must provide specific standards and guidelines to preclude the administrative agency from exercising unbridled discretion in creating policy or applying the law.⁶

The formal rulemaking process begins by an agency giving notice of the proposed rule.⁷ The notice is published by the Department of State in the Florida Administrative Register⁸ and must provide certain information, including the text of the proposed rule, a summary of the agency’s statement of estimated regulatory costs (SERC), if one is prepared, and how a party may request a public hearing on the proposed rule.

A SERC must be prepared if the proposed rule will have a negative impact on small business or if the proposed rule is likely to directly or indirectly increase the total regulatory costs by more than \$200,000, within one year of the rule’s implementation.⁹ The SERC must include an economic analysis projecting a proposed rule’s adverse effect on specified aspects of the state’s economy or increase in regulatory costs.¹⁰ The SERC must analyze a rule’s potential impact over the 5 year period from when the rule goes into effect. The economic analysis should show whether the rule, directly or indirectly is:

- Likely to have an adverse impact on economic growth, private-sector job creation or employment, or private-sector investment;¹¹
- Likely to have an adverse impact on business competitiveness,¹² productivity, or innovation;¹³
- Likely to increase regulatory costs, including any transactional costs.¹⁴

A rule may be adopted but cannot go into effect if the analysis shows the projected impact of the proposed rule in any one of these areas will exceed \$1 million in the aggregate for the 5 year period.¹⁵

¹ *Southwest Florida Water Management District v. Save the Manatee Club, Inc.*, 773 So. 2d 594 (Fla. 1st DCA 2000).

² Section 120.52(17), F.S.

³ A rule is an agency statement of general applicability interpreting, implementing, or prescribing law or policy, including the procedure and practice requirements of an agency as well as certain types of forms. See s. 120.52(16), F.S., and *Florida Department of Financial Services v. Capital Collateral Regional Counsel-Middle Region*, 969 So. 2d 527, 530 (Fla. 1st DCA 2007).

⁴ Section 120.52(8), F.S., and s. 120.536(1), F.S.

⁵ *Save the Manatee Club, Inc.*, *supra* note 1 at 599.

⁶ *Sloban v. Florida Board of Pharmacy*, 982 So. 2d 26, 29-30 (Fla. 1st DCA 2008); *Board of Trustees of the Internal Improvement Trust Fund v. Day Cruise Association, Inc.*, 794 So. 2d 696, 704 (Fla. 1st DCA 2001).

⁷ Section 120.54(3)(a)1, F.S..

⁸ Sections 120.54(3)(a)2., 120.55(1)(b)2, F.S.

⁹ Section 120.54(1)(b), F.S.

¹⁰ Section 120.541(2)(a), F.S.

¹¹ Section 120.541(2)(a)1., F.S.

¹² Including the ability of those doing business in Florida to compete with those doing business in other states or domestic markets.

¹³ Section 120.541(2)(a) 2., F.S.

¹⁴ Section 120.541(2)(a) 3., F.S.

¹⁵ Section 120.541(3), F.S.

The law distinguishes between a rule being “adopted” and becoming enforceable or “effective.”¹⁶ A rule must be filed for adoption before it may go into effect¹⁷ and cannot be filed for adoption until completion of the rulemaking process.¹⁸ A rule projected to have a specific economic impact exceeding \$1 million in the aggregate over 5 years¹⁹ must be ratified by the Legislature before it may go into effect.²⁰

Rule 64B8-9.009, F.A.C.

Chapter 458, F.S., provides rulemaking authority for the licensure and regulation of the practice of medicine to the Department of Health (DOH) and the Florida Board of Medicine (Board). The Board has authority to establish, by rule, standards of practice and standards of care for particular settings.²¹ Such standards may include education and training, medications including anesthetics, assistance of and delegation to other personnel, sterilization, performance of complex or multiple procedures, records, informed consent, and policy and procedures manuals.²²

In rule 64B8-9.009, F.A.C., the Board sets forth the standards of care that must be met for office surgeries. An office surgery is any surgery that is performed outside a facility licensed under ch. 390 or 395, F.S.²³ Prior to performing any surgery, the physician must evaluate the risk of anesthesia and of the surgical procedure to be performed. The physician must maintain a complete record of each surgical procedure, including the anesthesia record, if applicable, and written conformed consent.²⁴

There are several levels of office surgeries that are governed by the rule, which sets for the scope of each level of office surgeries, the equipment and medications that must be available, and the training requirements for personnel present during the surgery. Level I involves the most minor of surgeries, requires minimal sedation or local or topical anesthesia, and the chances of complications requiring hospitalization are remote.²⁵ Level II office surgeries involve moderate sedation and the physician performing the surgery must have a transfer agreement with a licensed hospital that is no more than 30 minutes from the office.²⁶ Level III office surgeries are the most complex and require deep sedation or general anesthesia; the physician performing the surgery must have staff privileges to perform the same procedure in that hospital as that being performed in the office setting.²⁷

A Level I office surgery includes the following:

- Minor procedures such as excision of skin lesions, moles, warts, cysts, lipomas, repair of a laceration, or surgery limited to the skin and subcutaneous tissue performed under topical or local anesthesia;
- Liposuction involving removal of less than 4,000cc supernatant fat;²⁸
- Incision and drainage of superficial abscesses, limited endoscopies, skin biopsies, arthrocentesis, thoracentesis, paracentesis, dilation of urethra, cysto-scopic procedures, and closed reduction of simple fractures or small joint dislocations;
- Procedures that do not require pre-operative medication other than minimal pre-operative tranquilization of the patient; and the anesthesia used is local, topical, or none; or

¹⁶ Section 120.54(3)(e)6. Before a rule becomes enforceable, thus “effective,” the agency first must complete the rulemaking process and file the rule for adoption with the Department of State.

¹⁷ Section 120.54(3)(e)6., F.S.

¹⁸ Section 120.54(3)(e), F.S.

¹⁹ Section 120.541(2)(a), F.S.

²⁰ Section 120.541(3), F.S.

²¹ Section 458.331(v), F.S.

²² *Id.*

²³ Rule 64B8-9.009(1)(d), F.A.C. Abortion clinics are licensed under ch. 390, F.S., and facilities licensed under ch. 395, F.S., include hospitals, ambulatory surgery centers, mobile surgical facilities, and certain intensive residential treatment programs.

²⁴ Rule 64B8-9.009(2), F.A.C.

²⁵ Rule 64B8-9.009(3), F.A.C.

²⁶ Rule 64B8-9.009(4), F.A.C.

²⁷ Rule 64B8-9.009(6), F.A.C.

²⁸ Liposuction may be performed with other separate procedures in a Level II or Level III office setting, but additional restrictions apply.

See Rule 64B8-9.009(2), F.A.C.

- Procedures in which the chances of complication requiring hospitalization are remote.²⁹

The Board rule for Level I office surgeries requires the surgeon to have training on regional anesthetic drugs and hold a current certification in advanced cardiac life support. Additionally, there must be an assistant present during the surgery who is certified in basic life support.³⁰ The rule also requires that the physician's office have available intravenous supplies, oxygen, oral airways, and a positive pressure ventilation device. The office must also have certain quantities of medication including atropine, diphenhydramine, epinephrine, and hydrocortisone.

Proposed Rule Amendment to Rule 64B8-9.009, F.A.C.

The proposed rule amendment requires physician offices that perform Level I office surgeries to obtain and have available two additional medications. The rule requires Flumazenil, if a benzodiazepine is administered, and Naloxone, if an opiate is administered. Flumazenil is used to reverse the effects of benzodiazepine-induced sedation,³¹ and Naloxone is used to reverse the effects of opiate-induced sedation.³² Both drugs are antagonists that may be used to block or reverse the effects of the sedation drug given during the surgical procedure if there is a case of excessive sedation.

The estimated cost to each physician office performing Level I office surgeries is \$29.98 for the required quantity of Flumazenil and \$55.98 for the required quantity of Naloxone.³³ The board estimates 20,468 physician offices may be affected by the rule change. This creates an adverse economic impact of \$1,759,429.28 over the first 5 years the bill is in effect.³⁴

Effect of Proposed Change

The bill ratifies Rule 64B8-9.009, F.A.C., solely to meet the condition for effectiveness imposed by s. 120.541(3), F.S., and expressly limits ratification to the effectiveness of the rule. The bill directs the act shall not be codified in the Florida Statutes, but only noted in the historical comments to the rule by the Department of State.

The bill is effective upon becoming law.

B. SECTION DIRECTORY:

Section 1: Ratifies Rule 64B8-9.009, F.A.C.,

Section 2: Provides that the act goes into effect upon becoming law.

²⁹ Rule 64B8-9.009(3), F.A.C.

³⁰ *Id.* The rule specifically exempts physician performing certain minor procedures, such as excision of skin lesions, moles, warts, cysts, lipomas, and repair of lacerations or surgery limited to the skin and subcutaneous tissue performed under topical or local procedures from meeting this requirement.

³¹ Scott R Votey et al., *Flumazenil: A New Benzodiazepine Antagonist*, 20 *Annals of Emergency Medicine* 181-188 (1991), available at [http://www.annemergmed.com/article/S0196-0644\(05\)81219-3/pdf](http://www.annemergmed.com/article/S0196-0644(05)81219-3/pdf) (last visited February 12, 2017). Benzodiazepine may include such drugs as Xanax[®], Ativan[®], or Valium[®].

³² U.S. National Library of Medicine, Medline Plus, "Naloxone Injection," (last rev. February 15, 2016), available at <https://medlineplus.gov/druginfo/meds/a612022.html> (last visited February 12, 2017).

³³ Board of Medicine, "Statement of Estimated Regulatory Costs for Proposed Amendments to Rule 64B8-9.009, F.A.C.," on file with the Health Quality Subcommittee.

³⁴ *Id.* In its SERC, the board indicates that the rule increases regulatory costs, including transactional costs, by \$1,937,500.88 over the first five years of implementation. However, the board inadvertently included an existing requirement in its calculation, and after removing that item from the calculation, the regulatory costs, including transactional costs is 1,759,429.28. (E-mail correspondence with staff of the Board of Medicine dated February 8, 2017, on file with the Health Quality Subcommittee).

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill is not anticipated to have an adverse impact on the cost to DOH in implementing or enforcing the proposed rule.³⁵

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The individual cost for each physician office performing Level I office surgeries, as defined by the rule, will increase by \$85.96. DOH estimates that there is approximately 20,468 physician offices that would be impacted by the rule.

D. FISCAL COMMENTS:

None.

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:

The bill meets the final statutory requirement for the board to exercise its rulemaking authority concerning the standards of care for office surgery. No additional rulemaking authority is required.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

³⁵ *Supra* note 33.

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A bill to be entitled
An act relating to ratification of rules of the Board of Medicine; ratifying rules related to the standard of care for office surgery, for the sole and exclusive purpose of satisfying any condition on effectiveness pursuant to s. 120.541(3), F.S., which requires ratification of any rule meeting any specified thresholds for likely adverse impact or increase in regulatory costs; providing applicability; providing an effective date.

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

Section 1. (1) The following rule is ratified for the sole and exclusive purpose of satisfying any condition on the effectiveness imposed under s. 120.541(3), Florida Statutes: Rule 64B8-9.009, Florida Administrative Code, titled "Standard of Care for Office Surgery" as filed for adoption with the Department of State pursuant to the certification package dated June 15, 2016.

(2) This act serves no other purpose and shall not be codified in the Florida Statutes. After this act becomes law, its enactment and effective dates shall be noted in the Florida Administrative Code, the Florida Administrative Register, or both, as appropriate. This act does not alter rulemaking

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ORIGINAL

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26 | authority delegated by prior law, does not constitute
27 | legislative preemption of or exception to any provision of law
28 | governing adoption or enforcement of the rule cited, and is
29 | intended to preserve the status of any cited rule as a rule
30 | under chapter 120, Florida Statutes. This act does not cure any
31 | rulemaking defect or preempt any challenge based on lack of
32 | authority or a violation of the legal requirements governing the
33 | adoption of any rule cited.

34 | Section 2. This act shall take effect upon becoming a law.